TRACY CITY COUNCIL REGULAR MEETING AGENDA

Tuesday, November 1, 2011, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza *Web Site: www.ci.tracy.ca.us*

Americans With Disabilities Act - The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6000) 24 hours prior to the meeting.

Addressing the Council on Items on the Agenda - The Brown act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. Each citizen will be allowed a maximum of five minutes for input or testimony. At the Mayor's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

Consent Calendar - All items listed on the Consent Calendar are considered routine and/or consistent with previous Council direction. A motion and roll call vote may enact the entire Consent Calendar. No separate discussion of Consent Calendar items will occur unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

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

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

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

Full copies of the agenda are available at City Hall, 333 Civic Center Plaza, the Tracy Public Library, 20 East Eaton Avenue, and on the City's website www.ci.tracy.ca.us

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATION – Employee of the Month
- Proclamation – "Carbon Monoxide Awareness Week"
- Proclamation – "Homeless Youth Awareness Month"

1. CONSENT CALENDAR

A. Minutes Approval

B. Acceptance of the Chrisman Road Widening (Eleventh Street to Brichetto Road) Project - CIP 73110, Completed by Rodgers Construction & Engineering of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion

C. Acceptance of the Corral Hollow Road Widening (Old Schulte Road Railroad Crossing) Project - CIP 73103, Completed by MCI Engineering, Inc., of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion

D. Acceptance of the Kavanagh Avenue Extension West of Corral Hollow Road Project - CIP 73097, Completed by Knife River Construction of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion

E. Authorize Multi-Year Conveyance Agreement Among the Department of Water Resources of the State of California, Kern County Water Agency, and the City of Tracy for the Semitropic Water Banking Program and Authorize the Mayor to Execute the Agreement

F. Authorize an Appropriation of $12,734 from the 2011 Edward Bryne Memorial Justice Assistance Grant (JAG) Program for the Purchase and Installation of a State of the Art Video Surveillance System in the Police Facility Building

2. ITEMS FROM THE AUDIENCE

3. HOLD A PUBLIC HEARING, THEN ADOPT SEVERAL RESOLUTIONS OF THE CITY OF TRACY AND THE TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY RELATED TO THE REFINANCING OF OUTSTANDING BONDS AND THE FINANCING OF CAPITAL PROJECTS

4. THAT CITY COUNCIL CONDUCT A PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL AT 1690 WEST DUNCAN DRIVE A PUBLIC NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND APPROVE A CONTRACTOR TO ABATE SAID NUISANCES

5. PUBLIC HEARING TO CONSIDER THE FILIOS/DOBLER ANNEXATION AND DEVELOPMENT PROJECT WHICH INCLUDES A GENERAL PLAN AMENDMENT (GPA09-0002) TO RE-DESIGNATE THE SITE FROM URBAN RESERVE 2 TO COMMERCIAL; I-205 CORRIDOR SPECIFIC PLAN AMENDMENT (SPA10-0002) TO ADD THE SITE TO THE SPECIFIC PLAN AREA, DESIGNATE THE SITE GENERAL COMMERCIAL, AND ADD DEVELOPMENT STANDARDS REQUIRED BY EIR MITIGATION MEASURES; ANNEXATION OF THE 43-ACRE PROJECT SITE TO THE CITY OF TRACY AND PREZONE THE SITE PLANNED UNIT DEVELOPMENT (A/P09-0002); AND CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT FOR THE PROJECT – THE APPLICANTS ARE BILL FILIOS FOR GRANT LINE APARTMENTS, LLC AND GARY DOBLER FOR DOBLER FAMILY TRUST

6. AMEND RESOLUTION NO. 91-344 TO SPECIFY THAT THE TRACY WAR MEMORIAL FOUNDATION, INC. (COMMONLY KNOWN AS THE TRACY WAR MEMORIAL ASSOCIATION) SHALL DETERMINE WHICH TRACY VETERANS, IF ANY, HAVE BEEN KILLED IN ACTION IN WAR, WARS, OR FUTURE WARS FOR THE PURPOSES OF PLACING THEIR NAMES ON THE WAR MEMORIAL

7. ACCEPT A STAFF REPORT REGARDING GENERAL PROJECTS FUND 301

8. AMEND THE CITY MASTER FEE SCHEDULE TO INCLUDE FIREARMS TRAINING FACILITY USER FEES, ACCEPT REPORT ON HISTORY AND USE OF THE TRACY FIREARMS TRAINING FACILITY, AND PRESENT THE COST ESTIMATE FOR CAPITAL IMPROVEMENTS TO THE TRACY FIREARMS TRAINING FACILITY

9. DISCUSSION AND DIRECTION REGARDING VACANT AND ABANDONED PROPERTIES, PROPERTY MAINTENANCE STANDARDS, AND PROPERTY AESTHETICS IN GENERAL

10. DISCUSS THE CITY'S FREEWAY SIGN REGULATIONS, PROVIDE DIRECTION TO STAFF RELATED TO POTENTIAL CHANGES, AND APPROPRIATE $25,000 TO FUND CREATION OF CITYWIDE FREEWAY SIGN DESIGN STANDARDS

11. THE ADOPTION OF A LOTTERY PROCESS FOR THE SELECTION OF NON-PROFIT ORGANIZATIONS TO OBTAIN A SAFE AND SANE FIREWORKS SALES PERMIT

12. ITEMS FROM THE AUDIENCE

13. COUNCIL ITEMS

    A. <u>Appointment of City Council Subcommittee to Interview Applicants for Two Vacancies on the Parks and Community Services Commission</u>

14. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

October 4, 2011, 6:30 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Ives called the meeting to order at 6:31 p.m. for the purpose of a closed session to discuss the items outlined below.

2. ROLL CALL – Roll call found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present.

3. ITEMS FROM THE AUDIENCE - None

4. CLOSED SESSION -

   A. Personnel Matter (Gov. Code, section 54957)

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

     Position Title: City Manager

   B. Labor Negotiations (Gov. Code, section 54957.6)

   - Unrepresented Employee: City Manager

   City's designated representative(s): An individual City Council Member or a subcommittee of the City Council

   C. Anticipated Litigation (Gov. Code, section 54956.9(b))

   - Statement made by Paul Miles at the City Council meeting of June 15, 2010 threatening litigation.

5. MOTION TO RECESS TO CLOSED SESSION – Council Member Abercrombie motioned to recess the meeting to closed session at 6:31 p.m. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered.

6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 6:54 p.m.

7. REPORT OF FINAL ACTION – None.

8. ADJOURNMENT – Council Member Abercrombie moved to adjourn the meeting. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered. Time: 6:54 p.m.

The agenda was posted at City Hall on September 29, 2011. The above are action minutes.

_____
Mayor

ATTEST:

_____
City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

October 18, 2011, 5:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Ives called the meeting to order at 5:07 p.m. for the purpose of a closed session to discuss the items outlined below.

2. ROLL CALL – Roll call found Council Members Abercrombie, Rickman, Elliott, Mayor Pro Tem Maciel and Mayor Ives present.

3. ITEMS FROM THE AUDIENCE - None

4. CLOSED SESSION –

   A. Real Property Negotiations (Govt. Code section 54956.8)

Property Location:	City-owned Holly Sugar Property (APN Nos. 212-140-06; 212-140-07, 212-150-01 (portion); 212-160-09; 212-130-2 (portion); 212-130-13 (portion); 212-150-01 (portion); 212-160-04; 212-160-05; 212-160-11 (portion); 212-200-01
Negotiator(s) for the City	Andrew Malik, Director of Development and Engineering Services; Kevin Tobeck, Director of Public Works; and Rod Buchanan, Director of Parks and Community Services; William Dean, Assistant Director of Development and Engineering Services, and Steve Bayley, Deputy Director of Public Works
Negotiating Parties:	Representatives of: Combined Solar Technologies, Inc.; Tracy Blast Development, LLC; Black Ops Airsoft, Inc. dba 9 Gates Airsoft; and American Custom Meats, LLC
Under Negotiation:	Price and terms of payment for the purchase or lease of the property

   B. Pending Litigation (Gov. Code section 54956.9(b)

   - Claim of Juan “John” Espinoza

5. MOTION TO RECESS TO CLOSED SESSION – Council Member Abercrombie motioned to recess the meeting to closed session at 5:08 p.m. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.

6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 5:49 p.m.

7. REPORT OF FINAL ACTION – In the matter of the claim of Juan "John" Espinoza, Council Member Abercrombie moved to reject the claim and directed staff to send a notice of rejection to the claimant in accordance with Government Code section 913. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.

8. ADJOURNMENT – It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adjourn. Voice vote found all in favor; passed and so ordered. Time: 5:50 p.m.

The agenda was posted at City Hall on October 13, 2011. The above are action minutes.

_____
Mayor

ATTEST:

_____
City Clerk

November 1, 2011

AGENDA ITEM 1.B

REQUEST

ACCEPTANCE OF THE CHRISMAN ROAD WIDENING (ELEVENTH STREET TO BRICHETTO ROAD) PROJECT - CIP 73110, COMPLETED BY RODGERS CONSTRUCTION & ENGINEERING OF STOCKTON, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

The contractor has completed construction of the Chrisman Road Widening (Eleventh Street to Brichetto Road) Project - CIP 73110, in accordance with plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends City Council accept the project to enable the City to release the contractor's bonds and retention.

DISCUSSION

On March 1, 2011, City Council awarded a construction contract to Rodgers Construction & Engineering of Stockton, California, for the Chrisman Road Widening (Eleventh Street to Brichetto Road) Project - CIP 73110, in the amount of $215,994.

The scope of work for this project involved widening Chrisman Road with the addition of one left turn lane and overlaying the entire roadway width from north of Eleventh Street to Brichetto Road, a distance of approximately 1,800 linear feet. The project is funded from Proposition 1B grant funding.

One change order was issued in the amount of $2,966.25 for this project which consisted of additional striping to comply with San Joaquin County Public Works requirements.

The project construction contract unit prices are based on estimated engineering quantities. Actual payment is based on field measured quantities installed by the contractor. According to the City's inspection records, actual field measurement quantities exceeded the contract quantities in the amount of $1,073.41. These quantities were paid in accordance with the bid unit prices listed in the contract and are listed as overrun quantities.

Status of budget and project costs is as follows:

A.	Construction Contract Amount	$215,994.00
B.	Change orders	$ 2,966.25
C.	Over run of Quantities	$ 1,073.41
D.	Design, construction management, inspection, Testing, & miscellaneous expenses	$ 47,821.70
E.	Project Management Charges	$ 44,768.69
F.	San Joaquin County Permit	$ 19,000.00

Total Project Costs	$331,624.05
Available Funding from Proposition 1B	$343,524.05

The project has been completed within the available budget for the project, on schedule, per plans, specifications, and City of Tracy standards.

Remaining funds in the amount of $11,900 from this project will be transferred to Proposition 1B Fund 244 and will be used for the Kavanagh Avenue Extension Project – CIP 73097, also funded from Proposition 1B.

STRATEGIC PLAN

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

FISCAL IMPACT

CIP 73110 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund. All remaining funds will be transferred back into the Proposition 1B fund 244 and used for the Kavanagh Avenue Extension Project – CIP 73097, also funded from Proposition 1B.

RECOMMENDATION

That City Council by resolution accept the Chrisman Road Widening (Eleventh Street to Brichetto Road) Project - CIP 73110, as completed by Rodgers Construction Engineering of Stockton, California and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

Approved by: Andrew Malik, Development and Engineering Services Director
Leon Churchill, Jr., City Manager

RESOLUTION 2011- _____

ACCEPTING THE CHRISMAN ROAD WIDENING (ELEVENTH STREET TO BRICHETTO ROAD) PROJECT - CIP 73110, COMPLETED BY RODGERS CONSTRUCTION & ENGINEERING OF STOCKTON, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On March 1, 2011, City Council awarded a construction contract to Rodgers Construction & Engineering of Stockton, California, for the Chrisman Road Widening (Eleventh Street to Brichetto Road) Project - CIP 73110, in the amount of $215,994, and

WHEREAS, One change order was issued in the amount of $2,966.25 for this project, and

WHEREAS, Status of budget and project costs is as follows:

Construction Contract Amount	$215,994.00
Change orders	$ 2,966.25
Over run of Quantities	$ 1,073.41
Design, construction management, inspection, Testing, & miscellaneous expenses	$ 47,821.70
Project Management Charges	$ 44,768.69
San Joaquin County Permit	$ 19,000.00
Total Project Costs	$331,624.05
Available Funding from Proposition 1B	$343,524.05

WHEREAS, The project has been completed within the available budget for the project, on schedule, per plans, specifications, and City of Tracy standards, and

WHEREAS, CIP 73110 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund. Remaining funds in the amount of $11,900 from this project will be transferred to Proposition 1B Fund 244 and will be used for the Kavanagh Avenue Extension Project – CIP 73097, also funded from Proposition 1B;

NOW, THEREFORE, BE IT RESOLVED That City Council accepts the Chrisman Road Widening (Eleventh Street to Brichetto Road) Project - CIP 73110, as completed by Rodgers Construction Engineering of Stockton, California and authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

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The foregoing Resolution _____ was adopted by the Tracy City Council on the 1st day of November, 2011 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST

_____
CITY CLERK

November 1, 2011

AGENDA ITEM 1.C

REQUEST

ACCEPTANCE OF THE CORRAL HOLLOW ROAD WIDENING (OLD SCHULTE ROAD RAILROAD CROSSING) PROJECT - CIP 73103, COMPLETED BY MCI ENGINEERING, INC., OF STOCKTON, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

The widening of Corral Hollow Road between Old Schulte Road and Eleventh Street is an approved Capital Improvement Project – CIP 73103, funded from Plan C developments. The first phase of work involved widening and replacement of the existing railroad rubber crossing (south of Old Schulte Road) with the concrete crossing by the Union Pacific Railroad Company (UPRR). The UPRR agreement required the City of Tracy to provide traffic control and repaving of the street to the newly installed concrete crossing.

UPRR has completed the replacement of the rubber crossing and the City's contractor has completed repaving of the street to the newly installed railroad crossing in accordance with plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor's bonds and retention.

DISCUSSION

On July 19, 2011, City Council awarded a construction contract to MCI Engineering, Inc., of Stockton, California, for repaving and providing traffic control for widening of the existing UPRR crossing south of Old Schulte Road under the Corral Hollow Road Widening Project – CIP 73103, in the amount of $67,770.

UPRR widened the existing crossing and installed new concrete panels at the existing tracks on Corral Hollow Road south of Old Schulte Road in accordance with approved agreement with the City Of Tracy. To match the newly installed tracks, the City's contractor was responsible to remove the existing asphalt concrete and pave with new asphalt. The scope of work for MCI Engineering involved removal and installation of asphalt concrete pavement, grinding, saw cutting, overlaying, pavement markings and striping, construction detour and traffic control.

One change order was issued in the amount of $($3,190.47) for this project which consisted of the deletion of stripping, chain-link fence, miscellaneous items and payment for additional insurance required by UPRR.

Status of budget and project costs is as follows:

A.	Construction Contract Amount	$ 67,770.00
B.	Change orders	-3,190.47
C.	Design, construction management, inspection, Testing & miscellaneous expenses (Estimated)	$ 10,000.00
D.	Project Management Charges (Estimated)	$ 15,000.00
	Total Project Costs	$ 89,579.53
	Budgeted Amount	$102,747.00

The project has been completed within the available budget, on schedule, per plans, specifications, and City of Tracy standards.

STRATEGIC PLAN

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

FISCAL IMPACT

CIP 73103 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund. All remaining funds will be transferred back into CIP 73103 for the second phase of Corral Hollow widening between Old Schulte Road and Eleventh Street.

RECOMMENDATION

That City Council by resolution accept the Corral Hollow Road Widening (Old Schulte Road Railroad Crossing) Project - CIP 73103, completed by MCI Engineering, Inc., of Stockton, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

Approved by: Andrew Malik, Development and Engineering Services Director
Leon Churchill, Jr., City Manager

RESOLUTION 2011- _____

ACCEPTING THE CORRAL HOLLOW ROAD WIDENING (OLD SCHULTE ROAD RAILROAD CROSSING) PROJECT - CIP 73103, COMPLETED BY MCI ENGINEERING, INC., OF STOCKTON, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On July 19, 2011, City Council awarded a construction contract to MCI Engineering, Inc., of Stockton, California, for repaving and providing traffic control for widening of the existing UPRR crossing south of Old Schulte Road under the Corral Hollow Road Widening Project – CIP 73103, in the amount of $67,770, and

WHEREAS, One change order was issued in the amount of $($3,190.47) for this project which consisted of the deletion of stripping, chain-link fence, miscellaneous items and payment for additional insurance required by UPRR, and

WHEREAS, Status of budget and project costs is as follows:

Construction Contract Amount	$ 67,770.00
Change orders	-3,190.47
Design, construction management, inspection, Testing & miscellaneous expenses (Estimated)	$ 10,000.00
. Project Management Charges (Estimated)	$ 15,000.00
Total Project Costs	$ 89,579.53

WHEREAS, The project has been completed within the available budget, on schedule, per plans, specifications, and City of Tracy standards, and

WHEREAS, CIP 73103 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund;

NOW, THEREFORE, BE IT RESOLVED That City Council accepts the Corral Hollow Road Widening (Old Schulte Road Railroad Crossing) Project - CIP 73103, completed by MCI Engineering, Inc., of Stockton, California, and authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

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The foregoing Resolution _____ was adopted by the Tracy City Council on the 1st day of November, 2011 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST

_____
CITY CLERK

November 1, 2011

AGENDA ITEM 1.D

REQUEST

ACCEPTANCE OF THE KAVANAGH AVENUE EXTENSION WEST OF CORRAL HOLLOW ROAD PROJECT - CIP 73097, COMPLETED BY KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

The contractor has completed construction of the Kavanagh Avenue west of Corral Hollow Road Project - CIP 73097, in accordance with plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends City Council accept the project to enable the City to release the contractor's bonds and retention.

DISCUSSION

This project involved the extension of Kavanagh Avenue west of Corral Hollow Road and providing rear access to the properties located west of Corral Hollow Road between Grant Line Road and I-205. Phase 1 of this project included construction of the extension of Kavanagh Avenue west of Corral Hollow Road only. Provision of rear access to the properties will be completed in the Phase 2 of this project. The scope of work for this phase of the project included construction of the Kavanagh Avenue road extension including installation of street lights and a storm drain system west of Corral Hollow Road. The scope of work also included acquisition of necessary rights-of-ways for the street extension.

On April 5, 2011, City Council awarded construction of the Kavanagh Avenue west of Corral Hollow Road Project - CIP 73097, to Knife River Construction of Stockton, California, in the amount of $430,982.50.

No change orders were issued for this project. The project construction contract unit prices are based on estimated engineering quantities. Actual payment is based on field measured quantities installed by the contractor. According to the City's inspection records, actual field measurement quantities exceeded the contract quantities in the amount of $10,174.55. These quantities were paid in accordance with the bid unit prices listed in the contract and are listed as overrun quantities.

Status of budget and project costs is as follows:

A.	Construction Contract Amount	$ 430,982.50
B.	Over-run of quantities	$ 10,174.55
C.	Incentive For early completion	$ 30,000.00
D.	Right of Way	$ 988,182.00
E.	Design, construction management, inspection, Testing, & miscellaneous expenses	$ 117,549.00
F.	Project Management Charges	$ 116,187.00

Total Project Costs	$1,693,075.05
Budgeted Amount for both Phases of the project	$2,351,930.00

Available Funding for this Project (Phase 1):

A. Initially allocated Proposition 1B Fund 244	$ 960,486.00
B. Unused Carryover Proposition 1B Fund 244 from the Chrisman Road Widening Project – CIP 73097	$ 11,900.00
C. CDA Project Fund 381	$ 156,731.00
D. Transportation Sales Tax Fund 242	$ 565,858.00
Total Available for this phase	$1,694,975.00

Funds for Phase II

A total of $2,351,930 was budgeted for completion of both phases of this project. With the carryover of unused Proposition 1B funds in the amount of $11,900 from the Chrisman Road Widening Project to this project, all Proposition 1B funding has been exhausted. A total of $658,855 ($2,351,930 - $1,693,075.) will be available from the Transportation Sales Tax Fund 242 for the second phase of this project.

STRATEGIC PLAN

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

FISCAL IMPACT

CIP 73097 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund. Phase 1 of the project (involving the extension of Kavanagh Avenue) received $972,386 from Proposition 1B and the remaining funding to complete this phase of the project is from the Transportation Sales Tax Fund 242, and CDA Project Fund 381.

RECOMMENDATION

That City Council, by resolution, accept construction of the Kavanagh Avenue west of Corral Hollow Road Project - CIP 73097, completed by Knife River Construction of Stockton, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Paul Verma, Senior Civil Engineer
Reviewed by: Kuldeep Sharma, City Engineer
Approved by: Andrew Malik, Development and Engineering Services Director
Leon Churchill, Jr., City Manager

RESOLUTION 2011- _____

ACCEPTING THE KAVANAGH AVENUE EXTENSION WEST OF CORRAL HOLLOW ROAD PROJECT - CIP 73097, COMPLETED BY KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On April 5, 2011, City Council awarded construction of the Kavanagh Avenue west of Corral Hollow Road Project - CIP 73097, to Knife River Construction of Stockton, California, in the amount of $430,982.50, and

WHEREAS, No change orders were issued for this project, and

WHEREAS, According to the City's inspection records, actual field measurement quantities exceeded the contract quantities in the amount of $10,174.55, and

WHEREAS, Status of budget and project costs is as follows:

Construction Contract Amount	$ 430,982.50
Over-run of quantities	$ 10,174.55
Incentive For early completion	$ 30,000.00
Right of Way	$ 988,182.00
Design, construction management, inspection, Testing, & miscellaneous expenses	$ 117,549.00
Project Management Charges	$ 116,187.00
Total Project Costs	$1,693,075.05
Budgeted Amount for both Phases of the project	$2,351,930.00

Available Funding for this Project (Phase 1):

Initially allocated Proposition 1B Fund 244	$ 960,486.00
Unused Carryover Proposition 1B Fund 244 from the Chrisman Road Widening Project – CIP 73097	$ 11,900.00
CDA Project Fund 381	$ 156,731.00
Transportation Sales Tax Fund 242	$ 565,858.00
Total Available for this phase	$1,694,975.00

WHEREAS, CIP 73097 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund. Phase 1 of the project (involving the extension of Kavanagh Avenue) received $972,386 from Proposition 1B and the remaining funding to complete this phase of the project is from the Transportation Sales Tax Fund 242, and CDA Project Fund 381;

NOW, THEREFORE, BE IT RESOLVED That City Council accepts the Kavanagh Avenue west of Corral Hollow Road Project - CIP 73097, completed by Knife River Construction of Stockton, California, and authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

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The foregoing Resolution _____ was adopted by the Tracy City Council on the 1st day of November, 2011 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST

_____
CITY CLERK

November 1, 2011

AGENDA ITEM 1.E

REQUEST

AUTHORIZE MULTI-YEAR CONVEYANCE AGREEMENT AMONG THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA, KERN COUNTY WATER AGENCY, AND THE CITY OF TRACY FOR THE SEMITROPIC WATER BANKING PROGRAM AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

As part of the water banking project with the Semitropic Water Storage District, it is necessary to have an agreement with the California Department of Water Resources and the Kern County Water Agency in order to convey the water to Semitropic and to facilitate the water exchange to provide Tracy water during dry years.

DISCUSSION

Water banking with the Semitropic Water Storage District (Semitropic) is a key component to adding reliability to the City's water supplies. The City has established a diverse portfolio of water supplies. These include: a contract with the US Bureau of Reclamation (Bureau) with urban reliability, two Bureau contracts with agricultural reliability (West Side Irrigation District and Banta Carbona Irrigation District assignments), groundwater, and Stanislaus River water from the South San Joaquin Irrigation District. Anticipated future supplies include Delta water rights water from the Byron Bethany Irrigation District, additional Bureau water, as well as recycled water.

Reliability varies with each of these supplies. Factors affecting reliability include: annual precipitation, snow pack, reservoir capacity, conveyance capacity limitations due to endangered species, and unanticipated problems such as levee failure causing saltwater intrusion into the Delta.

Storage provides a means to increase reliability by storing water in the wet years for use during the dry years. The City is pursuing aquifer storage and recovery (ASR). ASR is the process of injecting treated drinking water into the groundwater aquifers under Tracy. The water remains there until needed. Uncertainties by State regulators regarding permitting ASR projects have caused a delay in Tracy's ASR project, although recent discussions with the regulators indicate there is an opportunity to proceed at this time. It will be at least five years before Tracy's ASR project will be fully operational.

Another form of storage is out-of-area water banking such as in Kern County. Kern County water agencies have established several large water banks. Semitropic Water Storage District (Semitropic) is a member of the Kern County Water Agency. Water storage capacity is now available for purchase in the Semitropic Water Banking Project. Water agencies that have previously purchased storage capacity in Semitropic include Santa Clara Valley Water District, Alameda County Water District, Zone 7 Water Agency, and Metropolitan Water District of Southern California.

The Kern County water banks utilize both water-spreading basins to recharge the groundwater basin and in-lieu recharge. In-lieu recharge is the use of surface supplies instead of pumping groundwater. The groundwater remains to be pumped at a later date. There is approximately one million acre-feet of storage capacity with approximately 700,000 acre-feet of water in storage. The next phase of the Semitropic project is construction of additional extraction facilities, which is underway.

In 2006, City Council authorized a pilot test to store water in Semitropic. The primary purpose of the pilot test was to determine the administrative processes and costs of transporting water supplies back and forth between Tracy and Semitropic. To store Tracy's water in Semitropic, Tracy's water would remain in the Delta-Mendota Canal, proceed into the California Aqueduct and be delivered to Semitropic. When the stored water is needed in Tracy, Semitropic would pump the stored water into the California Aqueduct and a like amount of water would be made available for Tracy to pump from the Delta-Mendota Canal. Two different administrative procedures were used to return water from Semitropic to Tracy.

The pilot test delivered 1,000 acre-feet of the City's surplus Bureau Delta-Mendota Canal supplies to Semitropic for storage in Semitropic. Of the 1,000 acre-feet, 100 acre-feet was returned to Tracy as soon as reasonably possible, 100 acre-feet was returned in 2008, 100 acre-feet was permanently left behind in the aquifer underlying Semitropic to replaces losses, and 700 acre-feet remain in storage for future use by Tracy. Upon successful completion of the pilot project staff negotiated a participation agreement with Semitropic.

The City Council approved the participation agreement and California Environmental Quality Act (CEQA) environmental document on November 16, 2010. The agreement with Semitropic provides for purchase of storage capacity in Semitropic and payment by the City of the appropriate charges for putting the water into storage, annual participation fee, and later for removal of the water. The Bureau completed the National Environmental Policy Act (NEPA) document on May 26, 2011 and we are currently waiting for Bureau approval of the project.

The subject agreement is to convey Tracy's Bureau water to Semitropic and to facilitate the water exchange to provide Tracy water during dry years. The parties to the agreement are the City, California Department of Water Resources and the Kern County Water Agency. The latter two agencies' facilities are used to convey the water. The term of the agreement is until 2030 with the right to extend an additional five years. The agreement provides the authorization and the responsibilities for each party. The City would pay the cost to convey the water to and from Semitropic.

STRATEGIC PLAN

This agenda item supports the Environmental Sustainability Strategic Plan by increasing City water reliability during water shortages or drought.

FISCAL IMPACT

There is no fiscal impact to the General Fund and there are no payments due upon entering into this agreement. Tracy will pay actual conveyance charges when water is put into storage and when water is returned to Tracy.

RECOMMENDATION

That the City Council, by resolution, authorize the Multi-Year Conveyance Agreement among the Department of Water Resources of the State of California, Kern County Water Agency, and the City of Tracy for the Semitropic Water Banking Program and authorize the Mayor to execute the agreement.

Prepared by Steve Bayley, Deputy Director of Public Works

Reviewed by Kevin Tobeck, Director of Public Works

Approved by R. Leon Churchill, Jr., City Manager

State of California
Natural Resources Agency
DEPARTMENT OF WATER RESOURCES

MULTI-YEAR CONVEYANCE AGREEMENT AMONG THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA, KERN COUNTY WATER AGENCY, AND THE CITY OF TRACY FOR THE SEMITROPIC WATER BANKING PROGRAM

(2011-2030)

SWPAO #10031

THIS AGREEMENT is made this _____ day of _____, 20 ____, pursuant to the provisions of the California Water Resources Development Bond Act, and other applicable laws of the State of California, among the Department of Water Resources of the State of California, herein referred to as "DWR," Kern County Water Agency, herein referred to as "KCWA," a political subdivision of the State of California created by an Act of the California State Legislature (Statutes 1961, Chapter 1003 or as amended), and the City of Tracy, herein referred to as “Tracy,” a municipal corporation. DWR, KCWA, and Tracy may be referred to individually by name as "Party" or collectively as "Parties."

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RECITALS

A. DWR and KCWA have entered into a water supply contract, executed November 15, 1963, as amended, providing that DWR shall supply certain quantities of water to KCWA, and providing that KCWA shall make certain payments to DWR, and setting forth the terms and conditions of such payment, hereafter the "KCWA Water Supply Contract."

B. Tracy is entitled to receive water from the Central Valley Project (CVP) for a municipal and agricultural water supply under one or more contracts with the U.S. Department of Interior, Bureau of Reclamation (Reclamation). Tracy's participation in this Agreement is contingent upon Tracy having one or more executed long term water supply contracts with Reclamation.

C. Tracy and Semitropic Water Storage District (Semitropic), a member unit of KCWA, have entered into the "Agreement Between City of Tracy and Semitropic Water Storage District and Its Improvement Districts for Tracy's Participation in the Banked Water Recovery Unit of the Semitropic Water Banking and Exchange Program" (Banking Agreement) dated November 16, 2010 and effective until December 31, 2035. The Banking Agreement provides for Tracy's participation in the Semitropic Banking Program.

D. KCWA is requesting that DWR approve an agreement to provide conveyance on an annual basis of up to 10,500 acre-feet of Tracy's CVP water from O'Neill Forebay (O'Neill) to KCWA for water banking in Semitropic. In exchange, KCWA

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will return the amount to which Tracy is entitled under the Banking Agreement, in annual amounts of up to 3,500 acre-feet of water, to Tracy by making up to 3,500 acre-feet available to Reclamation at O'Neill or CVP's Jones Pumping Plant. Reclamation will in turn deliver a like amount of CVP water to Tracy.

E. In compliance with the California Environmental Quality Act, Semitropic, as lead agency, certified the Final Environmental Impact Report (EIR) for the Semitropic Groundwater Banking Project in July 1994 (SCH #1993072024), and Final Supplemental EIR for the Banked Water Recovery Unit Project in September 1999 (SCH #1999031100). A Notice of Determination (NOD) with findings was adopted and filed by Semitropic on July 19, 2004 with the County of Kern and the State Clearinghouse (SCH), respectively. Additional addendums have been prepared by Semitropic. An Addendum to the Supplemental EIR was issued and certified in February 2002. It proposed to increase the defined capacity of the Semitropic groundwater banking program from 1 million acre-feet to 1,650,000 acre-feet. A June 2004 Addendum to the Supplemental EIR considered an increase in the diameter of approximately 7 miles of the proposed pipeline from 96 inches to 120 inches. A Reconnaissance-Level Biological Survey for Semitropic Water Storage District East-West Pipeline, dated February 18, 2005, was prepared for the project. A 2005 Biological Report with additional mitigation measures was prepared to meet the Supplemental EIR mitigation and monitoring program for biological impacts associated with the

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proposed pipeline alignment and a new turnout facility to serve the groundwater bank.

F. Reclamation completed the "Draft Environmental Assessment: City of Tracy Long-Term Central Valley Project Water Groundwater Banking with Semitropic Water Storage District" in September 2010, and a Finding of No Significant Impact on February 23, 2007 under the National Environmental Policy Act. As lead agency under the California Environmental Quality Act, Tracy completed the "Initial Study, Environmental Checklist and Proposed Negative Declaration for the City of Tracy Participation in the Semitropic Water Storage District Water Banking Program" in September 2010 and on September 7, 2010 Tracy filed a Negative Declaration with the State Clearinghouse (SCH) (#2010092012). Tracy also filed a Notice of Determination (NOD) on November 19, 2010 (#2010092012) with the SCH. DWR as a responsible agency considered all of these documents prior to entering into this Agreement and will file a NOD after signing this Agreement.

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AGREEMENT

DWR agrees to convey up to 10,500 acre-feet annually of Tracy's CVP water from O'Neill to KCWA and to provide for future return to Tracy of up to 3,500 acre-feet annually under the following terms and conditions:

1. TERM

This Agreement shall become effective upon execution and shall provide for the delivery of Tracy's CVP water to KCWA from October 1, 2011 through December 31, 2029. Notwithstanding the terms of the Banking Agreement, water delivered pursuant to this Agreement shall be returned, less losses, to Tracy by December 31, 2030. This Agreement shall remain in effect until all water less losses is returned, or upon final payment to DWR of all costs attributable to this Agreement, whichever occurs later. However, the liability, hold harmless, and indemnification obligations in this Agreement shall remain in effect until December 31, 204, or until any claim or litigation concerning this Agreement asserted to DWR, KCWA, or the City of Tracy as of December 31, 2034 is finally resolved, whichever occurs later. At the request of the Parties, and at DWR's discretion, DWR may agree to extend this Agreement for an additional five years to December 31, 2035.

2. PRIOR DELIVERIES TO STORAGE

a. Pursuant to Letter Agreement SWPAO #07011, dated March 12, 2008 with KCWA, DWR conveyed a total of 1,000 acre-feet of Tracy's CVP water in February 2007 from O'Neill to KCWA for

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storage in Semitropic. In September 2007, 100 acre-feet of Tracy's stored water was returned to Tracy by exchange of KCWA's Table A as follows: DWR made 100 acre-feet of KCWA's Table A water available at O'Neill to Reclamation, which in turn made 100 acre-feet of CVP water available to Tracy. Tracy's CVP water conveyed under SWPAO #07011 was to be returned by December 31, 2017.

b. Pursuant to Letter Agreement SWPAO #08056, dated December 12, 2008 with KCWA, a total of 100 acre-feet of Tracy's water stored pursuant to Letter Agreement SWPAO #07011 was similarly returned to Tracy by exchange of KCWA's Table A.

c. Upon execution of this Agreement, Letter Agreement SWPAO #07011 and Letter Agreement SWPAO #08056 will be superseded by this Agreement and the terms and conditions of this Agreement shall govern Tracy's CVP water delivered and/or returned under Letter Agreement SWPAO #07011 and Letter Agreement SWPAO #08056.

d. Tracy's CVP water delivered to Semitropic for water banking pursuant to Letter Agreement, SWPAO #07011 shall be returned by December 31, 2030 under this Agreement.

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3. USE OF CALIFORNIA AQUEDUCT CAPACITY

Conveyance of the water in the California Aqueduct shall be in accordance with a schedule which has been reviewed and approved by DWR. Article 12(f) of KCWA's Water Supply Contract shall govern the priority for delivery of such water. KCWA shall be responsible for any adverse impacts, as determined by DWR, that may result from deliveries under this Agreement.

4. WATER DELIVERY SCHEDULES

a. All water delivery schedules and revisions shall be in accordance with Article 12 of KCWA's Water Supply Contract.

b. KCWA shall submit revised monthly water delivery schedules for approval to the State Water Project Analysis Office (SWPAO), Water Deliveries Section, indicating timing and point of delivery requested pursuant to this Agreement with reference to SWPAO #10031. Revised schedules shall be sent by electronic mail to SWPDeliveries@water.ca.gov or by FAX to (916) 653-9628, Attention: Chief, Water Deliveries Section.

c. KCWA shall submit weekly water schedules for the delivery of water pursuant to this Agreement to the San Joaquin Field Division, Water Operations Section, indicating timing and point of delivery requested with reference to SWPAO #10031. Schedules shall be sent by electronic mail to SJFDwaterschedule@water.ca.gov or by FAX to (661) 858-0203, Attention: Chief, Water Operations Section.

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d. All weekly schedules described above shall be submitted by 10:00 a.m. Wednesday, for the following week, Monday through Sunday to the appropriate field division Water Operation Sections.

e. Weekly water schedules shall also be concurrently sent by electronic mail or faxed to the State Water Project Operations Control Office:

(1) Operations Management Section
Water_deliv_sched@water.ca.gov
FAX to (916) 574-2785,
Attention: Chief, Supply Management Section

(2) Power Management and Optimization Branch
Water_deliv_sched@water.ca.gov
FAX to (916) 574-2785
Attention: Chief, Power Management and Optimization Branch

(3) SWP Operations Control Office
Water Management Branch
Water_deliv_sched@water.ca.gov
FAX to (916) 574-2785,
Attention: Chief, Water Management Branch

5. WATER DELIVERY TO KCWA

a. Tracy, in coordination with KCWA, will request Reclamation make available up to 10,500 acre-feet annually of Tracy's CVP water at O'Neill, Reach 3 of the California Aqueduct.

b. DWR will convey Tracy's CVP water made available at O'Neill through facilities operated by DWR to KCWA's turnouts in Reaches 10A, 12E, and/or 13B of the California Aqueduct. KCWA in coordination with Tracy will be responsible for scheduling with DWR the water for delivery to these turnouts.

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c. The conveyance of water to KCWA will be in accordance with a schedule approved by DWR. DWR's approval is dependent upon DWR's overall conveyance ability, planned SWP operations, and Delta conditions.

d. As part of coordinating delivery schedules between Tracy and KCWA, Tracy shall submit a delivery schedule to KCWA and Semitropic for review and approval. KCWA and Semitropic shall review the proposed schedule with Tracy, and, after consultation with Semitropic, KCWA agrees to inform Tracy as promptly as possible of its decision to either approve, propose modifications, or withhold approval. KCWA agrees that it shall not arbitrarily withhold approval or propose modifications. KCWA may withhold approval of, or propose modifications to Tracy's deliveries to storage under this Agreement if, on the basis of a with and without analysis, KCWA determines that such deliveries would adversely impact KCWA's water management activities, finances, water supply or operations, and Tracy or Semitropic do not agree to mitigate for such impacts. The base case (without analysis) shall be those conditions estimated to occur in the absence of the Banking Agreement between Tracy and Semitropic. The KCWA analysis is a matter involving KCWA and Tracy, not DWR. DWR is not liable to Tracy for the determinations KCWA makes under this paragraph. DWR is not asserting the validity of KCWA's analysis, nor is it to be held liable by Tracy for any actions resulting from KCWA's analysis.

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e. DWR will not be obligated to deliver Tracy's CVP water in amounts in excess of KCWA's proportionate use of facilities factors if such delivery would adversely impact the delivery of allocated Table A water or Article 21 water to other SWP contractors, or adversely impact SWP operations or facilities. KCWA will be responsible for any adverse impacts that may result from the conveyance of Tracy's CVP water to KCWA's service area or for introduction of water made available by KCWA for SWP water supply demands.

6. RETURN WATER DELIVERY BY EXCHANGE OF KCWA's TABLE A WATER

a. Semitropic may return water to Tracy by delivery of Semitropic's allocation of KCWA's Table A Water to Reclamation, which will in turn convey this water to Tracy or make a like amount of CVP water available to Tracy. In exchange, a like amount of Tracy's stored water will be vested in Semitropic. DWR shall deliver KCWA's Table A water to facilitate such return of Tracy's stored water in coordination with Reclamation by one or both of the following methods during the term of this Agreement:

(1) DWR will make available to Reclamation KCWA's Table A water at O'Neill to meet the needs of CVP contractors within the San Luis Canal. Reclamation will then in turn deliver a like amount of CVP water to Tracy from the Delta Mendota Canal (DMC). Reclamation will use KCWA's Table A water to meet these CVP contractor

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needs within the SWP place of use unless Tracy and KCWA request DWR to petition the State Water Resources Control Board (SWRCB) for a Temporary Change in Place of Use (or other appropriate SWRCB authorization) to authorize the delivery of KCWA's Table A water outside the SWP place of use. Tracy will be responsible for all costs associated with DWR's petition for such SWRCB approval and no deliveries of KCWA's Table A water outside the SWP place of use pursuant to this Agreement shall occur until SWRCB issues the required approval.

(2) DWR will make available KCWA's Table A water at CVP's Jones Pumping Plant, authorized under the SWRCB's Joint Point of Diversion (D-1641 and other SWRCB decisions), for conveyance by Reclamation to Tracy's turnouts on the DMC. KCWA's Table A water conveyed to Tracy in this manner will be used within the SWP place of use. Reclamation may require a Warren Act Contract between Reclamation and Tracy to authorize the conveyance of SWP water through CVP facilities.

b. The delivery of KCWA's Table A to Reclamation to facilitate return of Tracy's stored water shall be in accordance with a schedule approved by DWR. DWR's approval is dependent upon the times and amounts of the delivery and the overall delivery capability of the SWP. DWR shall not be obligated to deliver the water at times when such delivery would adversely

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impact SWP operations or facilities, or other SWP contractors' Table A deliveries.

c. In coordination with KCWA and Reclamation, Tracy shall be responsible for scheduling with DWR the delivery of its return water to the designated points of delivery in this Article.

d. KCWA may propose modifications to the proposed schedule for the return of Tracy's previously stored water under this Agreement if, on the basis of a "with and without" analysis, KCWA determines that such deliveries would adversely impact KCWA's finances, water supply or operations, and Tracy or Semitropic do not agree to mitigate for such impacts. The base case (without analysis) shall be those conditions estimated to occur in the absence of the Banking Agreement between Tracy and Semitropic. The KCWA analysis is a matter involving KCWA and Tracy, not DWR. DWR is not liable to Tracy for the determinations KCWA makes under this paragraph. DWR is not asserting the validity of KCWA's analysis, nor is it to be held liable by Tracy for any actions resulting from KCWA's analysis.

7. <u>RETURN OF WATER BY PUMP-IN TO THE CALIFORNIA AQUEDUCT</u>

a. To facilitate return of Tracy's stored water, KCWA may pump water into Reaches 10A, 12E, and/or 13B of the California Aqueduct, for exchange with SWP water supplies. DWR shall deliver a like amount of SWP water to facilitate

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return of Tracy's stored water by one of both of the following methods in coordination with Reclamation during the term of this Agreement:

(1) DWR will make available to Reclamation SWP water at O'Neill to meet the needs of CVP contractors within the San Luis Canal. Reclamation will then in turn deliver a like amount of CVP water to Tracy from the DMC. Reclamation will use the SWP water to meet these CVP contractor needs within the SWP place of use unless Tracy and KCWA request DWR to petition the State Water Resources Control Board (SWRCB) for a Temporary Change in Place of Use (or other appropriate SWRCB authorization) to authorize the delivery of SWP water outside the SWP place of use. Tracy will be responsible for all costs associated with DWR's petition for such SWRCB approval and no deliveries of SWP water outside the SWP place of use shall occur pursuant to this Agreement until the SWRCB issues the requisite approval.

(2) DWR will make available SWP water at CVP's Jones Pumping Plant, authorized under the SWRCB's Joint Point of Diversion (D-1641 and other SWRCB decisions), for conveyance by Reclamation to Tracy's turnouts on the DMC. SWP water conveyed to Tracy will be used within the SWP place of use. Reclamation may require a Warren Act Contract between

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Reclamation and Tracy to authorize the conveyance of SWP water through CVP facilities.

b. All water introduced into the California Aqueduct from KCWA's service area shall meet DWR's water quality standards in effect at the time water is pumped into the California Aqueduct. KCWA shall collect water quality data from wells from which local water will be pumped, pursuant to the "Interim Department of Water Resources Water Quality Criteria for Acceptance of Non-Project Water Into the State Water Project, March 1, 2001" or other document that supersedes this interim document, and submit such data to the Chief of SWP Water Quality Program Branch.

c. In coordination with KCWA and Reclamation, Tracy shall be responsible for scheduling with DWR the delivery of its return water to the designated points of delivery in this Article.

d. KCWA may propose modifications to the proposed schedule for the pump-in of water to facilitate return of Tracy's stored water under this Agreement if, on the basis of a "with and without" analysis, KCWA determines that such deliveries would adversely impact KCWA's finances, water supply or operations, and Tracy or Semitropic do not agree to mitigate for such impacts. The base case (without analysis) shall be those conditions estimated to occur in the absence of the

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Banking Agreement between Tracy and Semitropic. The KCWA analysis is a matter involving KCWA and Tracy, not DWR. DWR is not liable to Tracy for the determinations KCWA makes under this paragraph. DWR is not asserting the validity of KCWA's analysis, nor is it to be held liable by Tracy for any actions resulting from KCWA's analysis.

e. Any turnin facility used to return water to the California Aqueduct must have an executed agreement with DWR for the introduction of local water into the California Aqueduct.

8. WATER RECORDS

DWR will maintain monthly records accounting for the delivery of Tracy's CVP water to KCWA and for the delivery of return water to Tracy by the methods described in Articles 6 and 7 of this Agreement. KCWA shall certify to SWPAO by January 31 of each year the following monthly information for the previous calendar year.

a. The quantity of Tracy's CVP water supplies delivered to KCWA under this Agreement and the California Aqueduct reach to which it was delivered.

b. The quantity of return water introduced into Reaches 10A, 12E, and/or 13B of the California Aqueduct pursuant to Article 8(a) of this Agreement.

c. The quantity of Tracy's CVP water supplies remaining and designated as stored water by Semitropic in KCWA's service area.

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9. CHARGES AND CREDITS

KCWA will pay the following charges and/or receive the following credits, including future adjustments, which will be calculated in the same manner as charges and credits are calculated for Table A deliveries and shall be in accordance with the provisions of KCWA's Water Supply Contract. Charges will be determined for the year water is delivered for storage or returned pursuant to Articles 7 or 8 of this Agreement. Credits shall be determined in the year Tracy's stored water is returned pursuant to Article 6 or 7 of this Agreement.

a. When Tracy's CVP water is delivered to KCWA, KCWA shall pay to DWR the Variable Operation, Maintenance, Power, and Replacement components of the Transportation Charge and Off-Aqueduct Power Facilities costs associated with the conveyance of this water from O'Neill to KCWA's turnouts in Reaches 10A, 12E, and/or 13B.

b. When DWR conveys a portion of KCWA's Table A water to Reclamation at O'Neill to facilitate return of Tracy's stored water, KCWA shall pay to DWR the Variable Operation, Maintenance, Power, and Replacement Components of the Transportation Charge and the Off-Aqueduct Power Facilities costs associated with the conveyance of this water from the Delta to O'Neill.

c. When KCWA introduces water into the California Aqueduct at Reaches 10A, 12E, and/or 13B to facilitate return of Tracy's stored water, such water upon entering the California Aqueduct will be considered SWP

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water supply to be delivered downstream to SWP contractors who will pay the Variable Operation, Maintenance, Power and Replacement Component of the Transportation Charge and Off-Aqueduct Power Facility costs for each acre-foot of SWP water as though the water was conveyed from the Delta. KCWA shall receive a matching credit from the Delta to the point of introduction at Reaches 10A, 12E, and/or 13B.

d. In addition to the charges identified above, KCWA agrees to pay to DWR any additional identified increased non-power costs determined by DWR that DWR or other SWP contractors would otherwise incur as a result of DWR providing services under this Agreement.

e. Charges, credits, and payments shall be in accordance with KCWA's Water Supply Contract in its current form and as amended in the future.

f. All charges and payments under this Agreement not covered by KCWA's Water Supply Contract shall be due within 30 days after the date of DWR's billing. KCWA shall pay DWR accrued interest on the overdue payments at the rate of one percent per month from the due date to the date of payment.

10. APPROVALS

a. The delivery of water under this Agreement shall be contingent on, and subject to, any necessary approvals, including any approval by KCWA's

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Board of Directors or Tracy's City Council, and shall be governed by the terms and conditions of such approvals to the extent not inconsistent with this Agreement. KCWA and Tracy shall be responsible for complying with all applicable laws and regulations and for securing any required consent, permit, or order. KCWA and Tracy shall furnish to DWR copies of all approvals and agreements required for the delivery of water under this Agreement.

b. If DWR determines that the terms or conditions of any approval under this section involve an unacceptable cost or burden on the SWP, and Tracy does not undertake to mitigate that cost or burden, DWR may terminate this Agreement.

11. LIABILITY

a. DWR is providing conveyance service only and is not responsible for the use, effects, or disposal of water beyond KCWA's turnouts at Reaches 10A, 12E, and/or 13B of the California Aqueduct or beyond the designated points of delivery in Articles 6 and 7. Water conveyed pursuant to this Agreement shall remain subject to Article 13 of KCWA's Water Supply Contract with responsibility under the terms of that article shifting between DWR and KCWA when the water passes through KCWA's turnouts in its service area.

b. KCWA and Tracy agree to defend and hold DWR, its officers and

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employees, jointly or severally, harmless from any direct or indirect loss, liability, lawsuit, cause of action, judgment or claim, and shall indemnify DWR, its officers and employees, jointly or severally, for all lawsuits, costs, damages, judgments, attorneys fees, and liabilities that DWR, its officers and employees incur as result of DWR providing services under this Agreement, except to the extent resulting from the sole negligence or willful misconduct of DWR.

c. If uncontrollable forces preclude DWR from conveying water, pursuant to this Agreement, either partially or completely, then DWR is relieved from the obligation to deliver the water to KCWA for Semitropic, or to Tracy through SWP/CVP facilities, to the extent that DWR is reasonably unable to complete the obligation due to the uncontrollable force. Uncontrollable forces shall include, but are not limited to earthquakes, fires, tornadoes, floods, and other natural or human caused disasters.

d. KCWA shall not be entitled to recover any administrative costs, including but not limited to verification costs, or costs paid for storage or conveyance of Tracy's water if uncontrollable forces preclude DWR from conveying the water.

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e. KCWA and Tracy shall be responsible, jointly and severally, for any identified adverse impacts, as determined by DWR, that may result from deliveries under this Agreement.

12. NO MODIFICATION OF WATER SUPPLY CONTRACTS

This Agreement shall not be interpreted to modify the terms or conditions of KCWA's Water Supply Contract, as amended. Unless expressly provided herein, the terms and conditions of KCWA's Water Supply Contract apply to this Agreement.

13. CLAIMS DISPUTE

In the event of a dispute regarding interpretation or implementation of this Agreement, the Director of DWR, the General Manager of KCWA and a representative from Tracy having the authority to commit the city to a solution, shall endeavor to resolve the dispute by meeting within 30 days after the request of a Party. If the dispute is unresolved, the Parties shall use the service of a mutually acceptable consultant in an effort to resolve the dispute. The Parties involved in the dispute shall share the fees and expenses of the consultant equally. If a consultant cannot be agreed upon, or if the consultant's recommendations are not acceptable to the Parties, and unless the Parties otherwise agree, the matter may be resolved by litigation and any Party may at its option pursue any available legal remedy including, but not limited to, injunctive and other equitable relief.

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14. ASSIGNMENT OF AGREEMENT
Without the prior written consent of DWR, KCWA, and Tracy, this Agreement is not assignable by KCWA or Tracy in whole or in part.

15. PARAGRAPH HEADINGS
The paragraph headings of this Agreement are for the convenience of the Parties and shall not be considered to limit, expand, or define the contents of the respective paragraphs.

16. TERMS TO BE REASONABLE
Where the terms of this Agreement provide for actions to be based upon the opinion, judgment, approval, review, or determination of any party, such terms are to be construed as providing that such opinion, judgment, approval, review, or determination be reasonable.

17. NO MODIFICATION OF AGREEMENT
No modification of the terms of this Agreement shall be valid unless made in writing and signed by the Parties to this Agreement.

18. NO PRECEDENT
This Agreement is unique and shall not be considered a precedent for any future agreements.

19. SIGNATURE CLAUSE
The signatories represent that they have been appropriately authorized to enter into this Agreement on behalf of the party for whom they sign. A copy of the

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resolution or other documentation authorizing KCWA and Tracy to enter into this Agreement shall be provided to DWR.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement.

Approved as to legal form
and Sufficiency

_____
Chief Counsel
Department Of Water Resources

_____
Date

State Of California
Department Of Water Resources

_____
Deputy Director

_____
Date

KERN COUNTY WATER AGENCY

_____
Name

_____
Title

_____
Date

THE CITY OF TRACY

By:_____
Brent H. Ives, Mayor

By:_____
Sandra Edwards, City Clerk

By:_____
Daniel Sodergren, City Attorney

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RESOLUTION _____

AUTHORIZE MULTI-YEAR CONVEYANCE AGREEMENT AMONG THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA, KERN COUNTY WATER AGENCY, AND THE CITY OF TRACY FOR THE SEMITROPIC WATER BANKING PROGRAM AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, As part of the water banking project with the Semitropic Water Storage District, it is necessary to have an agreement with the California Department of Water Resources and the Kern County Water Agency in order to convey the water to Semitropic and to facilitate the water exchange to provide Tracy water during dry years, and

WHEREAS, In 2006, City Council authorized a pilot test to store water in Semitropic and the primary purpose of the pilot test was to determine the administrative processes and costs of transporting water supplies back and forth between Tracy and Semitropic, and

WHEREAS, Upon successful completion of the pilot project staff negotiated a participation agreement with Semitropic and the City Council approved the participation agreement and California Environmental Quality Act (CEQA) environmental document on November 16, 2010, and

WHEREAS, The Bureau completed the National Environmental Policy Act (NEPA) document on May 26, 2011 and we are currently waiting for Bureau approval of the project, and

WHEREAS, The subject agreement is to convey Tracy's Bureau water to Semitropic and to facilitate the water exchange to provide Tracy water during dry years, and

WHEREAS, The parties to the agreement are the City, California Department of Water Resources and the Kern County Water Agency; the latter two agencies' facilities are used to convey the water, and

WHEREAS, The term of the agreement is until 2030 with the right to extend an additional five years, and

WHEREAS, The agreement provides the authorization and the responsibilities for each party, and

WHEREAS, There is no fiscal impact to the General Fund and there are no payments due upon entering into this agreement. Tracy will pay actual conveyance charges when water is put into storage and when water is returned to Tracy.

NOW, THEREFORE, BE IT RESOLVED That the City Council authorizes the Multi-Year Conveyance Agreement among the Department of Water Resources of the State of California, Kern County Water Agency, and the City of Tracy for the Semitropic Water Banking Program and authorizes the Mayor to execute the agreement.

* * * * * * * * * * * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 1st day of November, 2011, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

November 1, 2011

AGENDA ITEM 1.F

REQUEST

AUTHORIZE AN APPROPRIATION OF $12,734 FROM THE 2011 EDWARD BRYNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR THE PURCHASE AND INSTALLATION OF A STATE OF THE ART VIDEO SURVEILLANCE SYSTEM IN THE POLICE FACILITY BUILDING

EXECUTIVE SUMMARY

The City of Tracy has been awarded $12,734 from a federal Justice Assistance Grant (JAG) for the purchase and installation of a state of the art video surveillance system in the police facility building. The City of Tracy must accept the grant and authorize an appropriation of $12,734 to the police department budget.

DISCUSSION

The Edward Byrne Justice Assistance Grant (JAG) program-local solicitation formula grant is a federal grant solicitation under the American Recovery and Reinvestment Act of 2009 (ARRA). This grant program is non-competitive and requires no local match funds. The U.S. Department of Justice administers the grant program and under a pre-designated formula awards available federal public safety funds to jurisdictions and the City of Tracy's award amount is $12,734.

Agencies are allowed to use this grant to support a broad range of activities to prevent and control crime based upon their own local needs and conditions. The Tracy Police Department has determined the most appropriate use of this grant is to purchase and install a state of the art video surveillance system to enhance the safety of citizens and employees in and around the police facility. The new system will address current "blind spots" in and around the facility and project an umbrella of greater safety to those persons visiting and leaving the facility, especially in perimeter parking areas.

STRATEGIC PLAN

This agenda item supports the Public Safety strategic plan and specifically implements the following goal and objectives:

Goal 3: Empower the residents with the tools needed to maintain a safe quality of life. This grant purchases technology rather than extra personnel to enhance the safety of citizens and employees visiting and leaving the police facility.

FISCAL IMPACT

The City of Tracy will receive $12,734 from the 2011 federal JAG program. There is no negative impact to the current fiscal budget as no city match is required. Accepting this grant funding requires the funds be appropriated from the federal JAG program and $12,734 added to the Police Department's Operating Budget.

RECOMMENDATION

That the City Council, by resolution, authorize the acceptance of the grant and the appropriation of $12,734 from the federal JAG program to the Police Department's Operating Budget for the purchase and installation of a state of the art video surveillance system.

Prepared by: John Espinoza, Police Captain

Reviewed by: Gary R. Hampton, Chief of Police

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

AUTHORIZING AN APPROPRIATION OF $12,734 FROM THE 2011 EDWARD BRYNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR THE PURCHASE AND INSTALLATION OF A STATE OF THE ART VIDEO SURVEILLANCE SYSTEM IN THE POLICE FACILITY BUILDING

WHEREAS, The United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance coordinates the annual Edward Bryne Justice Assistance Grant (JAG) that makes available federal public safety funds to local jurisdiction, and

WHEREAS, The City of Tracy is eligible to receive $12,734 for calendar year 2011 under a pre-designated grant formula, and

WHEREAS, The Police Department intends to use the appropriation of $12,734 to purchase and install a state of the art video surveillance system in the police facility building to enhance safety of citizens and employees visiting and leaving the facility.

NOW THEREFORE BE IT RESOLVED, That the City Council hereby authorizes the appropriation of $12,734 from the federal Justice Assistance Grant to the Police Department budget to purchase and install a state of the art video surveillance system in the police facility building to enhance the safety of citizens and employees visiting and leaving the facility.

* *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 1st day of November, 2011 by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

November 1, 2011

AGENDA ITEM 3

REQUEST

HOLD A PUBLIC HEARING, THEN ADOPT SEVERAL RESOLUTIONS OF THE CITY OF TRACY AND THE TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY RELATED TO THE REFINANCING OF OUTSTANDING BONDS AND THE FINANCING OF CAPITAL PROJECTS

EXECUTIVE SUMMARY

The City previously issued bonds for two assessment districts and a community facilities districts. These districts are primarily built-out and, because of the favorable interest rate environment, it is possible to refinance the outstanding bonds and finance public capital facilities of benefit to the City. Staff recommends that the City Council hold a public hearing and that the City Council and the Board of Directors of the Tracy Operating Partnership Joint Powers Authority approve the proposed financing.

DISCUSSION

Background. Since the late 1980's the City has used Specific Plan areas to guide growth and development in Tracy. Such Plans have included the Residential Specific Plan (RSP), the I-205 Specific Plan, Plan C, the Presidio Planning Area and the South MacArthur Planning Area. Residential areas in each of these planning areas have provided for additional infrastructure improvements through the payment of in-lieu fees and by the formation of financing districts which have issued bonds the proceeds of which paid for major infrastructure improvements such as sewer and water improvements.

Typically when a financing district is first formed the covered area is almost exclusively undeveloped land owned by a small number of developers. Special assessments or special taxes on the land provide the revenue to pay the debt service on the bonds. As time goes by, the planned homes are constructed and the financing district transcends to one that has better security from a bond owner's perspective because the once vacant land under concentrated ownership is now subdivided into ownership by hundreds or thousands of different owners with homes constructed on the property. Even if prevailing interest rates were the same as when the bonds were first issued, the odds are the City could subsequently refinance the bonds at a lower interest rate once the area has been mostly developed because the bonds carry less risk and are generally considered more secure and, as a result, the bonds can be issued at a lessor interest rate.

Over the years the City has taken advantage of this improved security on many of its financing districts. The additional security has often also been coupled with a favorable interest rate environment making it possible for the City to refinance the bonds and generate additional project funds for the community while also slightly lowering the amount of assessments or special taxes.

The RSP formed Assessment District 84-1 (City sewer) and 87-3 (City water) and formed Community Facilities District (CFD) 87-1 to provide financing for school

construction through the Tracy Area Public Facilities Financing Agency (TAPFFA). The AD 84-1 bonds and the AD 87-3 bonds have been completely paid off and there is no longer any special assessments for these 7,000 plus homes. CFD 87-1 bonds were refinanced by TAPFFA when the area was completely built out.

The residential areas of the I-205 Specific Plan area formed five assessment districts. The 1,200 homes in this specific plan have all been constructed and all but two of the assessment districts as a result have been refinanced. The Plan C area formed CFD 98-1 and CFD 98-3. Virtually all of the 5,000 plus homes in this area have been built and the bonds have also been refinanced.

The "Presidio Planning Area" is the area of 550 homes immediately surrounding the Tracy Sports Complex. The homes were constructed by Standard Pacific and the area was marketed as "Laurence Ranch". Community Facilities District (CFD) 2000-01 was formed with the purpose to provide for the issuance of bonds to pay for infrastructure development required for Presidio Planning Area. The CFD 2000-01 bonds were refinanced in 2005.

In the past few years the municipal bond market has been challenging. Many of the bond insurers have disappeared leaving it difficult to obtain bond insurance which typically would allow the City to refinance bonds with an AAA rating (and, as a result, achieve a lower interest rate). Although bond insurance will not be available for this proposed refinancing, a combination of a low interest rate environment and the primarily-developed status of the property will enable the City to refinance the last few remaining Assessment Districts and Community Facilities Districts which have never been refinanced. Specifically the following are proposed for refinancing.

Planning Area	District #	Name	Homes Planned	Homes Built
I-205	AD 98-4	Morrison Homes	177	177
I-205	AD 2002-02	Heartland 3	69	69
S. MacArthur	CFD 99-2	Elissagaray Ranch	436	436
S. MacArthur	CFD 99-2	Bright Dev.	166	63
TOTAL			**848**	**745**

Proposed Refinancing. The City, along with the City of Tracy Community Development Agency, formed the Tracy Operating Partnership Joint Powers Authority (TOPJPA) under Section 6500 of the California Government Code for the specific purpose of financing the acquisition of bonds, notes and other obligations and for the financing and refinancing public capital improvements of member agencies of the TOPJPA.

In this transaction, the City will issue one series of reassessment bonds to refinance the outstanding AD 98-4 and AD 2002-02 Bonds and one series of special tax refunding bonds to refinance the outstanding CFD 99-2 Bonds. TOPJPA will issue revenue bonds to acquire the reassessment bonds and the special tax refunding bonds from the City. The existing special taxes of CFD 99-2 and the existing special assessments of AD 98-4

and AD 2002-02 will be the source of revenue to repay the reassessment bonds and the special tax refunding bonds; the source of revenue to repay the newly issued TOPJPA bonds will be the debt service payments received from the City as a result of TOPJPA's ownership of the reassessment bonds and the special tax refunding bonds. The City will be able to slightly decrease the special taxes and assessments that property owners currently pay and the final maturity date of the existing bonds will not be lengthened.

Because of the savings anticipated as a result of the lower interest rate on the new bonds, it is anticipated that the proposed refinancing will result in a newly created project fund of approximately $830,000. These funds will go into the City's General Project's Fund #301 to be used for a variety of capital improvement projects to be determined at a later date by the City Council. The proceeds from the bonds will be limited to capital improvement projects due to a variety of tax requirements associated with the bonds and consistent with the bond documents.

It may also be possible to use approximately $250,000 of the proceeds of the outstanding CFD 99-2 bonds that were previously held in debt service reserve funds to finance capital projects with specific benefit to CFD 99-2. The City Engineer has identified a drainage improvement project in this regard. Whether it will be possible to use the CFD 99-2 bond proceeds in this manner is dependent upon interest rates and will be determined when the bond underwriter markets the bonds.

The TOPJPA bonds will be sold through a negotiated sale to Stone & Youngberg a Division of Stifel Nicolaus. The firm of Jones Hall will serve as Bond Counsel and Disclosure Counsel. This team has assisted the City in many financings and refinancing's in the past. It is anticipated the bonds will be priced on November 15, 2011 with the bond sale closing on December 7, 2011.

Actions Needed. There are a variety of actions required by the Council and by the Board of Directors of the TOPJPA. First, a public hearing must be held by the Council. Next, the Council and the TOPJPA Board of Directors must adopt the following resolutions:

<u>City</u>

With respect to the special tax refunding bonds and the TOPJPA bonds, a resolution making findings of significant public benefit as a result of issuance of the TOPJPA bonds, authorizing the issuance of the TOPJPA bonds and the special tax refunding bonds, approving and directing the execution of a fiscal agent agreement and an escrow deposit and trust agreement, authorizing sale of the special tax refunding bonds to TOPJPA, approving the Preliminary Official Statement (which describes the TOPJPA bonds, the special tax refunding bonds and the reassessment bonds) and other related documents.

The Preliminary Official Statement has been reviewed and approved for transmittal to the Council by City staff and its financing team. The Preliminary Official Statement must include all facts that would be material to an investor in the TOPJPA bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the TOPJPA bonds, and primarily consists in this case of information about AD 98-4, AD 2000-02 and CFD 99-2. Members of the City Council may review the

Preliminary Official Statement and/or question staff and consultants to make sure they feel comfortable that it includes all material facts.

With respect to AD 98-4 (Morrison Homes) and AD 2000-02 (Heartland Three):

(i) A resolution of intention to levy reassessments and to issue refunding bonds upon the security thereof.

(ii) A resolution adopting reassessment report, confirming and ordering the reassessment pursuant to summary proceedings and directing actions with respect thereto.

(iii) A resolution authorizing the issuance and sale of reassessment bonds, approving and directing the execution of a fiscal agent agreement and two escrow deposit and trust agreements, authorizing sale of the reassessment bonds to TOPJPA, approving the Preliminary Official Statement and approving and authorizing related documents and actions.

TOPJPA

A resolution of the Board of Directors of the TOPJPA authorizing the issuance and sale of its revenue bonds in one or more series, approving and directing the execution of an Indenture of Trust, approving the purchase of the reassessment bonds and the special tax refunding bonds from the City, approving the sale of the TOPJPA bonds to the underwriter, approving the Preliminary Official Statement and approving related agreements and actions.

STRATEGIC PLANS

This item relates to one of the City Council's strategic plans, specifically Organizational Efficiency Strategy - Goal #1 Advance City Council's Fiscal Policies - to take advantage of funding and revenue generation opportunities.

FISCAL IMPACT

There is no General Fund impact except to the extent the transaction will make funds available for City capital projects. The TOPJPA bonds are payable from debt service received by the Authority as a result of its ownership of the reassessment bonds and the special tax refunding bonds. The reassessment bonds are payable from assessements levied in AD 98-4 and AD 2000-02. The special tax refunding bonds are payable from special taxes levied in CFD 99-2. Bond issuance costs are paid from bond proceeds.

RECOMMENDATION

That the City Council hold the public hearing then adopt the attached four resolutions and that the TOPJPA adopt the attached resolution which enable the refinancing of CFD 99-2, AD 98-4 and AD 2002-02 bonds.

Prepared by Zane Johnston, Finance & Administrative Services Director

Approved by R. Leon Churchill, Jr., City Manager

Attachments:

A. Preliminary Official Statement
B. Bonds Purchase Agreement Community Facilities District No. 99-2
C. Bond Purchase Agreement TOPJPA Revenue Bonds 2011, Series A
D. Fiscal Agreement Reassessment District No. 2011-1 (Morrison Homes; Heartland Three)
E. Fiscal Agreement Community Facilities District No. 99-2 (South MacArthur Planning Area)
F. Reassessment Bonds Purchase Agreement-District No.2011-1 (Morrison Homes; Heartland Three)
G. Escrow Deposit and Trust Agreement Assessment District No. 2000-02 (Heartland Three)
H. Escrow Deposit and Trust Agreement Assessment District No. 98-4 (Morrison Homes)
I. Escrow Deposit and Trust Agreement Community Facilities District 99-2 Series 2000 & 2002
J. Indenture of Trust TOPJPA Revenue Bonds, Series A

PRELIMINARY OFFICIAL STATEMENT DATED _____, 2011

NEW ISSUE-FULL BOOK ENTRY **NOT RATED**

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however, to certain qualifications described in this Official Statement, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, although for purposes of computing the alternative minimum tax imposed on certain corporations, such interest is taken into account in determining certain income and earnings. In the further opinion of Bond Counsel, interest on the Bonds is exempt from State of California personal income tax. See "LEGAL MATTERS — Tax Matters."

$13,835,000*
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
REVENUE BONDS
2011 SERIES A

Dated: Date of Delivery **Due: September 2, as shown on inside cover**

Authority for Issuance. The Bonds are being issued by the Tracy Operating Partnership Joint Powers Authority (the "Authority"), pursuant to Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the California Government Code, under an Indenture of Trust dated as of December 1, 2011 (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), and under a resolution adopted by the Board of Directors of the Authority on _____, 2011. See "THE BONDS – Authority for Issuance.

Use of Proceeds. The Bonds are being issued to (i) acquire a series of special tax refunding bonds to be issued by the City of Tracy (the "City") concurrently with the issuance of the Bonds (the "CFD Bonds"), (ii) acquire a series of reassessment bonds to be issued by the City concurrently with the issuance of the Bonds (the "Reassessment Bonds"), and (iii) finance the acquisition and construction of certain public capital improvements. See "FINANCING PLAN."

The CFD Bonds are being issued to (i) refund two outstanding series of special tax bonds previously issued by the City (the "Prior CFD Bonds"), (ii) fund a debt service reserve fund for the CFD Bonds, and (iii) pay a portion of the costs of issuing the CFD Bonds and the Bonds. See "FINANCING PLAN."

The Reassessment Bonds are being issued to (i) refund two outstanding series of limited obligation assessment bonds previously issued by the City (the "Prior Assessment Bonds"), (ii) fund a debt service reserve fund for the Reassessment Bonds, and (iii) pay a portion of the costs of issuing the Reassessment Bonds and the Bonds. See "FINANCING PLAN."

Security and Sources of Payment. The Bonds are payable solely from "Revenues" pledged by the Authority under the Indenture, which consist primarily of (i) special taxes levied within the City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) (the "CFD") and paid to the Authority as debt service on the CFD Bonds, and (ii) reassessments levied within the City's Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "Reassessment District") and paid to the Authority as debt service on the Reassessment Bonds.

Bond Terms. The Bonds will be issued in denominations of $5,000 or any integral multiple of $5,000. Interest is payable on semiannually on each March 2 and September 2, commencing March 2, 2012. The Bonds will be initially issued only in book-entry form and registered to Cede & Co. as nominee of The Depository Trust Company, New York, New York ("DTC"), which will act as securities depository of the Bonds. Principal and interest (and premium, if any) on the Bonds is payable by the Trustee to DTC, which remits such payments to its Participants for subsequent distribution to the registered owners as shown on the Trustee's books. See "THE BONDS - Bond Terms" and "– Book-Entry Only System."

Redemption. The Bonds are subject to optional redemption, mandatory special redemption from the proceeds of early redemption of the CFD Bonds or the Reassessment Bonds, and mandatory sinking fund redemption. See "THE BONDS – Redemption."

Risk Factors. **The Bonds may not be appropriate investments for certain individuals. See "RISK FACTORS" for a discussion of the risk factors that should be considered in evaluating the investment quality of the Bonds.**

THE BONDS ARE SPECIAL OBLIGATIONS OF THE AUTHORITY PAYABLE SOLELY FROM AND SECURED SOLELY BY THE REVENUES AND FUNDS PLEDGED THEREFOR IN THE INDENTURE. THE BONDS ARE NOT A DEBT OR LIABILITY OF THE CITY, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISIONS THEREOF OTHER THAN THE AUTHORITY TO THE LIMITED EXTENT DESCRIBED HEREIN, AND NEITHER THE FAITH AND CREDIT OF THE AUTHORITY, THE CITY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS ARE PLEDGED TO THE PAYMENT OF PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS AND NEITHER THE AUTHORITY (EXCEPT TO THE LIMITED EXTENT DESCRIBED HEREIN), THE CITY, THE STATE NOR ANY OF ITS POLITICAL SUBDIVISIONS IS LIABLE THEREFOR, NOR IN ANY EVENT SHALL THE BONDS OR ANY INTEREST OR REDEMPTION PREMIUM THEREUNDER BE PAYABLE OUT OF ANY FUNDS OR PROPERTIES OTHER THAN THOSE OF THE AUTHORITY AS SET FORTH IN THE INDENTURE. NEITHER THE BONDS NOR THE OBLIGATION TO MAKE PAYMENTS ON THE CFD BONDS OR THE REASSESSMENT BONDS CONSTITUTES AN INDEBTEDNESS OF THE AUTHORITY, THE CITY, THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION. THE AUTHORITY HAS NO TAXING POWER.

Maturity Schedule
(see inside cover)

The Bonds will be offered when, as and if issued and received by the Underwriter, subject to the approval as to their legality by Jones Hall, A Professional Law Corporation, San Francisco, California, as Bond Counsel. Certain legal matters will be passed upon for the Authority and the City by the City Attorney. Jones Hall, A Professional Law Corporation, San Francisco, California, is also acting as Disclosure Counsel to the City. Certain matters will be passed upon for the Underwriter by Hawkins Delafield & Wood LLP, San Francisco, California. It is anticipated that the Bonds in definitive form will be available for delivery to DTC in New York, New York on or about December ____, 2011.

STONE & YOUNGBERG
A DIVISION OF STIFEL NICOLAUS

The dated of this Official Statement is: _____, 2011.

MATURITY SCHEDULE*

$13,835,000*
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
REVENUE BONDS
2011 SERIES A

(Base CUSIP: †_____)

Maturity (September 2)	Principal Amount	Interest Rate	Yield	Price	CUSIP †

† Copyright 2011, American Bankers Association. CUSIP data herein are provided by Standard & Poor's CUSIP Service Bureau, a division of The McGraw-Hill Companies, Inc., and are provided for convenience of reference only. Neither the Community Facilities District, the School District nor the Underwriter assumes any responsibility for the accuracy of CUSIP data.

* Preliminary; subject to change.

GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

No Offering May Be Made Except by this Official Statement. No dealer, broker, salesperson or other person has been authorized by the Authority, the City or the Underwriter to give any information or to make any representations with respect to the Bonds or the CFD Bonds other than as contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been authorized by the Authority, the City or the Underwriter.

No Unlawful Offers or Solicitations. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy in any state in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation.

Effective Date. This Official Statement speaks only as of its date, and the information and expressions of opinion contained in this Official Statement are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the Bonds will, under any circumstances, create any implication that there has been no change in the affairs of the Authority, the City's, the CFD, any other parties described in this Official Statement, or in the condition of property within the CFD since the date of this Official Statement.

Use of this Official Statement. This Official Statement is submitted in connection with the sale of the Bonds referred to herein and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not a contract with the purchasers of the Bonds.

Preparation of this Official Statement. The information contained in this Official Statement has been obtained from sources that are believed to be reliable, but this information is not guaranteed as to accuracy or completeness.

The Underwriter has provided the following sentence for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

Document References and Summaries. All references to and summaries of the Indenture or other documents contained in this Official Statement are subject to the provisions of those documents and do not purport to be complete statements of those documents.

Stabilization of and Changes to Offering Prices. The Underwriter may overallot or take other steps that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market. If commenced, the Underwriter may discontinue such market stabilization at any time. The Underwriter may offer and sell the Bonds to certain dealers, dealer banks and banks acting as agent at prices lower than the public offering prices stated on the cover page of this Official Statement, and those public offering prices may be changed from time to time by the Underwriter.

Bonds are Exempt from Securities Laws Registration. The issuance and sale of the Bonds have not been registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, in reliance upon exemptions for the issuance and sale of municipal securities provided under Section 3(a)(2) of the Securities Act of 1933 and Section 3(a)(12) of the Securities Exchange Act of 1934.

Estimates and Projections. Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "budget" or other similar words.

THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE AUTHORITY AND THE CITY DO NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ANY EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
SAN JOAQUIN COUNTY, CALIFORNIA

BOARD OF DIRECTORS
OF THE AUTHORITY AND MEMBERS OF THE CITY COUNCIL

Brent H. Ives, *President and Mayor*
Michael Maciel, *Senior Vice President and Mayor Pro Tem*
Robert Rickman, *Director and Council Member*
Bob Elliott, *Director and Council Member*
Steve Abercrombie, *Director and Council Member*

OFFICERS

Leon Churchill, *City Manager*
Zane H. Johnston, *Finance and Administrative Services Director*
Raymond McCray, *City Treasurer*
Dan Sodergren, *City Attorney*
Andrew Malik, *Development and Engineering Services Director*
Sandra Edwards, *City Clerk*

FINANCING SERVICES

BOND COUNSEL AND DISCLOSURE COUNSEL

Jones Hall,
A Professional Law Corporation
San Francisco, California

TRUSTEE

The Bank of New York Mellon Trust Company, N.A.
San Francisco, California

CASH FLOW VERIFICATION

Causey, Demgen & Moore, Inc.,
Certified Public Accountants
Denver, Colorado

REASSESSMENT ENGINEER/CFD ADMINISTRATOR

Willdan Financial Services
Temecula, California

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OFFICIAL STATEMENT

$13,835,000*
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
REVENUE BONDS
2011 SERIES A

INTRODUCTION

The purpose of this Official Statement, which includes the cover page and Appendices hereto (the "**Official Statement**"), is to provide certain information concerning the sale and issuance of the revenue bonds captioned above (the "**Bonds**") by the Tracy Operating Partnership Joint Powers Authority (the "**Authority**").

This Introduction is not a summary of this Official Statement. It is only a brief description of and guide to, and is qualified by, more complete and detailed information contained in the entire Official Statement, including the cover page and appendices hereto, and the documents summarized or described herein. A full review should be made of the entire Official Statement. The offering of the Bonds to potential investors is made only by means of the entire Official Statement.

Capitalized terms used but not defined in this Official Statement have the meanings set forth in the Indenture (as defined below). See "APPENDIX A – Summary of Principal Legal Documents."

Authority for Issuance

The Bonds are being issued by the Authority under Article 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "**Act**"), under an Indenture of Trust dated as of December 1, 2011 (the "**Indenture**"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "**Trustee**"), and under a resolution adopted by the Board of Directors of the Authority on _____, 2011 (the "**Authority Resolution**"). See "THE BONDS – Authority for Issuance.

Financing Purposes

The Bonds are being issued for the following purposes:

(i) acquire a series of special tax refunding bonds (the "**CFD Bonds**") to be issued by the City of Tracy (the "**City**") concurrently with the issuance of the Bonds,

(ii) acquire a series of reassessment bonds (the "**Reassessment Bonds**") to be issued by the City concurrently with the issuance of the Bonds, and

(iii) finance the acquisition and construction of certain public capital improvements.

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* Preliminary, subject to change.

The CFD Bonds and the Reassessment Bonds are referred to collectively in this Official Statement as the "**Acquired Obligations**."

See "FINANCING PLAN" for a further description of the uses of the proceeds of the Bonds and the Acquired Obligations.

Description of the Bonds

The Bonds will be issued in denominations of $5,000 or any integral multiple of $5,000. Interest is payable on semiannually on each March 2 and September 2, commencing March 2, 2012.

The Bonds will be initially issued only in book-entry form and registered to Cede & Co. as nominee of The Depository Trust Company, New York, New York ("**DTC**"), which will act as securities depository of the Bonds. Principal and interest (and premium, if any) on the Bonds is payable by the Trustee to DTC, which remits such payments to its Participants for subsequent distribution to the registered owners as shown on the Trustee's books.

See "THE BONDS."

Redemption

The Bonds are subject to optional redemption, mandatory special redemption from the proceeds of early redemption of the CFD Bonds or the Reassessment Bonds, and mandatory sinking fund redemption. See "THE BONDS - Redemption."

Security and Sources of Payment for the Bonds

The Bonds are payable from revenues received under the Indenture ("**Revenues**"), which consist primarily of debt service on the Acquired Obligations, as further described below. See "SECURITY FOR THE BONDS."

Acquired Obligations

The CFD Bonds. The "**CFD Bonds**" consist of the special tax bonds captioned "$10,525,000* City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Refunding Bonds, 2011 Series A," which are being issued by the City for and on behalf of the City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) (the "**CFD**").

Authority for Issuance. The CFD Bonds are being issued under the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "**Mello-Roos Act**"), and a Fiscal Agent Agreement dated as of November 1, 2011 (the "**CFD Bonds Fiscal Agent Agreement**"), by and between the City, for and on behalf of the CFD, and The Bank of New York Mellon Trust Company, N.A., as fiscal agent (the "**CFD Fiscal Agent**").

Purposes. The CFD Bonds are being issued to:

* Preliminary, subject to change.

(i) refund two outstanding series of special tax bonds previously issued by the City (the "**Prior CFD Bonds**"),

(ii) fund a debt service reserve account for the CFD Bonds, and

(iii) pay a portion of the costs of issuing the CFD Bonds and the Bonds.

See "FINANCING PLAN."

Security and Sources of Payment. The CFD Bonds are payable from "**Net Taxes**" resulting from the levy of Special Taxes on taxable property within the CFD, which are generally defined as gross proceeds of the Special Taxes received by the City, less amounts set aside to pay Administrative Expenses. See "SECURITY FOR THE CFD BONDS" and "THE CFD."

The Reassessment Bonds. The "**Reassessment Bonds**" consist of the bonds captioned "$2,235,575* City of Tracy Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three)," which are being issued by the City with respect to its Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "**Reassessment District**").

Authority for Issuance. The Reassessment Bonds are being issued under the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 (commencing with Section 9500) of the Streets and Highways Code of California (the "**Reassessment Act**"), and a Fiscal Agent Agreement dated as of November 1, 2011 (the "**Reassessment Bonds Fiscal Agent Agreement**"), by and between the City and The Bank of New York Mellon Trust Company, N.A., as fiscal agent (the "**Reassessment Fiscal Agent**").

Purposes. The Reassessment Bonds are being issued to:

(i) refund two outstanding series of limited obligation assessment bonds previously issued by the City (the "**Prior Assessment Bonds**"),

(ii) fund a debt service reserve fund for the Reassessment Bonds, and

(iii) pay a portion of the costs of issuing the Reassessment Bonds and the Bonds.

See "FINANCING PLAN."

Security and Sources of Payment. The Reassessment Bonds are payable from reassessments levied and collected by the City on the parcels within the Reassessment District. See "SECURITY FOR THE REASSESSMENT BONDS" and "THE REASSESSMENT DISTRICT."

* Preliminary, subject to change.

Debt Service Reserves

CFD Bonds Reserve Account. As further security for the CFD Bonds, the City will deposit a portion of the proceeds of the CFD Bonds with the CFD Fiscal Agent, to be held in a debt service reserve account established under the CFD Bonds Fiscal Agent Agreement, and used if there are insufficient amounts available in the Special Tax Fund to pay scheduled debt service on the CFD Bonds. See "SECURITY FOR THE CFD BONDS – Reserve Account."

Reassessment Bonds Reserve Fund. As further security for the Reassessment Bonds, the City will deposit a portion of the proceeds of the Reassessment Bonds with the Reassessment Fiscal Agent, to be held in a debt service reserve fund established under the Reassessment Bonds Fiscal Agent Agreement, and used if there are insufficient amounts available in the Redemption Fund to pay scheduled debt service on the Reassessment Bonds. See "SECURITY FOR THE REASSESSMENT BONDS – Reserve Fund."

Limited Obligations; Risk Factors

The Bonds are special obligations of the Authority payable solely from and secured solely by the Revenues and funds pledged therefor in the Indenture. The Bonds are not a debt or liability of the City, the State of California or any political subdivisions thereof other than the Authority to the limited extent described herein, and neither the faith and credit of the Authority, the City, the State or any of its political subdivisions are pledged to the payment of principal of, premium, if any, or interest on the Bonds, and neither the Authority (except to the limited extent described herein), the City, the State nor any of its political subdivisions is liable therefor, nor in any event shall the Bonds or any interest or redemption premium thereunder be payable out of any funds or properties other than those of the Authority as set forth in the Indenture. Neither the Bonds nor the obligation to make payments on the CFD Bonds or the Reassessment Bonds constitutes an indebtedness of the Authority, the City, the State or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction. The Authority has no taxing power.

For a discussion of some of the risks associated with the purchase of the Bonds, see "RISK FACTORS."

FINANCING PLAN

Purpose of Issue

The Bonds are being issued for the following purposes:

(i) to acquire the CFD bonds, which will be issued by the City concurrently with the issuance of the Bonds,

(ii) to acquire the Reassessment Bonds, which will be issued by the City concurrently with the issuance of the Bonds, and

(iii) to finance the acquisition and construction of certain public capital improvements, which are intended to consist generally of police range facilities, a new fire station, an animal shelter, a Police CAD/RMS system, remodeling of the City's maintenance service yard including building renovation, way finding signage, park improvements and HVAC system upgrades.

Refunding Plan for CFD Bonds

A portion of the proceeds of the CFD Bonds will be used to refund and legally defease, on a current basis, the Prior CFD Bonds, which are described as follows:

(i) the special tax bonds captioned "City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2000," which were issued in the original principal amount of $3,835,000 (the "**Series 2000 Bonds**"), and which are currently outstanding in the principal amount of $3,395,000; and

(ii) the special tax bonds captioned "City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2002," which were issued in the original principal amount of $7,665,000 (the "**Series 2002 Bonds**"), and which are currently outstanding in the principal amount of $6,790,000.

A portion of the proceeds of the CFD Bonds will be transferred to The Bank of New York Mellon Trust Company, N.A., acting as escrow agent (the "**CFD Escrow Agent**") for the Prior CFD Bonds under an Escrow Deposit and Trust Agreement dated as of December 1, 2011 (the "**CFD Escrow Agreement**"), by and between the City and the CFD Escrow Agent.

The amounts deposited from the proceeds of the CFD Bonds will be held by the CFD Escrow Agent under the CFD Escrow Agreement, uninvested, which will be sufficient to pay the redemption price of the Prior CFD Bonds on December 13, 2011, by optional redemption on that date. The redemption price will equal the outstanding principal amount of the Prior CFD Bonds, plus accrued interest to the date of redemption, without premium. See "VERIFICATION OF MATHEMATICAL COMPUTATIONS."

The moneys held by the CFD Escrow Agent under the CFD Escrow Agreement are pledged to the payment of the Prior CFD Bonds and will not be available for the payment of the Bonds or the CFD Bonds.

Refunding Plan for Reassessment Bonds

A portion of the proceeds of the Reassessment Bonds will be used to refund and legally defease, on a current basis, the Prior Assessment Bonds, which are described as follows:

(i) the limited obligation improvement bonds captioned "City of Tracy Limited Obligation Improvement Bonds Assessment District No. 98-4 (Morrison Homes)," which were issued in the original principal amount of $2,485,781 (the "**AD 98-4 Bonds**"), and which are currently outstanding in the principal amount of $1,590,000; and

(ii) the limited obligation improvement bonds captioned "Limited Obligation Improvement Bonds City of Tracy Assessment District No. 2000-02 (Heartland Three)," which were issued in the original principal amount of $893,000 (the "**AD 2002-2 Bonds**"), and which are currently outstanding in the principal amount of $640,000.

A portion of the proceeds of the Reassessment Bonds will be transferred to The Bank of New York Mellon Trust Company, N.A., acting as escrow agent (the "**Reassessment District Escrow Agent**") for each series of the Prior Assessment Bonds under separate Escrow Deposit and Trust Agreements, each dated as of December 1, 2011 (the "**Reassessment District Escrow Agreements**"), and each by and between the City and the Reassessment District Escrow Agent.

The amounts deposited from the proceeds of the Reassessment Bonds will be held by the Reassessment District Escrow Agent under each Reassessment District Escrow Agreement and invested in noncallable federal securities consisting of [United States Treasury Securities—State and Local Government Series (SLGS),] the principal of and interest on which, when received, will be sufficient to pay the redemption price of each series of Prior Assessment Bonds on March 2, 2012, by optional redemption on that date. The redemption price will equal the outstanding principal amount of the Prior Assessment Bonds, plus accrued interest to the date of redemption, without premium. See "VERIFICATION OF MATHEMATICAL COMPUTATIONS."

The moneys held by the Reassessment District Escrow Agent under the Reassessment District Escrow Agreements are pledged to the payment of the Prior Assessment Bonds and will not be available for the payment of the Bonds or the Reassessment Bonds.

Estimated Sources and Uses of Funds

The Bonds. The anticipated sources and uses of funds relating to the Bonds are as follows:

Sources:	
Principal Amount of the Bonds	
Less: Original Issue Discount	
Less: Underwriter's Discount	
Total Sources	
Uses:	
Deposit to Purchase Fund [1]	
Deposit to Project Fund [2]	
Total Uses	

[1] To be used to acquire the CFD Bonds and the Reassessment Bonds.

[2] To be used to finance the acquisition and construction of certain public improvements. See "–Purpose of Issue" above.

CFD Bonds. The anticipated sources and uses of funds relating to the CFD Bonds are as follows:

Sources:
Principal Amount of CFD Bonds
Plus: Available Funds from Prior CFD Bonds
Total Sources
Uses:
Deposit to Escrow Fund [1]
Costs of Issuance [2]
Deposit to Reserve Account [3]
Total Uses

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[1] To be used to refund the Prior CFD Bonds. See "–Refunding Plan for CFD Bonds" above.
[2] Costs of issuance include Trustee fees, Bond Counsel fees, Disclosure Counsel fees, printing costs, and other related costs of issuing the Bonds and the CFD Bonds. The CFD Bonds are funding a portion of the costs of issuance; the Reassessment Bonds are funding the remainder.
[3] Equal to the Reserve Requirement for the CFD Bonds as of the Closing Date. See "SECURITY FOR THE CFD BONDS – Reserve Account."

Reassessment Bonds. The anticipated sources and uses of funds relating to the Reassessment Bonds are as follows:

Sources:
Principal Amount of Reassessment Bonds
Plus: Available Funds from Prior Assessment Bonds
Total Sources
Uses:
Deposit to Escrow Funds [1]
Costs of Issuance [2]
Deposit to Reserve Fund [3]
Total Uses

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[1] To be used to refund the Prior Assessment Bonds. See "–Refunding Plan for Reassessment Bonds" above.
[2] Costs of issuance include Trustee fees, Bond Counsel fees, Disclosure Counsel fees, printing costs, and other related costs of issuing the Bonds and the Reassessment Bonds. The Reassessment Bonds are funding a portion of the costs of issuance; the CFD Bonds are funding the remainder.
[3] Equal to the Reserve Requirement for the Reassessment Bonds as of the Closing Date. See "SECURITY FOR THE REASSESSMENT BONDS – Reserve Fund."

THE BONDS

This section provides summaries of the Bonds and certain provisions of the Indenture. See "APPENDIX A – Summary of Principal Legal Documents" for a more complete summary of the Indenture. Capitalized terms used but not defined in this section have the meanings given in APPENDIX A.

Authority for Issuance

The Bonds are being issued under the Act, the Authority Resolution, which was adopted by the board of directors of the Authority on _____, 2011, and the Indenture. Under the Authority Resolution, the Bonds may be issued in a principal amount not to exceed $_____.

Bond Terms

General. The Bonds will be dated their date of delivery, and will be issued in the aggregate principal amounts set forth on the inside cover page hereof. The Bonds will bear interest from their dated date at the rates per annum set forth on the cover page hereof, payable semiannually on each March 2 and September 2, commencing March 2, 2012 (each, an "**Interest Payment Date**"), and will mature in the amounts and on the dates set forth on the inside cover page hereof.

The Bonds will be issued in fully registered form in denominations of $5,000 each or any integral multiple thereof.

Payment of Interest and Principal. Interest on the Bonds will be payable on each Interest Payment Date to the person whose name appears on the Bond Register as the Owner of such Bond as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check of the Trustee mailed on such Interest Payment Date by first class mail, postage prepaid, to the Owner at the address of such Owner as it appears on the Bond Register or by wire transfer to an account in the United States of America made on such Interest Payment Date upon instructions of any Owner of $1,000,000 or more in aggregate principal amount of Bonds of a Series provided to the Trustee in writing at least 5 Business Days before the Record Date for such Interest Payment Date.

Principal of and premium (if any) on any Bond will be paid upon presentation and surrender of such Bond, at maturity or the prior redemption of such Bond, at the Trust Office of the Trustee.

Calculation of Interest. Each Bond will bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it will bear interest from such Interest Payment Date; or (b) it is authenticated on or before February 15, 2012, in which event it will bear interest from the Closing Date; provided, however, that if, as of the date of authentication of any Bond, interest on such Bond is in default, such Bond will bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment on such Bond, or from the Closing Date if no interest has been paid or made available for payment.

Redemption*

Optional Redemption. The Bonds maturing on or before September 2, 2021 are not subject to optional call and redemption prior to maturity. The Bonds maturing on or after September 2, 2022 may be redeemed at the option of the Authority, from any source of available funds, prior to maturity on any date on or after September 2, 2021 as a whole, or in part from maturities corresponding proportionately to the maturities of the Acquired Obligations simultaneously redeemed, if any redemption of Acquired Obligations is being accomplished in conjunction with such optional redemption, and otherwise from such maturities as are selected by the Authority, and by lot within a maturity, at a redemption price equal to principal amount of the Bonds to be redeemed, plus accrued interest on the Bonds to the date of redemption.

The Authority will (i) advise Standard & Poor's in writing as to which Bonds are to be optionally redeemed with the proceeds to be received with respect to such Acquired Obligations (which will be determined in the discretion of the Authority so long as the ability to pay debt service on the Bonds will not be adversely impacted), and (ii) deliver to the Trustee a certificate of an Independent Accountant verifying that, following such optional prepayment of the Acquired Obligations and redemption of Bonds, the principal and interest generated from the remaining Acquired Obligations is adequate to make the timely payment of principal and interest due on the Bonds that will remain Outstanding under the Indenture following such optional redemption.

Special Mandatory Redemption. The Bonds are subject to special mandatory redemption on any date from proceeds of early redemption of Acquired Obligations from prepayment of Special Taxes or Reassessments, in whole or in part, from maturities corresponding proportionately to the maturities of the Acquired Obligations simultaneously redeemed, at the principal amount of the Bonds, plus a premium expressed below as a percentage of the principal amount so redeemed, plus accrued interest to the date of redemption thereof:

Redemption Date	Redemption Price
Closing Date through September 2, 20__	
September 2, 20__ through September 2, 20__	
September 2, 20__ and thereafter	

The Authority will (i) advise Standard & Poor's in writing as to which Bonds are to be redeemed with the proceeds to be received with respect to such Acquired Obligations (which will be determined in the discretion of the Authority so long as the ability to pay debt service on the Bonds will not be adversely impacted), and (ii) deliver to the Trustee a certificate of an Independent Accountant verifying that, following such optional prepayment of the Acquired Obligations and redemption of Bonds, the principal and interest generated from the remaining Acquired Obligations is adequate to make the timely payment of principal and interest due on the Bonds that will remain Outstanding under the Indenture following such redemption.

* Preliminary; subject to change.

Mandatory Sinking Fund Redemption. The Bonds maturing on September 2, 20__ and September 2, 20__ (collectively, the "**Term Bonds**") are subject to mandatory sinking fund redemption prior to maturity, in part, on September 2, 20__ and September 2, 20__, respectively, and on each September 2, respectively, thereafter by lot from sinking fund payments at a redemption price equal to the principal amount of Term Bonds to be redeemed, together with accrued interest to the date of redemption, without premium, as follows:

September 2, 20__ Term Bond

Redemption Date (September 2)	Redemption Amount

September 2, 20__ Term Bond

Redemption Date (September 2)	Redemption Amount

If the Term Bonds are redeemed pursuant to the optional or special mandatory redemption provisions set forth above, the sinking fund payments for the applicable Bonds will be reduced as nearly as practicable on a proportionate basis in integral multiples of $5,000.

For a description of the redemption provisions of the CFD Bonds and the Reassessment Bonds, see "APPENDIX A – Summary of Principal Legal Documents."

Notice of Redemption. The Trustee on behalf, and at the expense, of the Authority will mail (by first class mail, postage prepaid) notice of any redemption to the respective Owners of any Bonds designated for redemption at their respective addresses appearing on the Bond Register, and to the Securities Depositories and to the Municipal Securities Rulemaking Board, at least 30 but not more than 60 days prior to the date fixed for redemption.

Neither failure to receive any such notice so mailed nor any defect in such notice will affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest on such Bonds. Such notice will state the date of the notice, the redemption date, the redemption place and the redemption price and will designate the CUSIP numbers, the Bond numbers and the maturity or maturities (in the event of redemption of all of the Bonds of such maturity or maturities in whole) of the Bonds to be redeemed, and will require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue after the redemption date.

In addition to the foregoing notice, further notice will be given by the Trustee in said form by first class mail to any Bondowner whose Bond has been called for redemption but who has failed to submit his Bond for payment by the date which is 60 days after the redemption date, but no defect in said further notice nor any failure to give or receive all or any portion of such further notice will in any manner defeat the effectiveness of a call for redemption.

Rescission of Redemption Notice. Any redemption notice may specify that redemption on the specified date will be subject to receipt by the Authority of moneys sufficient to cause such redemption (and will specify the proposed source of such moneys), and neither the Authority nor the Trustee will have any liability to the Owners or any other party as a result of its failure to redeem the Bonds as a result of insufficient moneys.

The Authority has the right to rescind any redemption by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption will be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation will not constitute an Event of Default under the Indenture. The Trustee will mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

Selection of Bonds of a Maturity for Redemption. Unless otherwise provided under the Indenture, whenever provision is made in the Indenture or in the applicable Supplemental Indenture for the redemption of fewer than all of the Bonds of a maturity of a Series of the Bonds, the Trustee will select the Bonds to be redeemed from all Bonds of such maturity not previously called for redemption, by lot in any manner which the Trustee in its sole discretion will deem appropriate and fair. For purposes of such selection, all Bonds will be deemed to be comprised of separate $5,000 authorized denominations, and such separate authorized denominations will be treated as separate Bonds which may be separately redeemed.

Partial Redemption of Bonds. If only a portion of any Bond is called for redemption, then upon surrender of such Bond the Authority will execute and the Trustee will authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of the same maturity date, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of and interest (and premium, if any) on the Bonds so called for redemption will have been duly provided, such Bonds so called will cease to be entitled to any benefit under the Indenture other than the right to receive payment of the redemption price, and no interest will accrue on such Bonds from and after the redemption date specified in such notice.

Book-Entry Only System

General. The Bonds will be issued as fully registered bonds, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York ("**DTC**"), and will be available to actual purchasers of the Bonds (the "**Beneficial Owners**") in the denominations set forth above, under the book-entry system maintained by DTC, only through brokers and dealers who are or act through DTC Participants (as defined in this Official Statement) as described in this Official Statement. Beneficial Owners will not be entitled to receive physical delivery of the Bonds. See "APPENDIX G— DTC and the Book-Entry-Only System."

If the book-entry-only system is no longer used with respect to the Bonds, the Bonds will be registered and transferred in accordance with the Indenture. See "–Registration, Transfer and Exchange of Bonds" below.

Payments Made to DTC. While the Bonds are subject to the book-entry system, the principal, interest and any redemption premium with respect to a Bond will be paid by the

Trustee to DTC, which in turn is obligated to remit such payment to its DTC Participants for subsequent disbursement to Beneficial Owners of the Bonds, as described in "APPENDIX G—DTC and the Book-Entry-Only System."

Registration, Transfer and Exchange of Bonds

Bond Register. The Trustee will keep or cause to be kept at its Trust sufficient records for the registration and transfer of the Bonds, which will be the Bond Register and will at all times during regular business hours be open to inspection by the Authority upon reasonable notice; and, upon presentation for such purpose, the Trustee will, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said records, Bonds as provided under the Indenture.

Transfer of Bonds. Subject to the book-entry only provisions of the Indenture, any Bond may in accordance with its terms, be transferred, upon the Bond Register, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed.

Whenever any Bond will be surrendered for transfer, the Authority will execute and the Trustee will thereupon authenticate and deliver to the transferee a new Bond or Bonds of like Series, tenor, maturity and aggregate principal amount. No Bonds selected for redemption will be subject to transfer, nor will any Bond be subject to transfer during the 15 days prior to the selection of Bonds for redemption.

The cost of printing any Bonds and any services rendered or any expenses incurred by the Trustee in connection with any transfer or exchange will be paid by the Authority. However, the Owners of the Bonds will be required to pay any tax or other governmental charge required to be paid for any exchange or registration of transfer and the Owners of the Bonds will be required to pay the reasonable fees and expenses of the Trustee and Authority in connection with the replacement of any mutilated, lost or stolen Bonds.

Exchange of Bonds. Bonds may be exchanged at the Trust Office of the Trustee for Bonds of the same Series, tenor and maturity and of other authorized denominations. No Bonds selected for redemption will be subject to exchange, nor will any Bond be subject to exchange during the fifteen days prior to the selection of Bonds for redemption. The Owners of the Bonds will be required to pay any tax or other governmental charge required to be paid for any exchange and the Owners of the Bonds will be required to pay the reasonable fees and expenses of the Trustee and Authority in connection with the exchange of any Bonds.

Estimated Debt Service Schedules: The Bonds, the CFD Bonds and the Reassessment Bonds

The table below presents the debt service schedule for the Bonds, assuming no optional or special redemptions are made. The scheduled debt service on the Bonds is approximately equal to the aggregate of the scheduled debt service on the CFD Bonds and the Reassessment Bonds.

TABLE 1
TRACY OPERATING PARTNERSHIP
JOINT POWERS FINANCING AUTHORITY
Annual Debt Service Schedule for the Bonds

Year Ending September 2	Principal	Interest	Total
2012			
2013			
2014			
2015			
2016			
2017			
2018			
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			

The following table summarizes the anticipated debt service payments to be received by the Authority as the result of its ownership of the CFD Bonds. The following schedule does not include an allowance for delinquencies in the payment of Special Taxes.

TABLE 2
CITY OF TRACY
CFD No. 99-2
Annual Debt Service Schedule for the CFD Bonds*

Year Ending September 1	CFD Bonds
2012	
2013	
2014	
2015	
2016	
2017	
2018	
2019	
2020	
2021	
2022	
2023	
2024	
2025	
2026	
2027	

* Preliminary; subject to change.

The following table summarizes the anticipated debt service payments to be received by the Authority as the result of its ownership of the Reassessment Bonds. The following schedule does not include an allowance for delinquencies in the payment of Reassessments.

TABLE 3
CITY OF TRACY
Reassessment District No. 2011-1
Annual Debt Service Schedule for the Reassessment Bonds

Year Ending September 2	Reassessment Bonds
2012	
2013	
2014	
2015	
2016	
2017	
2018	
2019	
2020	
2021	
2022	
2023	
2024	
2025	

Debt Service Coverage on the CFD Bonds and the Reassessment Bonds

CFD Bonds.[*] For Fiscal Year 2011-12, the maximum Special Taxes levied on Taxable Property are estimated to generate revenues equal to approximately ___ times debt service on the CFD Bonds (assuming a principal amount equal to $10,525,000 and an average annual interest rate of ___%).

The following table summarizes the debt service coverage on the CFD Bonds provided by maximum Special Taxes.

TABLE 4
CITY OF TRACY
CFD NO. 99-2
Debt Service Coverage on CFD Bonds

Year Ending September 1	Maximum Special Tax[1]	CFD Bonds Debt Service	Debt Service Coverage
2012			
2013			
2014			
2015			
2016			
2017			
2018			
2019			
2020			
2021			
2022			
2023			
2024			
2025			
2026			
2027			

(1) Maximum Special Tax includes an annual 2% escalator per the Rate and Method for the CFD.

Reassessment Bonds. The Reassessments are sized to equal debt service on the Reassessment Bonds.

[*] Preliminary; subject to change.

SECURITY FOR THE BONDS

This section provides summaries of the security for the Bonds and certain provisions of the Indenture. See "APPENDIX A – Summary of Principal Legal Documents" for a more complete summary of the Indenture. Capitalized terms used but not defined in this section have the meanings given in APPENDIX A.

General

Revenues. As described below, the Bonds are payable primarily from Revenues, consisting of amounts received by the Authority as the result of its acquisition of the Acquired Obligations.

The Indenture defines "Revenues" as follows:

(a) all amounts received from the Acquired Obligations;

(b) any proceeds of the Bonds originally deposited with the Trustee and all moneys deposited and held from time to time by the Trustee in the funds and accounts established hereunder with respect to the Bonds (other than the Rebate Fund, the Project Fund and the Surplus Fund); and

(c) investment income with respect to any moneys held by the Trustee in the funds and accounts established hereunder with respect to the Bonds (other than investment income on moneys held in the Rebate Fund, the Project Fund and the Surplus Fund).

Limited Obligations. The Bonds are special obligations of the Authority payable solely from and secured solely by the Revenues and all of the right, title and interest of the Authority in the Acquired Obligations, subject to the terms of the Indenture. The Bonds are not a debt or liability of the City, the State of California or any political subdivisions thereof other than the Authority to the limited extent described in this Official Statement, and neither the faith and credit of the Authority, the City, the State or any of its political subdivisions are pledged to the payment of principal of, premium, if any, or interest on the Bonds and neither the Authority, the City, the State nor any of its political subdivisions is liable therefor, nor in any event will the Bonds or any interest or redemption premium thereunder be payable out of any funds or properties other than those of the Authority as set forth in the Indenture. Neither the Bonds nor the obligation to make payments under the CFD Bonds constitute an indebtedness of the Authority, the City, the State nor any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction. The Authority has no taxing power.

Revenues; Flow of Funds

Revenues. The Bonds are secured by a first lien on and pledge of all of the Revenues. So long as any of the Bonds are Outstanding, the Revenues will not be used for any purpose except as is expressly permitted by the Indenture.

Collection by the Trustee. The Trustee will collect and receive all of the Revenues, and any Revenues collected or received by the Authority will be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and will forthwith be paid by the Authority to the Trustee. Subject to the provisions of the Indenture regarding the remedies and rights of the Bond Owners, the Trustee is also entitled to and will take all steps,

actions and proceedings reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the City under the Acquired Obligations.

Deposit of Revenues. All Revenues derived from the Acquired Obligations will be promptly deposited by the Trustee upon receipt thereof in the Revenue Fund.

Application of Revenues. On each Interest Payment Date and date for redemption of the Bonds, the Trustee will transfer from the Revenue Fund, and deposit into the following respective accounts for the Bonds, the following amounts in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

Interest Account. On each Interest Payment Date and redemption date, the Trustee will deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to equal the amount of interest becoming due and payable on such Interest Payment Date on all Outstanding Bonds or to be paid on the Bonds being redeemed on such date.

No deposit need be made into the Interest Account if the amount contained in such account is at least equal to the interest becoming due and payable upon all Outstanding Bonds on the next succeeding Interest Payment Date or redemption date, as applicable.

All moneys in the Interest Account will be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it will become due and payable (including accrued interest on any Bonds redeemed prior to maturity).

In the event that the amounts on deposit in the Interest Account on any Interest Payment Date or redemption date are insufficient for any reason to pay the aggregate amount of interest then coming due and payable on the Outstanding Bonds, the Trustee will apply such amounts to the payment of interest on each of the Outstanding Bonds on a pro rata basis.

Principal Account. On each Interest Payment Date and redemption date on which the principal of the Bonds will be payable, the Trustee will deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of, and premium (if any) on, the Bonds coming due and payable on such Interest Payment Date, or required to be redeemed on such date; provided, however, that no amount will be deposited to effect a redemption unless the Trustee has first received a certificate of an Independent Accountant certifying that such deposit to effect an optional redemption of the Bonds will not impair the ability of the Authority to make timely payment of the principal of and interest on the Bonds, assuming for such purposes that the City continues to make timely payments on all Acquired Obligations not then in default.

All moneys in the Principal Account will be used and withdrawn by the Trustee solely for the purpose of (i) paying the principal of the Bonds at the maturity thereof or (ii) paying the principal of and premium (if any) on any Bonds upon the redemption thereof.

Deficiencies. If on any Interest Payment Date or date for redemption the amount on deposit in the Revenue Fund is inadequate to make the transfers described above as a result of a payment default on an issue of Acquired Obligations, the Trustee will immediately notify the City of the amount needed to make the required deposits under “Application of Revenues”

above. In the event that within 5 Business Days of delivering such notice the Trustee receives additional payments from the City to cure such shortfall, the Trustee will deposit such amounts to the account designated in writing by the City.

Deposit into Rebate Fund. On each Interest Payment Date after making the transfers described above, upon receipt of a Request of the Authority to do so, the Trustee will transfer from the Revenue Fund to the Rebate Fund for deposit in the accounts in the Rebate Fund the amounts specified in such Request.

Surplus Fund. On September 2 of each year, after making the deposits described above, the Trustee will transfer all amounts remaining on deposit in the Revenue Fund to the Surplus Fund.

Surplus Fund

Any amounts transferred to the Surplus Fund will no longer be considered Revenues and are not pledged to repay the Bonds. So long as Acquired Obligations are outstanding, on September 3 of each year, after setting aside any amount specified in a Request of the Authority as necessary to pay Administrative Expenses, any moneys remaining in the Surplus Fund will be transferred to the City and used for any lawful purpose.

Additional Bonds

The Authority may issue Additional Bonds secured on a parity with the Bonds ("**Additional Bonds**"), in such principal amount as will be determined by the Authority, pursuant to a Supplemental Indenture adopted or entered into by the Authority. Such Additional Bonds may be issued subject to the following conditions precedent:

(a) The Authority will be in compliance with all covenants set forth in the Indenture and all Supplemental Indentures.

(b) The proceeds of such Additional Bonds will be applied to accomplish a refunding of all or a portion of the Bonds or any Additional Bonds Outstanding and there will have been delivered to the Trustee a certificate of an Independent Financial Consultant stating that the annual payments due on the Acquired Obligations will be adequate to pay the principal of and interest on all Bonds and Additional Bonds when due.

(c) The Supplemental Indenture providing for the issuance of such Additional Bonds will provide that interest on such Additional Bonds will be payable on September 2 and March 2, and principal thereof will be payable on September 2 in any year in which principal is payable.

(d) The Supplemental Indenture providing for the issuance of such Additional Bonds may provide for the establishment of separate funds and accounts.

(e) No Event of Default will have occurred and be continuing with respect to the Bonds or any of the Acquired Obligations.

(f) The Authority will deliver to the Trustee a written Certificate of the Authority certifying that the conditions precedent to the issuance of such Additional Bonds set forth in paragraphs (a), (b), (c) and (e) above have been satisfied.

SECURITY FOR THE CFD BONDS

This section provides summaries of the security for the CFD Bonds and certain provisions of the CFD Fiscal Agent Agreement. See "APPENDIX A – Summary of Principal Legal Documents" for a more complete summary of the CFD Fiscal Agent Agreement. Capitalized terms used but not defined in this section have the meanings given in APPENDIX A.

General

The CFD Bonds are a limited obligation of the City payable solely from Net Taxes (defined below) collected in the CFD and amounts deposited by the City in the Special Tax Fund (exclusive of the Administrative Expense Account). The City's limited obligation to pay the principal of, premium, if any, and interest on the CFD Bonds from Net Taxes collected in the CFD and amounts in the Special Tax Fund (exclusive of the Administrative Expense Account) is absolute and unconditional.

The CFD Bonds (and any Parity Bonds issued under the CFD Fiscal Agent Agreement, each a "**CFD Parity Bond**") do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any of the CFD's property, or upon any of its income, receipts or revenues, except the Net Taxes collected in the CFD and other amounts in the Special Tax Fund (except the Administrative Expense Account).

Except for the Net Taxes for the CFD, neither the credit nor the taxing power of the City is pledged for the payment of the CFD Bonds or related interest, and no Owner of the Bonds may compel the exercise of taxing power by the City or the forfeiture of any of its property. The principal of and interest on the CFD Bonds and premiums upon the redemption thereof, if any, are not a debt of the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory limitation or restriction.

Special Taxes; Gross Taxes; Net Taxes

The "**Special Taxes**" for the CFD are levied and collected according to the special tax formula contained in the rate and method of apportionment established for the CFD. See "– Rate and Method" below and APPENDIX C.

The "**Net Taxes**" pledged by the City to the CFD Bonds (and any related CFD Parity Bonds) is defined in the CFD Fiscal Agent Agreement as "**Gross Taxes**" minus amounts set aside to pay Administrative Expenses (the cap for which is, for Fiscal Year 2011-12, $_____, and, for each subsequent year, is an amount equal to the preceding Fiscal Year's cap plus an additional 2% of such amount).

"**Gross Taxes**" is defined as the proceeds of the Special Taxes received by the City, including any scheduled payments and any prepayments of, or interest on, such Special Taxes, and proceeds of the redemption or sale of property sold as a result of foreclosure of the lien of the Special Taxes to the amount of said lien and interest on such amount. "Gross Taxes" does not include any penalties collected in connection with delinquent Special Taxes or any interest in excess of the interest due on the CFD Bonds.

Except for the portion of any Prepayment to be deposited to the Redemption Account, and except with respect to any remaining moneys in the funds and accounts relating to the Prior Bonds, the Fiscal Agent will, on each date on which the Special Taxes are received from the

City, deposit the Special Taxes in the Special Tax Fund to be held in trust for the Owners. The Fiscal Agent will transfer the Special Taxes on deposit in the Special Tax Fund on the dates and in the amounts set forth in the CFD Fiscal Agent Agreement, in the following order of priority, to:

(1) The Administrative Expense Account of the Special Tax Fund;

(2) The Interest Account of the Special Tax Fund;

(3) The Principal Account of the Special Tax Fund;

(4) The Redemption Account of the Special Tax Fund;

(5) The Reserve Account of the Special Tax Fund; and

(6) The Surplus Fund.

CFD Parity Bonds

The CFD Indenture authorizes the City to issue additional bonds (the **"CFD Parity Bonds"**) secured by Net Taxes on a parity with the CFD Bonds. For a description of the conditions established in the CFD Fiscal Agent Agreement for the issuance of CFD Parity Bonds, see "APPENDIX A – Summary of Principal Legal Documents". Any such CFD Parity Bonds may only be issued for the purpose of refunding all or a portion of the CFD Bonds (or CFD Parity Bonds previously issued for that purpose).

Priority of Lien

Each installment of the Special Taxes and any interest and penalties on the Special Taxes, constitutes a lien on the parcel of land on which it was imposed until the same is paid. Such lien is co-equal to and independent of the lien for general taxes, any other community facilities district special taxes and special assessment liens. See "THE CFD - Direct and Overlapping Governmental Obligations."

Reserve Account

Under the CFD Fiscal Agent Agreement, as further security for the CFD Bonds, the City will deposit a portion of the proceeds of the CFD Bonds with the CFD Fiscal Agent, to be held by the CFD Bonds Fiscal Agent Agreement in the Reserve Account of the Special Tax Fund established under the CFD Bonds Fiscal Agent Agreement in an amount equal to the Reserve Requirement for the CFD Bonds.

Under the CFD Fiscal Agent Agreement, the "**Reserve Requirement**" for the CFD Bonds means, as of any date of calculation, an amount equal to the sum of:

(1) 75% of Maximum Annual Debt Service on the Outstanding CFD Bonds; plus

(2) interest earnings retained in the Reserve Account;

provided that the Reserve Requirement may not exceed, as of the date of calculation, the least of (i) 10% of the initial principal amount of the CFD Bonds, (ii) Maximum Annual Debt Service on the Outstanding CFD Bonds, or (iii) 125% of average Annual Debt Service on the Outstanding CFD Bonds.

Moneys in the Reserve Account will be used solely for the purpose of paying the principal of, including Sinking Fund Payments, and interest on the CFD Bonds when due if the moneys in the Interest Account and the Principal Account of the Special Tax Fund are insufficient therefor or moneys in the Redemption Account of the Special Tax Fund are insufficient to make a Sinking Fund Payment when due.

See APPENDIX A for a further description of disbursements from the Reserve Account and the replenishment of the Reserve Account from the proceeds of Special Taxes.

Covenants of the City

In the CFD Fiscal Agent Agreement, the City covenants as follows, among other things:

Punctual Payment. It will duly and punctually pay or cause to be paid the principal of and interest on the CFD Bonds (and any CFD Parity Bond) issued under the CFD Fiscal Agent Agreement, together with the premium, if any to the extent that Net Taxes and other amounts pledged under the CFD Fiscal Agent Agreement are available for such payment.

Against Encumbrance. It will not mortgage or otherwise encumber, pledge or place any charge upon any of the Net Taxes except as provided in the CFD Fiscal Agent Agreement, and will not issue any obligation or security having a lien or charge upon the Net Taxes superior to or on a parity with the CFD Bonds (other than CFD Parity Bonds). Nothing in the CFD Fiscal Agent Agreement prevents the City from issuing or incurring indebtedness that is payable from a pledge of Net Taxes, which is subordinate in all respects to the pledge of Net Taxes to repay the CFD Bonds and the CFD Parity Bonds.

Levy of Special Tax. The City will comply with all requirements of the Act so as to assure the timely collection of Gross Taxes, including without limitation, the enforcement of delinquent Special Taxes.

(i) *Processing*. On or within 5 Business Days of each June 1, the Fiscal Agent will provide the Finance Director with a notice stating the amount then on deposit in the Special Tax Fund and the other funds and accounts held by the Fiscal Agent under the CFD Fiscal Agent Agreement, whether or not amounts need to be deposited into the Reserve Account to increase the amounts on deposit in such account to the Reserve Requirement, and informing the City that the Special Taxes need to be levied under the Ordinance as necessary to provide for the Special Tax Requirement (as defined in clause (iv) below). The receipt of or failure to receive such notice by the Finance Director will in no way affect the obligations of the Finance Director under the following two paragraphs and the Fiscal Agent will not be liable for failure to provide such notice to the Finance Director. Upon receipt of such notice, the Finance Director will communicate with the Auditor to ascertain the relevant parcels on which the Special Taxes are to be levied, taking into account any parcel splits or combinations during the preceding and then current year.

(ii) *Levy*. The Finance Director will effect the levy of the Special Taxes each Fiscal Year in accordance with the Ordinance by each August 1 that the CFD Bonds are outstanding, or otherwise such that the computation of the levy is complete before the final date on which Auditor will accept the transmission of the Special Tax amounts for the parcels within the CFD for inclusion on the next real property tax roll. Upon the completion of the computation of the amounts of the levy, the Finance Director will

prepare or cause to be prepared, and will transmit to the Auditor, such data as the Auditor requires to include the levy of the Special Taxes on the next real property tax roll.

(iii) *Computation*. The Finance Director will fix and levy the amount of Special Taxes within the CFD in an amount sufficient, together with other amounts on deposit in the Special Tax Fund and available for such purpose, to pay (A) the principal of and interest on the CFD Bonds and any CFD Parity Bonds when due, (B) the Administrative Expenses, including amounts necessary to discharge any rebate obligation, during such year and (C) any amounts required to replenish the Reserve Account to the Reserve Requirement (the "**Special Tax Requirement**"), taking into account the balances in such funds and in the Special Tax Fund. The Special Taxes so levied will not exceed the authorized amounts as provided in the proceedings under the Resolution of Formation.

(iv) *Collection*. The Special Taxes will be payable and be collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable, and have the same priority, become delinquent at the same time and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the ad valorem taxes on real property.

Commence Foreclosure Proceedings. Under the Act, the City has covenanted with and for the benefit of the Owners of the CFD Bonds that it will order, and cause to be commenced as hereinafter provided, and thereafter diligently prosecute to judgment (unless such delinquency is theretofore brought current), an action in the superior court to foreclose the lien of any Special Tax or installment thereof not paid when due as provided in the following two paragraphs. The Finance Director will notify the City Attorney of any such delinquency of which the Finance Director is aware, and the City Attorney will commence, or cause to be commenced, such proceedings.

On or about January 30 and June 30 of each Fiscal Year, the Finance Director will compare the amount of Special Taxes theretofore levied in the CFD to the amount of Gross Taxes theretofore received by the City, and:

(i) *Individual Delinquencies*. If the Finance Director determines that any single parcel subject to the Special Tax in the CFD is delinquent in the payment of Special Taxes in the aggregate amount of $3,000 or more, then the Finance Director will send or cause to be sent a notice of delinquency (and a demand for immediate payment of the delinquent amounts) to the property owner within 60 days of such determination, and (if the delinquency remains uncured) foreclosure proceedings will be commenced by the City within 120 days of such determination.

(ii) *Aggregate Delinquencies*. If the Finance Director determines that (i) the total amount of delinquent Special Tax for the prior Fiscal Year for the entire CFD, (including the total of delinquencies under paragraph (i) above), exceeds 5% of the total Special Tax due and payable for the prior Fiscal Year, or (ii) there are 10 or fewer owners of real property within the CFD, determined by reference to the latest available secured property tax roll of the County, the City will notify or cause to be notified property owners who are then delinquent in the payment of Special Taxes (and demand immediate payment of the delinquency) within 60 days of such determination, and will commence foreclosure proceedings within 120 days of such determination against each parcel of land in the CFD with a Special Tax delinquency.

Reduction of Maximum Special Taxes. The City covenants that it will not initiate proceedings to reduce the maximum Special Tax rates for the City, unless, in connection therewith, (i) the City receives a certificate from one or more Independent Financial Consultants which, when taken together, certify that, on the basis of the parcels of land and improvements existing in the CFD as of the July 1 preceding the reduction, the maximum amount of the Special Tax which may be levied on then existing Developed Property (as defined in the Rate and Method of Apportionment of Special Taxes then in effect in the CFD) in each Bond Year for any CFD Bonds and CFD Parity Bonds Outstanding will equal at least 110% of the sum of the estimated Administrative Expenses and gross debt service in each Bond Year on all CFD Bonds and CFD Parity Bonds to remain Outstanding after the reduction is approved, (ii) the City finds that any reduction made under such conditions will not adversely affect the interests of the Owners of the CFD Bonds and CFD Parity Bonds, and (iii) the City is not delinquent in the payment of the principal of or interest on the CFD Bonds or any CFD Parity Bonds. For purposes of estimating Administrative Expenses for the foregoing calculation, the Independent Financial Consultants will compute the Administrative Expenses for the current Fiscal Year and escalate that amount by 2% in each subsequent Fiscal Year.

Rate and Method

General. The Special Tax is levied and collected according to the rate and method of apportionment of special taxes for the CFD (the "**Rate and Method**"). The qualified electors of the CFD approved the Rate and Method of Apportionment of Special Taxes for the CFD on January 4, 2000.

Capitalized terms used but not defined in this Official Statement have the meanings given them in the Rate and Method. The full text of the Rate and Method is attached to the Official Statement as APPENDIX C.

Annual Special Tax Levy. The Rate and Method provides the means by which the City Council may annually levy the Special Taxes within the CFD up to the Maximum Special Tax.

Annually, at the time of levying the Special Tax for the CFD, the City Manager and/or his designee will determine the amount of money to be collected from Taxable Property in the CFD (the "**Special Tax Requirement**"). Such amount will include the amount necessary to (a) pay principal and interest on the CFD Bonds; (b) create or replenish reserve funds; (c) cure any delinquencies in the payment of debt service on the CFD Bonds that occurred in the prior Fiscal Year or (based on delinquencies in the payment of Special Taxes that have already taken place) are expected to occur in the Fiscal Year in which the Special Tax will be collected, (d) pay administrative expenses, and (e) pay construction expenses to be funded directly from Special Tax proceeds.

Zones; Developed and Undeveloped Property; Taxable Property. All Taxable Property in the CFD is located in either Zone 1 or Zone 2. "Zone 1" includes the parcels in the area commonly known as the Country Vista property and "Zone 2" includes all parcels in the area commonly known as the Elissagaray Estates property. The assessor's parcel numbers of the parcels in each Zone are designated in the Rate and Method.

The Rate and Method declares that for each Fiscal Year, all Taxable Property within the CFD will be classified as either Developed Property or Undeveloped Property and will be subject to Special Taxes in accordance with the Rate and Method. "Taxable Property" is defined as all of the Assessor's Parcels within the boundaries of the CFD that are not exempt from the Special Tax pursuant to law or the Rate and Method. The Rate and Method provides

for exemption under certain circumstances for Public Property and Owner Association Property. "Developed Property" includes all Taxable Property for which a building permit for new construction was issued prior to January 1 of the preceding Fiscal Year. "Undeveloped Property" is all Taxable Property in the CFD that is not classified as Developed Property. Developed Property is further classified as (i) Single Family Residential Property, (ii) Multi-Family Residential Property, or (iii) Non-Residential Property, as defined in the Rate and Method.

Maximum Special Tax, Developed Property. The Maximum Special Tax is defined in the Rate and Method as the maximum Special Tax that can be levied in any Fiscal Year, and is the greater of either (i) the Assigned Special Tax or (ii) the Backup Special Tax.

The Assigned Special Tax rates for Developed Property for Fiscal Year 2011-12 is as follows:

Table 5
CFD No. 99-2

Fiscal Year 2011-12 Assigned Special Tax Rates for Developed Property

		Assigned Special Tax (per fiscal year)	
Land Use Class	Description	Zone 1	Zone 2
1	Single Family Residential Property	$1,380.15 per Residential Unit	$1,914.80 per Residential Unit
2	Multi-Family Residential Property	$422.75 per Residential Unit	$422.75 per Residential Unit
3	Non-Residential Property	$4,128.00 per Acre	$4,128.00 per Acre

The Assigned Special Tax for Developed Property will increase each fiscal year to an amount equal to 102% of the amount in effect in the prior fiscal year. In addition, if the average densities of a zone (defined as total acreage in each zone, divided by the number of planned units for such zone) change in the manner described in the Rate and Method, the Assigned Special Tax amount will be adjusted. See APPENDIX C.

The Backup Special Tax rate is calculated on July 1 of each fiscal year and on the closing date of each Bond issue, and the most recently calculated Backup Special Tax will be applied to an Assessor's Parcel at the time of building permit issuance. The Backup Special Tax is based primarily on the aggregate discounted greatest annual gross debt service for all currently outstanding bonds of the CFD.

Maximum Special Tax, Undeveloped Property. The Maximum Special Tax rates for Undeveloped Property for Fiscal Year 2011-12 is as follows:

Table 6
CFD No. 99-2

Fiscal Year 2011-12 Assigned Special Tax Rates for Undeveloped Property

Zone	Estimated Total Acreage	Assigned Special Tax Per Acre
1	19.75	$6,813.69
2	5.21	$9,250.70

The Maximum Special Tax for Undeveloped Property will increase each fiscal year to an amount equal to 102% of the amount in effect the prior fiscal year.

Method of Apportionment. The Rate and Method provides that for each Fiscal Year, the City Manager or his/her designee will determine the Special Tax Requirement to be collected from Taxable Property in the CFD in the Fiscal Year. The Special Tax will then be levied as follows (see APPENDIX C):

First: The Special Tax will be levied Proportionately on each Assessor's Parcel of Developed Property that is neither Owner Association Property nor Public Property up to 100 percent of the Assigned Special Tax for Developed Property.

Second: If additional monies are needed to satisfy the costs of the Special Tax Requirement after the first step has been applied, the Special Tax will be levied Proportionately on each Assessor's Parcel of Undeveloped Property that is neither Owner Association Property nor Public Property up to 100 percent of the Assigned Special Tax for Undeveloped Property.

Third: If additional monies are needed to satisfy the costs of the Special Tax Requirement after the first two steps have been completed, the levy of the Special Tax on each Assessor's Parcel of Developed Property whose Backup Special Tax is greater than its Assigned Special Tax will be increased Proportionately from the Assigned Special Tax up to the amount of the Backup Special Tax.

Fourth: If additional monies are needed to satisfy the costs of the Special Tax Requirement after the first three steps have been completed, the Special Tax will be levied Proportionately on each Assessor's Parcel of Owner Association Property using the Assigned Special Tax rates for Undeveloped Property. Owner Association Property is any property in the CFD owned by a homeowner association or property owner association, including any master or sub-association.

Fifth. If additional monies are needed to satisfy the costs of the Special Tax Requirement after the first four steps have been completed, the Special Tax will be levied Proportionately on each Assessor's Parcel of Public Property that is Taxable Property using the Assigned Special Tax rates for Undeveloped Property. Public Property is Property is any property in the CFD owned by the federal government, the State of California or other local governments or public agencies.

Prepayment of Special Tax. The owner of any parcel of Taxable Property may prepay in full the Special Taxes to be levied against such parcel so long as there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment. The Prepayment Amount for a parcel is calculated based on various factors, all as specified in APPENDIX C.

SECURITY FOR THE REASSESSMENT BONDS

This section provides summaries of the security for the Reassessment Bonds and certain provisions of the Reassessment Bonds Fiscal Agent Agreement. See "APPENDIX A – Summary of Principal Legal Documents" for a more complete summary of the Reassessment Bonds Fiscal Agent Agreement. Capitalized terms used but not defined in this section have the meanings given in APPENDIX A.

General

Pledge of Reassessments and Moneys in Funds. The Reassessment Bonds will be secured by a first pledge (which pledge will be effected in the manner and to the extent provided in the Reassessment Bonds Fiscal Agent Agreement) of all of the Reassessments and all moneys deposited in the Redemption Fund and the Reserve Fund. The Reassessments and all moneys deposited into such funds (except as otherwise provided in the Reassessment Bonds Fiscal Agent Agreement) are dedicated to the payment of the principal of, and interest and any premium on, the Reassessment Bonds as provided in the Reassessment Bonds Fiscal Agent Agreement and in the Bond Law until all of the Reassessment Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose in accordance with the provisions of the Reassessment Bonds Fiscal Agent Agreement relating to discharge of such agreement.

The Reassessments were levied under proceedings taken by the City under the 1984 Act. See "THE REASSESSMENT DISTRICT." The Reassessment Report for the Reassessment District is attached as APPENDIX D.

Limited Obligations. All obligations of the City under the Reassessment Bonds Fiscal Agent Agreement and the Reassessment Bonds are not general obligations of the City, but are limited obligations, payable solely from the Reassessments and the funds pledged for the Reassessment Bonds under the Reassessment Bonds Fiscal Agent Agreement. Neither the faith and credit of the City nor of the State of California or any political subdivision thereof is pledged to the payment of the Reassessment Bonds.

The Reassessment Bonds are "Limited Obligation Refunding Improvement Reassessment Bonds" and are payable solely from and secured solely by the Reassessments and the amounts in the Redemption Fund and the Reserve Fund created under the Reassessment Bonds Fiscal Agent Agreement. Notwithstanding any other provision of the Reassessment Bonds Fiscal Agent Agreement, the City is not obligated to advance available surplus funds from the City treasury to cure any deficiency in the Redemption Fund.

Refunding of Bonds

The Reassessment Bonds may be refunded by the City pursuant to Divisions 11 or 11.5 of the California Streets and Highways Code upon the conditions as set forth in appropriate proceedings therefor.

The Reassessment Bonds Fiscal Agent Agreement does not otherwise authorize the issuance of additional bonds on a parity with the Reassessment Bonds.

Priority of Lien

Each installment of the Reassessment and any interest and penalties on such Reassessments, constitutes a lien on the parcel of land on which it was imposed until the same is paid. Such lien is co-equal to and independent of the lien for general taxes, any other special assessment liens and community facilities district special taxes. See "THE REASSESSMENT DISTRICT – Direct and Overlapping Governmental Obligations."

Reserve Fund

Under the Reassessment Bonds Fiscal Agent Agreement, as further security for the Reassessment Bonds, the City will deposit a portion of the proceeds of the Reassessment Bonds with the Reassessment Bonds Fiscal Agent, to be held by the Reassessment Bonds Fiscal Agent Agreement in the Reserve Fund established under the Reassessment Bonds Fiscal Agent Agreement in an amount equal to the Reserve Requirement for the Reassessment Bonds.

Under the Reassessment Bonds Fiscal Agent Agreement, the "**Reserve Requirement**" for the Reassessment Bonds means, as of any date of calculation, an amount equal to the sum of:

(1) 75% of Maximum Annual Debt Service on the Outstanding Reassessment Bonds; plus

(2) interest earnings retained in the Reserve Fund;

provided that the Reserve Requirement may not exceed, as of the date of calculation, the least of (i) 10% of the initial principal amount of the Reassessment Bonds, (ii) Maximum Annual Debt Service on the Outstanding Reassessment Bonds, or (iii) 125% of average Annual Debt Service on the Outstanding Reassessment Bonds.

Moneys deposited in the Reserve Fund will be used and withdrawn by the Reassessment Fiscal Agent solely for the purpose of making transfers to the Redemption Fund in the event of any deficiency at any time in the Redemption Fund of the amount then required for payment of the principal of, and interest and any premium on, the Reassessment Bonds or for the purpose of redeeming Bonds from the Redemption Fund.

See APPENDIX A for a further description of disbursements from the Reserve Fund and the replenishment of the Reserve Fund.

Covenants of the City

In the Reassessment Bonds Fiscal Agent Agreement, the City covenants as follows, among other things:

Punctual Payment. It will punctually pay or cause to be paid the principal of, and interest and any premium on, the Reassessment Bonds when and as due in strict conformity with the terms of the Reassessment Bonds Fiscal Agent Agreement and any Supplemental Agreement, and it will faithfully observe and perform all of the conditions, covenants and requirements of the Reassessment Bonds Fiscal Agent Agreement and all Supplemental Agreements and of the Reassessment Bonds.

Against Encumbrance. It will not encumber, pledge or place any charge or lien upon any of the Reassessments or other amounts pledged to the Reassessment Bonds superior to or on a parity with the pledge and lien created in the Reassessment Bonds Fiscal Agent Agreement for the benefit of the Reassessment Bonds, except as permitted by the Resolution of Issuance, the Reassessment Bonds Fiscal Agent Agreement, the Act or the Bond Law.

Collection of Reassessments. The City will comply with all requirements of the Act, the Bond Law and the Reassessment Bonds Fiscal Agent Agreement to assure the timely collection of the Reassessments, including, without limitation, the enforcement of delinquent Reassessments. Any funds received by the City in and for the District, including, but not limited to, collections of Reassessments upon the secured tax rolls, collections of delinquent Reassessments and penalties on such delinquent Reassessments, through foreclosure proceedings and the prepayment of Reassessments or portions thereof, will be immediately transmitted directly to the Fiscal Agent, without deduction, to be deposited into the funds and accounts specified below. To that end, the following will apply:

(i) The Reassessments, as set forth on the List of Unpaid Reassessments on file with the Finance Director, together with the interest on the Reassessments, will be payable in annual series corresponding in number to the number of serial maturities of the Reassessment Bonds issued.

An annual proportion of each Reassessment will be payable in each year preceding the date of maturity of each of the several series of Reassessment Bonds issued sufficient to pay the Reassessment Bonds when due and such proportion of each Reassessment coming due in any year, together with the annual interest thereon, will be payable in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interests after delinquency as do the general taxes on real property.

All sums received from the collection of the Reassessments and of the interest and penalties on such Reassessments will be placed in the Redemption Fund. In addition, all sums received by the City with respect to the assessments levied in connection with the Prior Reassessment Bonds, including any penalties and delinquencies, will be placed in the Redemption Fund. Any prepayments of Reassessments will be placed in the Prepayment Account established under and administered in accordance with the Reassessment Bonds Fiscal Agent Agreement.

(ii) The Finance Director will, before the final date on which the Auditor will accept the transmission of the Reassessments for the parcels within the District for inclusion on the next tax roll, prepare or cause to be prepared, and will transmit to the Auditor, such data as the Auditor requires to include the installments of the Reassessments on the next secured tax roll of the County. The Finance Director is authorized to employ consultants to assist in computing the installments of the Reassessments under the Reassessment Bonds Fiscal Agent Agreement and in reconciling Reassessments billed to amounts received as provided in paragraph (iii) below.

(iii) The Reassessments will be payable and be collected in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and have the same priority, become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property. In addition to any amounts authorized pursuant to the Bond Law

to be included with the annual amounts of installments as aforesaid, the City, pursuant to section 8682.1 of the Bond Law, may cause to be entered on the assessment roll on which taxes will next become due, opposite each lot or parcel of land within the District in the manner set forth in said section 8682, each lot's pro rata share of the estimated annual expenses of the City in connection with the administrative duties thereof for the Reassessment Bonds, including, but not limited to, the costs of registration, authentication, transfer and compliance with the covenants of the Reassessment Bonds Fiscal Agent Agreement, which amounts will be used to defray the costs of the City in complying with the provisions of the Reassessment Bonds Fiscal Agent Agreement. Delinquent Reassessments will be subject to foreclosure.

Commence Foreclosure Proceedings. The City covenants with and for the benefit of the Owners of the Reassessment Bonds that it will order, and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of any Reassessment or installment thereof which has been billed, but has not been paid, pursuant to and as provided in sections 8830 and 8835, inclusive of the Bond Law and the conditions specified below. The Finance Director will notify the City Attorney of any such delinquency of which the Finance Director is aware, and the City Attorney will commence, or cause to be commenced, such foreclosure proceedings, including collection actions preparatory to the filing of any complaint. The City Attorney is authorized to employ counsel to conduct any such foreclosure proceedings.

On or about January 30 and June 30 of each Fiscal Year, the Finance Director will compare the amount of Reassessments installments theretofore levied in the Reassessment District to the amount of Reassessments installments theretofore received by the City, and:

(i) *Individual Delinquencies*. If the Finance Director determines that any single parcel is delinquent in the payment of Reassessment installments in the aggregate amount of $1,000 or more, then the Finance Director will send or cause to be sent a notice of delinquency (and a demand for immediate payment thereof) to the property owner within 60 days of such determination, and (if the delinquency remains uncured) foreclosure proceedings will be commenced by the City within 120 days of such determination.

(ii) *Aggregate Delinquencies*. If the Finance Director determines that (i) the total amount of delinquent Reassessment for the prior Fiscal Year for the entire Reassessment District (including the total of delinquencies under paragraph (i) above), exceeds 5% of the total Reassessment installments due and payable for the prior Fiscal Year, or (ii) there are 10 or fewer owners of real property within the Reassessment District, determined by reference to the latest available secured property tax roll of the County, the City will notify or cause to be notified property owners who are then delinquent in the payment of Reassessments (and demand immediate payment of the delinquency) within 60 days of such determination, and will commence foreclosure proceedings within 120 days of such determination against each parcel of land in the Reassessment District with a Reassessment delinquency.

THE DISTRICTS IN THE AGGREGATE

Introduction

This section presents certain information describing the CFD and the Reassessment District in on a combined basis for informational purposes. However, the Bonds are secured by two distinct revenue streams, debt service on the CFD Bonds and debt service on the Reassessment Bonds, each of which is in turn separately secured by Special Taxes or Reassessments levied and collected within each individual District. See "SECURITY FOR THE BONDS."

No Cross-Collateralization Between Districts. Debt service on an Acquired Obligation relating to one District may not be used to make up any shortfall in the debt service on the Acquired Obligation of any other District.

Separate Methods for the Calculation, Levy and Collection of Special Taxes and Assessments. Moreover, the parcels in each District are taxed and/or assessed according to that District's specific Rate and Method or the Reassessment Act, as applicable.

Value-to-Debt Ratios. Special Taxes and Reassessments, as applicable, are levied against individual parcels within each District and that any such parcel may have a value-to-debt burden less than the overall value-to-debt burden for such District as to all parcels within such District, or less than the value-to-debt burden of the two Districts in the aggregate. In particular, an individual parcel upon which development has not taken place may have a value-to-debt burden of less than 1 to 1.

Varying Maturity Dates of the Acquired Obligations

The Acquired Obligations acquired with proceeds of the Bonds mature on different dates. In addition, debt service on the Reassessment Bonds will decline after Fiscal Year ___. Consequently, the source of security for debt service on the Bonds varies depending upon the characteristics of the underlying Districts. See "THE BONDS – Estimated Debt Service Schedules: The Bonds, the CFD Bonds and the Reassessment Bonds" for the full debt service schedule for each Acquired Obligation.

For a description of the debt service coverage ratio for each Acquired Obligation, see "THE BONDS – Debt Service Coverage on the CFD Bonds and the Reassessment Bonds."

The table below summarizes the maturity dates of the Acquired Obligations, the principal amount of each Acquired Obligation and the approximate debt service payment for each Acquired Obligation for the current Fiscal Year.

Table 7
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
CFD 99-2 and Reassessment District No. 2011-1
Summary of the Acquired Obligations*

District	Maturity Date	Principal Amount	Fiscal Year 2011-12 Debt Service
CFD 99-2	Sep. 1, 2027	$11,000,000	$_____
Reassessment District No. 2011-1[1]	Sep. 2, 2025	2,235,575	_____
Total		$13,235,575	

* Preliminary; subject to change.

[1] It should be noted that debt service on the Reassessment Bonds will decline starting in Fiscal Year _____. See "THE BONDS – Estimated Debt Service Schedules: The Bonds, the CFD Bonds and the Reassessment Bonds."

VICINITY MAP OF CFD AND REASSESSMENT DISTRICT

Summary Information on Parcels Within Each District

The table below shows a comparison between the CFD and the Reassessment District with regard to development status, the number of parcels and acres, assessed values, and share of the CFD Bonds and Reassessment Bonds, based on the City's compilation of Fiscal Year 2011-12 County Assessor's data and the burden of the CFD Bonds and Reassessment Bonds.

"Developed property" represents parcels with assessed valuations for both land and improvements. Parcels included in the "undeveloped property" category are parcels with an assessed valuation for land only.

Additional information on property ownership, current land uses, assessed values and value-to-burden ratios for each of the Districts follows in subsequent sections of this Official Statement.

Table 8
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
CFD 99-2 and Reassessment District No. 2011-1
Summary of Parcels in Each District
(Fiscal Year 2011-12)

District	Land Use	No. of Parcels	% of Total	Acres	FY 2011-12 Assessed Value	% of Total	CFD Bond Amount/ Reassessment Bond Amount *	% of Total*
CFD	Developed [1]	493	65.47%	107.65	$177,785,247	74.73%	$9,165,533	69.25%
	Undeveloped	28	3.72	24.96	1,571,000	0.66	1,834,467	13.86%
Subtotal CFD:		521	69.19	132.61	179,356,247	75.39	11,000,000	83.11%
Reassessment District	Developed [1]	232	30.81	31.39	58,547,409	24.61	2,235,575	16.89%
Total		753	100.00%	164.00	$237,903,656	100.00%	$13,235,575	100.00%

* Preliminary; subject to change.
[1] Represents single-family homes.
Source: Willdan Financial Services.

Land Ownership in the Districts on an Aggregate Basis

The top owners of property responsible for the greatest share of the Special Taxes within the CFD represents approximately 2.5% of the Special Taxes, and the top owner of property responsible for the greatest share of the Reassessments within the Reassessment District represents less than 1% of the Reassessments. See "THE CFD" and "THE REASSESSMENT DISTRICT" below.

As noted above, the Acquired Obligations mature at different times and, as a result, the aggregate significance of the various Districts and the relative concentration of the property owners in the Districts will change over time. See "– Varying Maturity Dates of the Acquired Obligations" above and "RISK FACTORS" below.

Property Values and Value-to-Burden Ratios on an Aggregate Basis

Assessed Value. Article XIIIA of the California Constitution (Proposition 13) defines "full cash value" to mean "the county assessor's valuation of real property as shown on the 1975-76 bill under 'full cash value', or, thereafter, the appraised value of real property when purchased or newly constructed or when a change in ownership has occurred after the 1975 assessment," subject to exemptions in certain circumstances of property transfer or reconstruction. The "full cash value" is subject to annual adjustment to reflect increases, not to exceed 2 percent for any year, or decreases in the consumer price index or comparable local data, or to reflect reductions in property value caused by damage, destruction or other factors.

Because of the general limitation to 2% per year in increases in full cash value of properties which remain in the same ownership, the county tax roll does not reflect values uniformly proportional to actual market values.

No assurance can be given that should a parcel with delinquent installments be foreclosed and sold for the amount of the delinquency, that any bid will be received for such property, or if a bid is received that such bid will be sufficient to pay such delinquent installments.

No Appraisal. The Authority has not obtained an appraisal to estimate the current market value of the parcels within the District. Therefore, all estimates of value used in this official Statement are based solely on the 2011-12 assessed values provided by the County Assessor.

Value-to-Burden Ratios. The following table sets forth the estimated value-to-burden ratios for each District, and in the aggregate, based upon 2011-12 assessed values and the principal amounts of the CFD Bonds and the Reassessment Bonds. See "THE CFD" and "THE REASSESSMENT DISTRICT" below for further information regarding value-to-burden ratios for each District.

Table 9
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
CFD 99-2 and Reassessment District No. 2011-1
Value-to-Burden Ratios

District	CFD Bond Amount/ Reassessment Bonds Amount*	Assessed Value	Value-to-Burden Ratio*
CFD			
Developed Property	$9,165,533	$177,785,247	19.40 : 1
Undeveloped Property	1,834,467	1,571,000	0.86 : 1
Subtotal CFD:	11,000,000	179,356,247	16.31 : 1
Reassessment District [1]	2,235,575	58,547,409	26.19 : 1
Total	$13,235,575	$237,903,656	17.97 : 1

* Preliminary; subject to change.
[1] All parcels within the Reassessment District are Developed.
Source: Willdan Financial Services.

Delinquencies

The delinquency rate in the payment of Special Taxes within the CFD was 1.19% for Fiscal Year 2010-11, and delinquency rate in the payment of Assessments within the Prior Assessment Districts (combined) was 0.63%. See "THE CFD" and "THE REASSESSMENT DISTRICT" below.

Overlapping Liens

Numerous agencies providing public services overlap the Districts' boundaries. Many of these agencies may have outstanding certificates of participation and bonds in the form of general obligation, special assessment, special tax, redevelopment or lease revenue bonds. In general, certificates of participation and redevelopment and lease revenue bonds do not represent obligations for which a property owner is obligated to make a direct payment. However, special tax, assessment and general obligation bonds represent a direct obligation of the subject property.

See "THE CFD" and "THE REASSESSMENT DISTRICT" below for information regarding overlapping liens affecting the property in the CFD and the Reassessment District.

THE CFD

Location and Description of the CFD

The CFD is a community facilities district established by the City Council on January 4, 2000, under the Mello-Roos Act in order to finance certain public facilities, including water and storm facilities, as well as roadways, parks and public buildings.

The CFD consists of two residential development projects located in the South MacArthur Planning Area, an approximately one square mile area located along the northeast boundary of the City, generally bounded to the north by Schulte Road, the south by Valpico Road, the east by Chrisman Road and the west by MacArthur Drive.

Two series of bonds were previously issued by the City for and on behalf of the CFD:

(i) the Series 2000 Bonds, issued pursuant to a Fiscal Agent Agreement dated as of April 1, 2000, between the City and the Fiscal Agent, as fiscal agent thereunder, and

(ii) the Series 2002 Bonds, issued pursuant to a First Supplemental Fiscal Agent Agreement, dated as of July 1, 2002, between the City and the Fiscal Agent, as fiscal agent thereunder.

A map of the boundaries of the CFD is on the following page.

The Rate and Method for the CFD is attached as APPENDIX C.

For background and demographic information regarding the City and the County, see APPENDIX B.

MAP OF THE CFD BOUNDARIES

Land Use Distribution

Taxable Property. The following table shows the distribution of land uses of Taxable Property within the CFD.

Table 10
CFD No. 99-2
Distribution of Land Uses
(Taxable Property)

Land Uses	No. of Parcels	% of Total	CFD Bond Amount	% of Total	2011-12 Assessed Valuation
Single Family Residential	493	94.63%	$9,165,533	83.32%	$177,785,247
Undeveloped	28	5.37%	$1,834,467	16.68%	$1,571,000
Total	521	100.00%	$11,000,000	100.00%	$179,356,247

Source: Willdan Financial Services.

Assessed Property Values

No Appraisal of Property in the CFD. The City has not commissioned an appraisal of the taxable property in the CFD in connection with the issuance of the Bonds. Therefore, the valuation of the taxable property in the CFD will be estimated for the purposes of the Mello-Roos Act, and set forth in this Official Statement, based on the County Assessor's values.

Assessed Valuation. The valuation of real property in the City is established by the County Assessor. Assessed valuations are reported at 100% of the full value of the property, as defined in Article XIIIA of the California Constitution. Article XIIIA of the California Constitution defines "full cash value" as the appraised value as of March 1, 1975, plus adjustments not to exceed 2% per year to reflect inflation, and requires assessment of "full cash value" upon change of ownership or new construction.

Accordingly, the gross assessed valuation presented in this Official Statement may not necessarily be representative of the actual market value of certain property in the CFD.

Historical Assessed Values. The table below shows a five-year history of assessed valuations of the Taxable Property in the CFD.

Table 11
CFD No. 99-2
Assessed Valuation History
Fiscal Years 2007-08 through 2011-12
(Taxable Property)

Fiscal Year	No. of Single Family Residential Parcels	Single Family Residential Assessed Value	% Change	No. of Undeveloped Parcels	Undeveloped Assessed Value	% Change
2007-08	458	$286,071,894	N/A	63	$13,416,424	N/A
2008-09	468	248,515,322	(13.13%)	53	7,233,087	(46.09%)
2009-10	468	184,366,821	(25.81)	53	5,663,779	(21.70%)
2010-11	485	187,920,311	1.93	36	2,110,289	(62.74%)
2011-12	493	177,785,247	(5.39)	28	1,571,000	(25.56%)

Source: Willdan Financial Services

Value-to-Burden Ratio

General Information Regarding Value-to-Burden Ratios. In comparing the aggregate assessed value of the real property within the CFD and the principal amount of the Bonds, it should be noted that an individual parcel may only be foreclosed upon to pay delinquent installments of the Special Taxes attributable to that parcel. The principal amount of the Bonds is not allocated pro-rata among the parcels within the CFD; rather, the total Special Taxes have been allocated among the parcels within the CFD according to the Rate and Method. The "value-to-burden ratio" measures the burden of Special Taxes borne by each property in the CFD relative to the burden borne by other properties in the CFD.

The value-to-burden ratio on bonds secured by special taxes will generally vary over the life of those bonds as a result of changes in the value of the property that is security for the special taxes and the principal amount of the bonds.

Economic and other factors beyond the property owners' control, such as economic recession, deflation of land values, financial difficulty or bankruptcy by one or more property owners, or the complete or partial destruction of Taxable Property caused by, among other possible events, earthquake, flood, fire or other natural disaster, could cause a reduction in the assessed value within the CFD. See "RISK FACTORS."

Aggregate Value-to-Burden Ratio. The aggregate value-to-burden ratio of Taxable Property in the CFD for Fiscal Year 2011-12 is as follows:

CFD Bond Amount *	Assessed Value	Value-to-Burden Ratio*
$11,000,000	$179,356,247	16.31:1

* Preliminary; subject to change.

Value-to-Burden Ratio Distributions.

Taxable Property. The following table sets forth the distribution of assessed value-to-burden ratios among parcels of Taxable Property based on Fiscal Year 2011-12 assessed values and the burden of the CFD Bonds.

Table 12
CFD No. 99-2
Distribution of Value-to-Debt Burden Ratios
Fiscal Year 2011-12
(Taxable Property)

Aggregate Value-to-Burden Ratio: 16.31:1

Value-to-Debt Burden Category	Parcel Count	Assessed Value	% of Total Value	Share of CFD Bonds*	% of Total Burden*
25:1 to 30:1	16	$ 5,967,031	3.33%	$ 227,054	2.06%
20:1 to 24.99:1	181	70,081,723	39.07	3,275,366	29.78
15:1 to 19.99:1	281	98,390,172	54.86	5,390,873	49.01
10:1 to 14.99:1	12	3,168,390	1.77	225,306	2.05
3:1 to 9.99:1	17	667,931	0.37	179,013	1.63
Less Than 3:1	14	1,081,000	0.60	1,702,388	15.48
Total	521	$179,356,247	100.00%	$11,000,000	100.00%

* Preliminary; subject to change.
Source: Willdan Financial Services.

Developed Property. The following table sets forth the distribution of assessed value-to-burden ratios among parcels only of Developed Property based on Fiscal Year 2011-12 assessed values and the burden of the CFD Bonds.

Table 13
CFD No. 99-2
Distribution of Value-to-Debt Burden Ratios
Fiscal Year 2011-12
(Developed Property)

Aggregate Value-to-Burden Ratio: 19.40:1

Value-to-Debt Burden Category	Parcel Count	Assessed Value	% of Total Value	Share of CFD Bonds*	% of Developed Property Burden*	% of Total Burden*
25:1 to 30:1	16	$ 5,967,031	3.36%	$ 227,054	2.48%	2.06%
20:1 to 24.99:1	181	70,081,723	39.42	3,275,366	35.74	29.78
15:1 to 19.99:1	281	98,390,172	55.34	5,390,873	58.82	49.01
10:1 to 14.99:1	12	3,168,390	1.78	225,306	2.46	2.05
3:1 to 9.99:1	1	107,931	0.06	19,223	0.21	0.17
Less Than 3:1	2	70,000	0.04	27,711	0.30	0.25
Total	493	$177,785,247	100.00%	$9,165,533	100.00%	83.32%

* Preliminary; subject to change.

Source: Willdan Financial Services.

Major Land Owners

The following table lists the major payers of Special Taxes in the CFD with respect to Taxable Property for fiscal year 2011-12, based on the projected Special Tax levy and Fiscal Year 2011-12 assessed values.

Table 14
CFD No. 99-2
Summary of Major Taxpayers
Fiscal Year 2011-12

Name	No. of Parcels	Development Status	Actual FY 2011-12 Special Taxes Levied	% of FY 2011-12 Special Taxes	FY 2011-12 Assessed Value		
					Assessed Land	Assessed Structure	Assessed Total
Bright Development Corp	7	Single Family Residential	$ 9,660.98	1.04	$ 405,000	$1,434,000	$1,839,000
	24	Undeveloped	13,465.46	1.44	1,395,000	0	1,395,000
Kent, E Greg & Beverly C	5	Single Family Residential	9,573.90	1.03	454,396	1,371,198	1,825,594
Howell, Angela	4	Single Family Residential	7,659.12	0.82	406,000	1,223,000	1,629,000
TVC Tracy Holdco LLC	1	Undeveloped	5,119.94	0.55	176,000	0	176,000
Deutsche Bank National Trust Co. Tr	2	Single Family Residential	3,829.56	0.41	183,000	555,000	738,000
Shewmaker, Donald S & Nancy M Tr	2	Single Family Residential	3,829.56	0.41	154,000	464,000	618,000
Guardanapo, Darin A & Ana M	2	Single Family Residential	3,294.92	0.35	150,000	456,000	606,000
Subtotal	47		56,433.44	6.05	3,323,396	5,503,198	8,826,594
Single Parcel Property Owners	474	Single Family Residential	876,690.36	93.95	42,587,549	127,942,104	170,529,653
Total	521		$933,123.80	100.00%	$45,910,945	$133,445,302	$179,356,247

Source: Willdan Financial Services.

Largest Landowner. Of the 24 parcels of Undeveloped Taxable Property owned by Bright Development Corp. in the CFD:

- 7 parcels are improved with single-family homes and have a 2011-12 improvement value.
- the 24 parcels classified as Undeveloped are _____.

Delinquencies

Special Taxes were first levied in the CFD in fiscal year 2000-01.

The following table is a summary of Special Tax levies, collections and delinquency rates on Taxable Property in the CFD for the last five Fiscal Years based on amounts levied and outstanding delinquencies as of June 30 of each year and as of September 8, 2011.

Table 15
CFD No. 99-2
Special Tax Collections and Delinquencies
Fiscal Years 2006-07 through 2010-11
(Taxable Property)

			As of Fiscal Year End				As of September 8, 2011		
Fiscal Year	Amount Levied	Total Number of Parcels Subject to Levy	Amount Collected	Amount Delinquent	Number of Delinquent Parcels	Percent Delinquent	Remaining Amount Delinquent	Remaining Parcels Delinquent	Remaining Percent Delinquent
2006-07	$817,506.36	521	$774,650.36	$42,856.00	30	5.24%	$4,701.36	2	0.58%
2007-08	835,928.96	521	791,468.96	44,460.00	31	5.32	1,614.06	1	0.19
2008-09	856,873.00	521	799,684.00	57,189.00	35	6.67	3,562.50	2	0.42
2009-10	882,440.26	521	857,730.26	24,710.00	16	2.80	6,819.49	4	0.77
2010-11	887,307.30	521	876,785.34	10,521.96	8	1.19	10,521.96	8	1.19

Source: Willdan Financial Services.

Direct and Overlapping Governmental Obligations

Effective Tax Rates. Property in the CFD is subject to annual charges and assessments (which are billed to property owners on a semi-annual basis). The following table sets forth the total effective tax rate for a typical parcel of Developed Property in the CFD based on Fiscal Year 2011-12 tax rates.

Table 16
CFD No. 99-2
Effective Property Tax Rate on Typical Parcel
2011-12

ASSESSED VALUATION AND PROPERTY TAXES	Percent of Total AV	Zone 1	Zone 2
Assessed Value [1]		$321,100	$365,888
Homeowner's Exemption		(7,000.00)	(7,000.00)
Net Assessed Value [2]		$314,100	$358,888
AD VALOREM PROPERTY TAXES [3]			
General Purpose	1.000000%	$3,141	$3,589
Ad Valorem Tax Overrides			
SJ Delta College Bond 2004	0.019100%	59.99	68.55
SJ Delta College Bond 2004B	0.000900%	2.83	3.23
Tracy-Lammersville SD Bond 2006	0.007200%	22.62	25.84
Tracy-Lammersville SD Bond 2006B	0.010600%	33.29	38.04
Tracy-Lammersville SD Bond 2006C	0.008800%	27.64	31.58
Tracy SFID 3 Bond 2008 [4]	0.008800%	27.64	31.58
Tracy SFID 3 Bond 2011A [4]	0.015600%	49.00	55.99
Total Ad Valorem Property Taxes	1.071000%	$3,364	$3,844
ASSESSMENTS, SPECIAL TAXES AND PARCEL CHARGES [5]			
South Delta Water Agency		2.00	2.00
Tracy Rural Fire [6]		99.12	139.50
Water Investigation District		3.78	3.78
SJC Mosquito Abatement		2.10	2.10
SJC Mosquito & Vector Control-Benefit Assessment		7.74	7.74
CSA No. 53 - Hazardous Waste		4.00	4.00
Tracy CFD 99-2 [7]		1,380.14	1,914.78
Tracy Consolidated Landscape [8]		257.42	124.30
Total Assessments, Special Taxes And Parcel Charges		**$1,756**	**$2,198**
PROJECTED TOTAL PROPERTY TAXES		**$5,120**	**$6,042**
Projected Total Effective Tax Rate (as % of Assessed Value)		1.595%	1.651%

[1] Represents the average assessed value for a single-family detached home.
[2] Assessed value reflects estimated total assessed value for the parcel net of homeowner's exemption.
[3] Based on Fiscal Year 2011-12 ad valorem property taxes. Source: San Joaquin County Auditor Controller's Office.
[4] Represents general obligation bonds issued by the Tracy Joint Unified School District for its School Facilities Improvement District No. 3.
[5] Based on Fiscal Year 2011-12 assessments and special taxes. Source: San Joaquin County Auditor Controller's Office.
[6] Rates vary based on the building square footage.
[7] Represents the lien of the Special Taxes.
[8] Rates vary based on Zone.

Source: Willdan Financial Services.

Overlapping Public Debt. Contained within the boundaries of the CFD are certain overlapping local agencies providing public services and assessing property taxes, assessments, special taxes and other charges on the property in the CFD. Many of these local agencies have outstanding debt.

The current and estimated direct and overlapping obligations affecting the property in the CFD are shown in the following table. The table was prepared by California Municipal Statistics, Inc., and is included for general information purposes only. The City has not reviewed this report for completeness or accuracy and makes no representation in connection therewith.

Table 17
CFD No. 99-2
Direct and Overlapping Bonded Debt
As of October 1, 2011

2011-12 Local Secured Assessed Valuation: $179,356,247

DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT:	% Applicable	Debt 10/1/11
San Joaquin Delta Community College District	0.315%	$ 420,924
Tracy Unified School District	1.667	786,907
Tracy Unified School District School Facilities Improvement District No. 3	2.803	488,132
City of Tracy Community Facilities District No. 99-2	**100.**	**10,185,000** (1)
TOTAL DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT		$11,880,963
OVERLAPPING GENERAL FUND DEBT:		
San Joaquin County General Fund Obligations	0.373%	$ 665,842
City of Tracy General Fund Obligations	2.906	684,654
TOTAL OVERLAPPING GENERAL FUND DEBT		$1,350,496
COMBINED TOTAL DEBT		$13,231,459 (2)

(1) Excludes Mello-Roos Act bonds to be sold.
(2) Excludes tax and revenue anticipation notes, enterprise revenue, mortgage revenue and tax allocation bonds and non-bonded capital lease obligations.

Ratios to 2011-12 Assessed Valuation:

Direct Debt ($10,185,000)	5.68%
Total Direct and Overlapping Tax and Assessment Debt	6.62%
Combined Total Debt	7.38%

STATE SCHOOL BUILDING AID REPAYABLE AS OF 6/30/11: $0

Source: California Municipal Statistics.

Projected Debt Service Coverage

Coverage Provided by Maximum Special Tax (0% Delinquency). If the County were to levy the maximum Special Tax on the _____ parcels of Developed Property in the CFD for fiscal year 2011-12 and there were 0% Special Tax delinquencies, the resulting Special Tax revenues would provide ____% coverage on maximum annual debt service on the CFD Bonds.

If the County were to levy the maximum Special Tax on all of the Taxable Property in the CFD and there were 0% Special Tax delinquencies, the resulting Special Tax revenues would provide ____% coverage on maximum annual debt service on the CFD Bonds.

Coverage Provided by Maximum Special Tax (5% Delinquency). If the County were to levy the maximum Special Tax on the _____ parcels of Developed Property in the CFD for fiscal year 2011-12 and there were 5% Special Tax delinquencies, the resulting Special Tax revenues would provide ____% coverage on maximum annual debt service on the CFD Bonds.

If the County were to levy the maximum Special Tax on all of the Taxable Property in the CFD and there were 5% Special Tax delinquencies, the resulting Special Tax revenues would provide ____% coverage on maximum annual debt service on the CFD Bonds.

THE REASSESSMENT DISTRICT

Location and Description of the Reassessment District

The Reassessment District is a reassessment district established on _____, 2011, by the City Council pursuant to the 1984 Act. The Reassessment District was established to supersede and supplant the assessments levied in two assessment districts: (i) AD 98-4 and (ii) AD 2000-2 (collectively, the "**Assessment Districts**").

AD 98-4. AD 98-4 is residentially zoned property, known as the Meadowood subdivision, located south of Grant Line Road, west of Corral Hollow Road and north of the Southern Pacific railroad tracks and Byron Road in the western part of the City. AD 98-4 comprises approximately 32 acres.

The City issued one series of bonds on behalf of AD 98-4, the AD 98-4 Bonds, pursuant to a Fiscal Agent Agreement, dated as of November 1, 1998, between the City and U.S. Bank National Association.

AD 2000-2. AD 2000-2 is located within the City on the western edge of the City limits. It is located west of Corral Hollow Road, which is a main north-south arterial road in the City. AD 2000-2 lies approximately adjacent to Interstate 205 and is north of Lovell Avenue.

The City issued one series of bonds on behalf of AD 2000-2, the AD 2002-2 Bonds, pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000, between the City and the Fiscal Agent, as fiscal agent thereunder.

The Reassessment District. A map of the boundaries of the Reassessment District is on the following page.

The Reassessment Report for the Reassessment District is attached as APPENDIX D.

For background and demographic information regarding the City and the County, see APPENDIX B.

Land Use Distribution

The Reassessment District currently contains 232 parcels, all of which are classified as single-family residential.

REASSESSMENT DISTRICT MAP

Assessed Property Values

No Appraisal of Property in the Reassessment District. The City has not commissioned an appraisal of the Reassessment Parcels in the Reassessment District in connection with the issuance of the Bonds. Therefore, the estimated valuation of the Reassessment Parcels in the Reassessment District set forth in this Official Statement are based on the County Assessor's values.

Assessed Valuation. The valuation of real property in the County is established by the County Assessor. Assessed valuations are reported at 100% of the full value of the property, as defined in Article XIIIA of the California Constitution. Article XIIIA of the California Constitution defines "full cash value" as the appraised value as of March 1, 1975, plus adjustments not to exceed 2% per year to reflect inflation, and requires assessment of "full cash value" upon change of ownership or new construction.

Accordingly, the gross assessed valuation presented in this Official Statement may not necessarily be representative of the actual market value of certain property in the Reassessment District.

Historical Assessed Values. The table below shows a five-year history of assessed valuations of the Reassessment Parcels in the Reassessment District.

Table 18
Reassessment District No. 2011-1
Assessed Valuation History
Fiscal Years 2007-08 through 2011-12

Fiscal Year	No. of Single Family Residential Parcels	Single Family Residential Assessed Value	% Change
2007-08	233	$90,578,810	N/A
2008-09	233	82,809,346	(8.58%)
2009-10	232	66,080,441	(20.20)
2010-11	232	61,551,011	(6.85)
2011-12	232	58,547,409	(4.88)

Source: Willdan Financial Services

Value-to-Burden Ratio

General Information Regarding Value-to-Burden Ratios. The value-to-burden ratio on bonds secured by assessments will generally vary over the life of those bonds as a result of changes in the value of the property that is security for the assessments and the principal amount of the bonds.

In comparing the aggregate assessed value of the real property within the Reassessment District and the principal amount of the Bonds, it should be noted that an individual Reassessment Parcel may only be foreclosed upon to pay delinquent installments of the Reassessments attributable to that Reassessment Parcel. The principal amount of the Bonds is not allocated pro-rata among the Reassessment Parcels within the Reassessment District; rather, the total Assessments have been allocated among the Reassessment Parcels within the Reassessment District by an assessment engineer.

Economic and other factors beyond the property owners' control, such as economic recession, deflation of land values, financial difficulty or bankruptcy by one or more property owners, or the complete or partial destruction of Reassessment Parcels caused by, among other possible events, earthquake, flood, fire or other natural disaster, could cause a reduction in the assessed value within the Reassessment District. See "RISK FACTORS."

Aggregate Value-to-Burden Ratio. The aggregate value-to-burden ratio of Reassessment Parcels in the Reassessment District for Fiscal Year 2011-12 is as follows:

Reassessment Bond Amount*	Assessed Value	Value-to-Burden Ratio*
$2,235,575	$58,547,409	26.19:1

* Preliminary; subject to change.

Value-to-Burden Ratio Distribution. The following table sets forth the distribution of assessed value-to-burden ratios among Reassessment Parcels based on fiscal year 2011-12 assessed values and the burden of the Reassessment Bonds.

Table 19
Reassessment District No. 2011-1
Distribution of Value-to-Debt Burden Ratios
Fiscal Year 2011-12

Aggregate Value-to-Burden Ratio: 26.19:1

Value-to-Debt Burden Category	Parcel Count	Assessed Value	% of Total Value	Reassessment Lien	% of Burden
30:1 to 35.99:1	4	$ 1,214,000	2.07%	$ 38,912	1.74%
25:1 to 29.99:1	149	39,445,335	67.37	1,435,876	64.23
20:1 to 24.99:1	78	17,813,690	30.43	751,060	33.60
7:1 to 19.99:1 [1]	1	74,384	0.13	9,728	0.44
Total	232	$58,547,409	100.00%	$2,235,575	100.00%

[1] The value to debt burden for this parcel is 7.64:1.
Source: Willdan Financial Services.

Major Land Owners

As shown in the following table, only one parcel owner owns multiple parcels in the Reassessment District, all of which are improved with single-family homes. The table is based on the actual Reassessment levy and Fiscal Year 2011-12 assessed values.

Table 20
Reassessment District No. 2011-1
Summary of Major Taxpayers
Fiscal Year 2011-12

Name	No. of Parcels	Reassessment Lien	% of Total Reassessment	FY 2011-12 Assessed Value		
				Assessed Land	Assessed Structure	Assessed Total
Pham, Tuyen Quang & Tuyen	2	$ 18,839	0.84%	$111,702	$336,111	$447,813
Single Parcel Property Owners	230	2,216,736	99.16	14,464,081	43,635,515	58,099,596
Total	232	$2,235,575	100.00%	$14,575,783	$43,971,626	$58,547,409

Source: Willdan Financial Services.

Delinquencies

The following table is a summary of the collections and delinquency rates for the Reassessment Parcels, based on the collection of the Prior Assessments in the Prior Assessment Districts for the past 5 years, and outstanding delinquencies as of June 30 of each year and as of September 8, 2011.

Table 21
Reassessment District No. 2011-1
Assessment Collections and Delinquencies
Fiscal Years 2006-07 through 2010-11

			As of Fiscal Year End				As of September 8, 2011		
Fiscal Year	Amount Levied	Total Reassessment Parcels	Amount Collected	Amount Delinquent	Number of Delinquent Reassessment Parcels	Percent Delinquent	Remaining Amount Delinquent	Remaining Reassessment Parcels Delinquent	Remaining Percent Delinquent
2006-07	$288,667.70	233	$276,186.65	$12,481.05	4	4.32%	$0.00	0	0.00%
2007-08	$278,590.42	233	$267,214.57	$11,375.85	12	4.08%	$0.00	0	0.00%
2008-09	$280,656.74	233	$271,170.62	$9,486.12	12	3.38%	$2,279.56	2	0.81%
2009-10	$284,380.40	232	$277,148.60	$7,231.80	7	2.54%	$2,350.72	2	0.83%
2010-11	$289,728.72	232	$287,889.46	$1,839.26	2	0.63%	$1,839.26	2	0.63%

Source: Willdan Financial Services.

Direct and Overlapping Governmental Obligations

Taxes, Charges and Assessments. Property in the Reassessment District is subject to annual charges and assessments (which are billed to property owners on a semi-annual basis). The following table sets forth the total effective tax rate for a typical parcel of Developed Property in the CFD based on Fiscal Year 2011-12 tax rates.

Table 22
Reassessment District No. 2011-1
Effective Property Tax Rate on Typical Parcel
2011-12

ASSESSED VALUATION AND PROPERTY TAXES	**Percent of Total AV**	**AD No. 98-4**	**AD No. 2000-02**
Assessed Value [1]		$256,076	$243,579
Homeowner's Exemption		(7,000.00)	(7,000.00)
Net Assessed Value [2]		$249,076	$236,579
AD VALOREM PROPERTY TAXES [3]			
General Purpose	1.000000%	$2,491	$2,366
Ad Valorem Tax Overrides			
SJ Delta College Bond 2004	0.019100%	47.57	45.19
SJ Delta College Bond 2004B	0.000900%	2.24	2.13
Tracy-Lammersville SD Bond 2006	0.007200%	17.93	17.03
Tracy-Lammersville SD Bond 2006B	0.010600%	26.40	25.08
Tracy-Lammersville SD Bond 2006C	0.008800%	21.92	20.82
Tracy SFID 3 Bond 2008 [4]	0.008800%	21.92	20.82
Tracy SFID 3 Bond 2011A [4]	0.015600%	38.86	36.91
Total Ad Valorem Property Taxes	1.071000%	$2,668	$2,534
ASSESSMENTS, SPECIAL TAXES AND PARCEL CHARGES [5]			
South Delta Water Agency		2.00	2.00
Water Investigation District		3.78	3.78
SJC Mosquito Abatement		2.10	2.10
SJC Mosquito & Vector Control-Benefit Assessment		7.74	7.74
CSA No. 53 - Hazardous Waste		4.00	4.00
Tracy Morrison 98-4 [6]		1,312.24	N/A
Tracy Heartland 3-02 [6]		N/A	1,245.58
Tracy Consolidated Landscape		112.14	112.14
Total Assessments, Special Taxes And Parcel Charges		**$1,444**	**$1,377**
PROJECTED TOTAL PROPERTY TAXES		**$4,112**	**$3,911**
Projected Total Effective Tax Rate (as % of Assessed Value)		1.606%	1.606%

[1] Represents the average assessed value for a single-family detached home.
[2] Assessed value reflects estimated total assessed value for the parcel net of homeowner's exemption.
[3] Based on Fiscal Year 2011-12 ad valorem property taxes. Source: San Joaquin County Auditor Controller's Office.
[4] Represents general obligation bonds issued by the Tracy Joint Unified School District for its School Facilities Improvement District No. 3.
[5] Based on Fiscal Year 2011-12 assessments and special taxes. Source: San Joaquin County Auditor Controller's Office.
[6] Represents the lien of the Prior Assessment Districts.
Source: Willdan Financial Services.

Overlapping Public Debt. Contained within the boundaries of the Reassessment District are certain overlapping local agencies providing public services and assessing property taxes, assessments, special taxes and other charges on the property in the Reassessment District. Many of these local agencies have outstanding debt.

The current and estimated direct and overlapping obligations affecting the property in the Reassessment District are shown in the following table. The table was prepared by California Municipal Statistics, Inc., and is included for general information purposes only. The City has not reviewed this report for completeness or accuracy and makes no representation in connection therewith.

Table 23
Reassessment District No. 2011-1
Direct and Overlapping Bonded Debt
As of October 1, 2011

2011-12 Local Secured Assessed Valuation: $58,547,409

DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT:	% Applicable	Debt 10/1/11
San Joaquin Delta Community College District	0.103%	$ 137,635
Tracy Unified School District	0.544	256,795
Tracy Unified School District School Facilities Improvement District No. 3	0.915	159,344
City of Tracy Assessment District No. 98-4	**100.**	**1,590,000** (1)
City of Tracy Assessment District No. 2000-02	**100.**	**650,000** (1)
TOTAL DIRECT AND OVERLAPPING TAX AND ASSESSMENT DEBT		$2,793,774
OVERLAPPING GENERAL FUND DEBT:		
San Joaquin County General Fund Obligations	0.122%	$217,782
City of Tracy General Fund Obligations	0.948	223,349
TOTAL OVERLAPPING GENERAL FUND DEBT		$441,131
COMBINED TOTAL DEBT		$3,234,905 (2)

(1) Excludes issue to be sold.
(2) Excludes tax and revenue anticipation notes, enterprise revenue, mortgage revenue and tax allocation bonds and non-bonded capital lease obligations.

Ratios to 2011-12 Assessed Valuation:

Direct Debt ($2,420,000)	3.83%
Total Direct and Overlapping Tax and Assessment Debt	4.77%
Combined Total Debt	5.53%

STATE SCHOOL BUILDING AID REPAYABLE AS OF 6/30/11: $0

Source: California Municipal Statistics.

RISK FACTORS

The purchase of the Bonds described in this Official Statement involves a degree of risk that may not be appropriate for some investors. The following includes a discussion of some of the risks which should be considered before making an investment decision.

Limited Obligation to Pay Debt Service

The Bonds. The Bonds are special obligations of the Authority payable solely from and secured solely by the Revenues and funds pledged therefor in the Indenture, consisting primarily of debt service on the CFD Bonds and the Reassessment Bonds. See "SECURITY FOR THE BONDS."

The CFD Bonds. The City has no obligation to pay principal of or interest on the CFD Bonds if Special Tax collections are delinquent or insufficient, other than from amounts, if any, on deposit in the Reserve Account established for the CFD Bonds or funds derived from the foreclosure and sale of parcels for Special Tax delinquencies. The City is not obligated to advance funds to pay debt service on the CFD Bonds.

The Reassessment Bonds. The City has no obligation to pay principal of or interest on the Reassessment Bonds if Reassessment collections are delinquent or insufficient, other than from amounts, if any, on deposit in the Reserve Fund established for the Reassessment Bonds or funds derived from the foreclosure and sale of parcels for Reassessment delinquencies. The City is not obligated to advance funds to pay debt service on the Reassessment Bonds.

Non-Asset Bonds

On the closing date, the aggregate principal amount of the Bonds will exceed the aggregate principal amount of the Acquired Obligations by $_____,* or approximately __%* of the aggregate principal amount of the Acquired Obligations. However, the Acquired Obligations bear interest at rates substantially higher than the interest rates on the Bonds, as a result of which the amount of scheduled debt service on the Acquired Obligations provides revenues which approximately equal or slightly exceed the amount of scheduled debt service on the Bonds in every year. See "THE BONDS."

To the extent the aggregate principal amount of the Bonds exceeds the aggregate principal amount of the Acquired Obligations, such excess is referred to as "Non-Asset Bonds." Non-Asset Bonds present a risk to Bond holders in the event that the Acquired Obligations are redeemed prior to maturity, since such redemption terminates the accrual of interest on Acquired Obligations at the higher rates needed to provide sufficient revenues to pay debt service on the Bonds, and since the redemption of the Acquired Obligations does not return a sufficient amount of principal to pay a corresponding principal amount of the Bonds.

If the Acquired Obligations are redeemed prior to maturity, the Trustee will receive revenues from such redemption equal to the principal amount of the Acquired Obligations redeemed, plus a redemption premium which has been calculated to be sufficient to redeem the Non-Asset Bonds attributable to the Acquired Obligations being redeemed. All such amounts received by the Trustee from a redemption of the Acquired Obligations will be used to redeem the Bonds. See "THE BONDS –Redemption." The difference between the redemption price of the Acquired Obligations (which includes the redemption premium mentioned above) and the

* Preliminary; subject to change.

redemption price of the Bonds effectively off-sets the existence of Non-Asset Bonds by the amount of such difference.

Levy and Collection of the Special Taxes

General. The principal source of payment of principal of and interest on the CFD Bonds is the proceeds of the annual levy and collection of the Special Tax against property within the CFD.

Limitation on Special Tax Rate. The annual levy of the Special Tax on any parcel is limited to the maximum Special Tax rate authorized in the Rate and Method. The levy cannot be made at a higher rate even if the failure to do so means that the estimated proceeds of the levy and collection of the Special Tax, together with other available funds, will not be sufficient to pay debt service on the CFD Bonds.

No Relationship Between Property Value and Special Tax Levy. Because the Special Tax formula set forth in the Rate and Method is not based on property value, the levy of the Special Tax will rarely, if ever, result in a uniform relationship between the value of particular parcels of Taxable Property and the amount of the levy of the Special Tax against those parcels. Thus, there will rarely, if ever, be a uniform relationship between the value of the parcels of Taxable Property and their proportionate share of debt service on the CFD Bonds, and certainly not a direct relationship.

Factors that Could Lead to Special Tax Deficiencies. The following are some of the factors that might cause the levy of the Special Tax on any particular parcel of Taxable Property to vary from the Special Tax that might otherwise be expected:

Transfers to Governmental Entities. The number of parcels of Taxable Property could be reduced through the acquisition of Taxable Property by a governmental entity (by exercise of its rights as mortgage guarantor, or for other reasons) and failure of the government to pay the Special Tax based upon a claim of exemption or, in the case of the federal government or an agency thereof, immunity from taxation, thereby resulting in an increased tax burden on the remaining taxed parcels.

Property Tax Delinquencies. Failure of the owners of Taxable Property to pay property taxes (and, consequently, the Special Tax), or delays in the collection of or inability to collect the Special Tax by tax sale or foreclosure and sale of the delinquent parcels, could result in a deficiency in the collection of Special Taxes. For a summary of Special Tax collections in the Community Facilities District, see "THE CFD – Delinquencies."

Delays Following Delinquencies and Foreclosure Sales. The CFD Bonds Fiscal Agent Agreement provides that the Special Tax is to be collected in the same manner as ordinary *ad valorem* property taxes are collected and, except as provided in the special covenant for foreclosure described in "SECURITY FOR THE CFD BONDS" and in the Act, is subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for ordinary *ad valorem* property taxes. Under these procedures, if taxes are unpaid for a period of five years or more, the property is subject to sale by the County.

If sales or foreclosures of property are necessary, there could be a delay in payments to the Authority, as owner of the CFD Bonds, pending such sales or the

prosecution of foreclosure proceedings and receipt by the City of the proceeds of sale if the Reserve Account for the CFD Bonds is depleted. See "SECURITY FOR THE CFD BONDS."

Collection of the Reassessments

General. The principal source of payment of principal of and interest on the Reassessment Bonds is the proceeds of the annual collection of the Reassessments against parcels within the Reassessment District.

Fixed Lien. Reassessment installments billed will be in aggregate amounts equal to debt service on the Reassessment Bonds. Payments of Reassessment installments made by the owners of parcels will be applied on a pro-rata basis to all Reassessment Bonds for which the Reassessment installments are due and could result in a lesser amount being applied to the Reassessment Bonds if the amount paid by the property owners is less than the total Assessment installment. The Reassessment installments cannot be billed or collected at a higher rate even if the failure to do so means that the estimated proceeds of the collection of the Reassessments, together with other available funds, will not be sufficient to pay debt service on the Reassessment Bonds.

No Relationship Between Property Value and Reassessments. Because the Reassessment amounts contained in the Reassessment Report are not based on property value, the collection of the Reassessments will rarely, if ever, result in a uniform relationship between the value of particular parcels and the amount of the Reassessments against those parcels. Thus, there will rarely, if ever, be a uniform relationship between the value of the parcels and their proportionate share of debt service on the Reassessment Bonds, and certainly not a direct relationship.

Factors that Could Lead to Reassessment Deficiencies. The following are some of the factors that might cause the collection of the Reassessments on any particular parcel to vary from the Reassessments that might otherwise be expected:

Property Tax Delinquencies. Failure of the parcel owners to pay property taxes (and, consequently, the Reassessments), or delays in the collection of or inability to collect the Reassessments by tax sale or foreclosure and sale of the delinquent parcels, could result in a deficiency in the collection of Reassessments. For a summary of Reassessment collections in the Prior Assessment Districts, see "THE REASSESSMENT DISTRICT – Delinquencies."

Limitations Associated with Foreclosure Sales. The Reassessment Bonds Fiscal Agent Agreement provides that the Reassessments are to be collected in the same manner as ordinary *ad valorem* property taxes are collected and, except as provided in the special covenant for foreclosure described in "SECURITY FOR THE REASSESSMENT BONDS," is subject to the same penalties and the same procedure, sale and lien priority in case of delinquency as is provided for ordinary *ad valorem* property taxes. Under these procedures, if taxes are unpaid for a period of five years or more, the property is subject to sale by the County.

If sales or foreclosures of property are necessary, there could be a delay in payments to the Authority, as owner of the Reassessment Bonds, pending such sales or the prosecution of foreclosure proceedings and receipt by the City of the proceeds of

sale if the Reserve Fund for the Reassessment Bonds is depleted. See "SECURITY FOR THE REASSESSMENT BONDS."

The California Streets and Highways Code provides that under certain circumstances property may be sold upon foreclosure at a lesser Minimum Price or without a Minimum Price. "Minimum Price" as used in the Streets and Highways Code is the amount equal to the delinquent installments of principal or interest of the Reassessment, together with all interest penalties, costs, fees, charges and other amounts. The court may authorize a sale at less than the Minimum Price if the court determines that sale at less than the Minimum Price will not result in an "ultimate loss" to the Owners of the Reassessment Bonds, or, under certain circumstances, if holders of 75% or more of the outstanding Reassessment Bonds consent to such sale.

Payment of Special Taxes and Reassessments is not a Personal Obligation of the Property Owners

Property Owners are not personally obligated to pay their respective Special Taxes or Reassessments. Rather, the Special Taxes and Reassessments are obligations only against the respective parcels against which they are levied. If, after a default in the payment of the Special Tax or Reassessment and a foreclosure sale, the resulting proceeds are insufficient, taking into account other obligations also constituting a lien against the parcel, the City has no personal recourse against the parcel owner.

Assessed Valuations

The City has not commissioned an appraisal of the parcels in the CFD or the Reassessment District in connection with the issuance of the Bonds. Therefore, the estimated valuation of the Taxable Property in the CFD and the Reassessment Parcels in the Reassessment District set forth in this Official Statement are based on the County Assessor's values. The assessed value is not an indication of what a willing buyer might pay for a property. The assessed value is not evidence of future value because future facts and circumstances may differ significantly from the present.

No assurance can be given that any of the Taxable Property in the CFD or the Reassessment Parcels in the Reassessment District could be sold for the assessed value if that property should become delinquent and subject to foreclosure proceedings.

Property Values

The value of Taxable Property within the CFD and the Reassessment Parcels within the Reassessment District is a critical factor in determining the investment quality of the Bonds. If a parcel owner defaults in the payment of the Special Taxes or the Reassessments, the City's only remedy is to foreclose on the delinquent property.

The following is a discussion of specific risk factors that could affect the value of property in the CFD and the Reassessment District.

Prolonged Economic Downturn. Land values in and around the City have been adversely affected by current economic conditions. To the extent that the economic downturn is prolonged, property values could remain flat for an indefinite period.

Declines in home values in the Community Facilities District could also result in property owner unwillingness or inability to pay mortgage payments, as well as *ad valorem* property taxes and Special Taxes or Reassessments, when due. Under such circumstances, bankruptcies are likely to increase. Bankruptcy by homeowners with delinquent Special Taxes or Reassessments would delay the commencement and completion of foreclosure proceedings.

Risks Related to Mortgage Loans. Although residential projects that have their homes built and occupied by homeowners are typically viewed as providing bondholders with strong credits, some of the recent home purchasers, especially those during 2004 to 2007, may face challenges in making their mortgage and tax payments on a timely basis, due to their initial high loan to value ratios, creative mortgage loan structures, and current negative equity levels.

Recent events in the United States and world-wide capital markets have adversely affected the availability of mortgage loans to homeowners, including potential buyers of homes within the Community Facilities District. Any such unavailability could hinder the ability of the current homeowners to resell their homes, and adversely affect the market prices available to current homeowners.

Natural Disasters. The value of the Taxable Property in the CFD and the Reassessment Parcels in the Reassessment District can be adversely affected by a variety of natural occurrences, particularly those that may affect infrastructure and other public improvements, and private improvements and the continued habitability and enjoyment of such private improvements. The areas in and surrounding the City , like those in much of California, may be subject to unpredictable seismic activity.

No information is available as to the proximity to the CFD or the Reassessment District of active seismic faults. However, known active faults exist within the City and the surrounding region.

Other natural disasters could include, without limitation, landslides, floods, wildfires, droughts or tornadoes. One or more natural disasters could occur and could result in damage to improvements of varying seriousness. The damage may entail significant repair or replacement costs and that repair or replacement may never occur either because of the cost, or because repair or replacement will not facilitate habitability or other use, or because other considerations preclude such repair or replacement. Under any of these circumstances there could be significant delinquencies in the payment of Special Taxes or Reassessments, and the value of the parcels in the CFD or the Reassessment District may well depreciate or disappear.

Hazardous Substances. One of the most serious risks in terms of the potential reduction in the property values is a claim with regard to a hazardous substance. In general, the owners and operators of property may be required by law to remedy conditions of the parcel relating to releases or threatened releases of hazardous substances. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as “CERCLA” or the “Superfund Act,” is the most well-known and widely applicable of these laws, but California laws with regard to hazardous substances are also stringent and similar. Under many of these laws, the owner or operator is obligated to remedy a hazardous substance condition of property whether or not the owner or operator has anything to do with creating or handling the hazardous substance. The effect, therefore, should any of the Taxable Property in the

CFD or Reassessment Parcels in the Reassessment District be affected by a hazardous substance, is to reduce the marketability and value of the parcel by the costs of remedying the condition, because the purchaser, upon becoming owner, will become obligated to remedy the condition just as is the seller.

Although the City is not aware that the owner or operator of any of the Taxable Property in the CFD or Reassessment Parcels in the Reassessment District has such a current liability, it is possible that such liabilities do currently exist. Further, it is possible that liabilities may arise in the future resulting from the existence, currently, on the parcel of a substance presently classified as hazardous but that has not been released or the release of which is not presently threatened, or may arise in the future resulting from the existence, currently on the parcel of a substance not presently classified as hazardous but that may in the future be so classified. Further, such liabilities may arise not simply from the existence of a hazardous substance but from the method of handling it. All of these possibilities could significantly affect the property values that would otherwise be realized upon a delinquency.

No information is available as to the existence of any hazardous substances within the CFD or the Reassessment District.

Other Factors. Other factors that could adversely affect property values in the CFD or the Reassessment District include, among others, relocation of employers out of the area, shortages of water, electricity, natural gas or other utilities, and destruction of property caused by man-made disasters.

Other Possible Claims Upon the Property Values

While the Special Taxes are secured by the Taxable Property in the CFD, and the Reassessments are secured by the Reassessment Parcels, the security only extends to the value of such property that is not subject to priority and parity liens and similar claims.

A table listing of the outstanding governmental obligations affecting the CFD is set forth above under "THE CFD – Direct and Overlapping Governmental Obligations," and a table listing of the outstanding governmental obligations affecting the Reassessment District is set forth above under "THE REASSESSMENT DISTRICT – Direct and Overlapping Governmental Obligations."

In addition, other governmental obligations may be authorized and undertaken or issued in the future, the tax, assessment or charge for which may become an obligation of one or more of the parcels within the CFD or Reassessment District, and may be secured by a lien on a parity with the lien of the Special Tax securing the CFD Bonds or the lien of the Reassessments securing the Reassessment Bonds.

In general, the Special Taxes and Reassessments, and all other taxes, assessments and charges also collected on the tax roll, are on a parity, that is, are of equal priority. Questions of priority become significant when collection of one or more of the taxes, assessments or charges is sought by some other procedure, such as foreclosure and sale. If proceedings are brought to foreclose a delinquency, the Special Taxes and Reassessments will generally be on a parity with the other taxes, assessments and charges, and will share the proceeds of such foreclosure proceedings on a pro-rata basis.

Enforcement of Special Taxes or Reassessments on Governmentally Owned Properties

Exemptions Under Rate and Method and the Mello-Roos Act. Certain properties are exempt from the Special Tax in accordance with the Rate and Method and the Mello-Roos Act, which provides that properties or entities of the state, federal or local government are exempt from the Special Tax; provided, however, that property within the CFD acquired by a public entity through a negotiated transaction or by gift or devise, which is not otherwise exempt from the Special Tax, will continue to be subject to the Special Tax.

In addition, although the Mello-Roos Act provides that if property subject to the Special Tax is acquired by a public entity through eminent domain proceedings, the obligation to pay the Special Tax with respect to that property is to be treated as if it were a special assessment, the constitutionality and operation of these provisions of the Act have not been tested, meaning that such property could become exempt from the Special Tax. The Mello-Roos Act further provides that no other properties or entities are exempt from the Special Tax unless the properties or entities are expressly exempted in a resolution of consideration to levy a new special tax or to alter the rate or method of apportionment of an existing special tax.

Property Owned by FDIC. The ability of the City to collect interest and penalties specified by State law and to foreclose the lien of a delinquent Special Tax installment may be limited in certain respects with regard to property in which the Federal Deposit Insurance Corporation (the "**FDIC**") has or obtains an interest. The FDIC has asserted a sovereign immunity defense to the payment of special taxes and assessments. The City is unable to predict what effect this assertion would have in the event of a delinquency on a parcel within the CFD or the Reassessment District in which the FDIC has or obtains an interest.

In addition, although the FDIC does not claim immunity from *ad valorem* property taxation, it requires a foreclosing entity to obtain FDIC's consent to foreclosure proceedings. Prohibiting a foreclosure on property owned by the FDIC could reduce the amount available to pay the principal of and interest on the CFD Bonds or Reassessment Bonds, as applicable. Either outcome would cause a draw on the Reserve Account established for the CFD Bonds or the Reserve Fund established for the Reassessment Bonds, and perhaps, ultimately, a default in the payment on the CFD Bonds or the Reassessment Bonds, as applicable.

No investigation has been made as to whether the FDIC or any other governmental entity currently owns or has an interest in any property in the CFD or the Reassessment District.

Depletion of Reserve Funds

CFD Bonds. The City will establish and maintain a Reserve Account for the CFD Bonds that may be used to pay principal of and interest on the CFD Bonds if insufficient funds are available from the proceeds of the levy and collection of the Special Taxes against property within the CFD. See “SECURITY FOR THE CFD BONDS – Reserve Account.”

If funds in the Reserve Account for the CFD Bonds are depleted, the funds can be replenished from the proceeds of the levy and collection of the Special Tax that are in excess of the amount required to pay all amounts to be paid to the Authority under the Fiscal Agent Agreement. However, no replenishment from the proceeds of a Special Tax levy can occur so long as the proceeds that are collected from the levy of the Special Tax against property within the CFD at the maximum Special Tax rates, together with other available funds, remain insufficient to pay all such amounts. Thus, it is possible that the Reserve Account for the CFD Bonds will be depleted and not be replenished by the levy of the Special Tax.

Reassessment Bonds. Similarly, the City will establish and maintain a Reserve Fund for the Reassessment Bonds that may be used to pay principal of and interest on the Reassessment Bonds if insufficient funds are available from the proceeds of the collection of the Reassessments against property within the Reassessment District. See "SECURITY FOR THE REASSESSMENT BONDS – Reserve Fund."

If funds in the Reserve Account for the CFD Bonds are depleted, the funds can only be replenished from the collection of past-due Reassessments, or the proceeds of foreclosure actions against delinquent parcels in the Reassessment District. The Reassessments cannot be increased to make up for prior delinquencies. Thus, it is possible that the Reserve Fund for the Reassessment Bonds will be depleted and not be replenished.

Bankruptcy Delays

The payment of the Special Taxes or Reassessments, and the ability of the City to foreclose the lien of a delinquent unpaid Special Tax or Reassessment, may be limited by bankruptcy, insolvency or other laws generally affecting creditors' rights or by State laws relating to judicial foreclosure.

The various legal opinions to be delivered concurrently with the delivery of the Bonds (including Bond Counsel's approving legal opinion) will be qualified as to the enforceability of the various legal instruments by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights, by the application of equitable principles and by the exercise of judicial discretion in appropriate cases.

Although bankruptcy proceedings would not cause the Special Taxes or Reassessments to become extinguished, bankruptcy of a property owner or any other person claiming an interest in the property could result in a delay in superior court foreclosure proceedings and could result in the possibility of Special Tax installments or Reassessments not being paid in part or in full. Such a delay would increase the likelihood of a delay or default in payment of the principal of and interest on the CFD Bonds or Reassessment Bonds, as applicable.

Disclosure to Future Purchasers

The City has recorded, in the Office of the County Recorder, a notice of the Special Tax lien with respect to the CFD and a Notice of Reassessment with respect to the Reassessment District. While title companies normally refer to such notices in title reports, there can be no guarantee that such reference will be made or, if made, that a prospective purchaser or lender will consider the obligations represented by the Special Taxes or Reassessments in the purchase of a parcel of land or a home in the CFD or Reassessment District, as applicable, or the lending of money secured by property in the CFD or Reassessment District, as applicable.

No Acceleration; Right to Pursue Remedies

Neither the Bonds, the CFD Bonds nor the Reassessment Bonds contain a provision allowing for acceleration if a payment default or other default occurs under the Indenture, the CFD Bonds Fiscal Agent Agreement or the Reassessment Bonds Fiscal Agent Agreement. See "APPENDIX A – Summary of Principal Legal Documents."

So long as the Bonds are in book-entry form, DTC will be the sole Bond Owner and will be entitled to exercise all rights and remedies of Bond Owners under the Bonds and the Indenture.

Loss of Tax Exemption

As discussed under the caption "LEGAL MATTERS – Tax Matters," interest on the Bonds might become includable in gross income for purposes of federal income taxation retroactive to the date the Bonds were issued as a result of future acts or omissions of the Authority in violation of its covenants in the Indenture, or of the City in violation of its covenants in the CFD Bonds Fiscal Agent Agreement or in the Reassessment Bonds Fiscal Agent Agreement.

The Indenture does not contain a special redemption feature triggered by the occurrence of an event of taxability. As a result, if interest on the Bonds were to be includable in gross income for purposes of federal income taxation, the Bonds would continue to remain outstanding until maturity unless earlier redeemed pursuant to optional or mandatory redemption. See "THE BONDS – Redemption."

Voter Initiatives

Under the California Constitution, the power of initiative is reserved to the voters for the purpose of enacting statutes and constitutional amendments. Since 1978, the voters have exercised this power through the adoption of Proposition 13 and similar measures, including Proposition 218, which was approved in the general election held on November 5, 1996, and Proposition 26, which was approved on November 2, 2010.

Any such initiative may affect the collection of fees, taxes and other types of revenue by local agencies such as the City. Subject to overriding federal constitutional principles, such collection may be materially and adversely affected by voter-approved initiatives, possibly to the extent of creating cash-flow problems in the payment of outstanding obligations such as the CFD Bonds or the Reassessment Bonds.

Proposition 218—Voter Approval for Local Government Taxes—Limitation on Fees, Assessments, and Charges—Initiative Constitutional Amendment, added Articles XIIIC and XIIID to the California Constitution, imposing certain vote requirements and other limitations on the imposition of new or increased taxes, assessments and property-related fees and charges.

On November 2, 2010, California voters approved Proposition 26, entitled the "Supermajority Vote to Pass New Taxes and Fees Act". Section 1 of Proposition 26 declares that Proposition 26 is intended to limit the ability of the State Legislature and local government to circumvent existing restrictions on increasing taxes by defining the new or expanded taxes as "fees." Proposition 26 amended Articles XIIIA and XIIIC of the State Constitution. The amendments to Article XIIIA limit the ability of the State Legislature to impose higher taxes (as defined in Proposition 26) without a two-thirds vote of the Legislature. Article XIIIC requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes require a majority vote and taxes for specific purposes ("special taxes") require a two-thirds vote.

The Special Taxes and the CFD Bonds were each authorized by not less than a two-thirds vote of the landowners within the CFD who constituted the qualified electors at the time of such voted authorization. The Reassessments have been authorized under the summary

proceedings provided by law for refinancing of existing assessment districts. The City believes, therefore, that issuance of the CFD Bonds and the Reassessment Bonds does not require the conduct of further proceedings under the Act, Proposition 218 or Proposition 26.

Like their antecedents, Proposition 218 and Proposition 26 are likely to undergo both judicial and legislative scrutiny before the impact on the CFD or the Reassessment District can be determined. Certain provisions of Proposition 218 and Proposition 26 may be examined by the courts for their constitutionality under both State and federal constitutional law, the outcome of which cannot be predicted.

Secondary Market for Bonds

There can be no guarantee that there will be a secondary market for the Bonds or, if a secondary market exists, that any Bonds can be sold for any particular price. Prices of bond issues for which a market is being made will depend upon then-prevailing circumstances. Such prices could be substantially different from the original purchase price.

No assurance can be given that the market price for the Bonds will not be affected by the introduction or enactment of any future legislation (including without limitation amendments to the Internal Revenue Code), or changes in interpretation of the Internal Revenue Code, or any action of the Internal Revenue Service, including but not limited to the publication of proposed or final regulations, the issuance of rulings, the selection of the Bonds for audit examination, or the course or result of any Internal Revenue Service audit or examination of the Bonds or obligations that present similar tax issues as the Bonds.

THE AUTHORITY

The Authority is a joint exercise of powers authority organized and existing under Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California. The Authority was created by a Joint Exercise of Powers Agreement, dated as of October 15, 1995, between the City and the City of Tracy Community Development Authority, which are the sole members of the Authority.

The Authority was created for the purpose, among others, of issuing its bonds to be used to finance and refinance the acquisition, construction and improvement of certain public capital improvements in the City.

The Authority is governed by a five-member board whose members are the same as those seated on the City Council of the City. The Authority has no employees and all staff work is done by City staff or consultants.

LEGAL MATTERS

Tax Matters

In the opinion of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel, subject, however to the qualifications set forth below, under existing law, the interest on the Bonds is excluded from gross income for federal income tax purposes and such interest is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, provided, however, that, for the purpose of computing the alternative minimum tax imposed on corporations (as defined for federal income tax purposes), such interest is taken into account in determining certain income and earnings.

The opinions set forth in the preceding paragraph are subject to the condition that the Authority comply with all requirements of the Internal Revenue Code of 1986, as amended (the "Tax Code") that must be satisfied subsequent to the issuance of the Bonds. The Authority has covenanted to comply with each such requirement. Failure to comply with certain of such requirements may cause the inclusion of such interest in gross income for federal income tax purposes to be retroactive to the date of issuance of the Bonds.

If the initial offering price to the public (excluding bond houses and brokers) at which a Bond is sold is less than the amount payable at maturity thereof, then such difference constitutes "original issue discount" for purposes of federal income taxes and State of California personal income taxes. If the initial offering price to the public (excluding bond houses and brokers) at which a Bond is sold is greater than the amount payable at maturity thereof, then such difference constitutes "original issue premium" for purposes of federal income taxes and State of California personal income taxes. De minimis original issue discount and original issue premium is disregarded.

Under the Tax Code, original issue discount is treated as interest excluded from federal gross income and exempt from State of California personal income taxes to the extent properly allocable to each owner thereof subject to the limitations described in the first paragraph of this section. The original issue discount accrues over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). The amount of original issue discount accruing during each period is added to the adjusted basis of such Bonds to determine taxable

gain upon disposition (including sale, redemption, or payment on maturity) of such Bond. The Tax Code contains certain provisions relating to the accrual of original issue discount in the case of purchasers of the Bonds who purchase the Bonds after the initial offering of a substantial amount of such maturity. Owners of such Bonds should consult their own tax advisors with respect to the tax consequences of ownership of Bonds with original issue discount, including the treatment of purchasers who do not purchase in the original offering, the allowance of a deduction for any loss on a sale or other disposition, and the treatment of accrued original issue discount on such Bonds under federal individual and corporate alternative minimum taxes.

Under the Tax Code, original issue premium is amortized on an annual basis over the term of the Bond (said term being the shorter of the Bond's maturity date or its call date). The amount of original issue premium amortized each year reduces the adjusted basis of the owner of the Bond for purposes of determining taxable gain or loss upon disposition. The amount of original issue premium on a Bond is amortized each year over the term to maturity of the Bond on the basis of a constant interest rate compounded on each interest or principal payment date (with straight-line interpolations between compounding dates). Amortized Bond premium is not deductible for federal income tax purposes. Owners of premium Bonds, including purchasers who do not purchase in the original offering, should consult their own tax advisors with respect to State of California personal income tax and federal income tax consequences of owning such Bonds.

In the further opinion of Bond Counsel, interest on the Bonds is exempt from California personal income taxes.

Owners of the Bonds should also be aware that the ownership or disposition of, or the accrual or receipt of interest on, the Bonds may have federal or state tax consequences other than as described above. Bond Counsel expresses no opinion regarding any federal or state tax consequences arising with respect to the Bonds other than as expressly described above.

Absence of Litigation

The Authority and the City will certify at the time the Bonds are issued that no litigation is pending or threatened concerning the validity of the Bonds, the CFD Bonds or the Reassessment Bonds and that no action, suit or proceeding is known by the Authority or the City to be pending that would restrain or enjoin the delivery of the Bonds, the CFD Bonds or the Reassessment Bonds, or contest or affect the validity of the Bonds, the CFD Bonds or the Reassessment Bonds, or any proceedings of the Authority or the City taken with respect to the Bonds, the CFD Bonds or the Reassessment Bonds.

Legal Opinion

All proceedings in connection with the issuance of the Bonds are subject to the approval as to their legality of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel. The unqualified opinion of Bond Counsel approving the validity of the Bonds is attached as APPENDIX E.

NO RATINGS

The Authority has not made, and does not contemplate making, any application to a rating agency for a rating on the Bonds. No such rating should be assumed from any credit rating that the Authority or the City may obtain for other purposes. Prospective purchasers of the Bonds are required to make independent determinations as to the credit quality of the Bonds and their appropriateness as an investment.

VERIFICATION OF MATHEMATICAL ACCURACY

Causey, Demgen & Moore, Inc., Certified Public Accountants, Denver, Colorado, independent accountants, upon delivery of the Bonds, will deliver a report on the mathematical accuracy of certain computations, contained in schedules provided to them which were prepared by the City, relating to the sufficiency of moneys and securities deposited into the Escrow Fund to pay, when due, the principal, whether at maturity or upon prior prepayment, interest and prepayment premium requirements of the Prior Bonds.

The report of Causey, Demgen & Moore, Inc., will include the statement that the scope of its engagement is limited to verifying the mathematical accuracy of the computations contained in such schedules provided to it, and that it has no obligation to update its report because of events occurring, or data or information coming to its attention, subsequent to the date of its report.

PROFESSIONALS INVOLVED IN THE OFFERING

All proceedings in connection with the issuance of the Bonds are subject to the approval of Jones Hall, A Professional Law Corporation, San Francisco, California, Bond Counsel. Jones Hall, A Professional Law Corporation is also acting as Disclosure Counsel to the Authority. The Bank of New York Mellon Trust Company, N.A., San Francisco, California, will act as the Trustee. Certain matters will be passed upon for the Underwriter by Hawkins Delafield & Wood LLP, San Francisco, California, as its counsel.

The compensation of Bond Counsel, Disclosure Counsel, the Trustee and Underwriter's counsel is contingent upon issuance of the Bonds.

UNDERWRITING

Stifel, Nicolaus & Company, Incorporated, dba Stone & Youngberg, a Division of Stifel Nicolaus (the "**Underwriter**"), has agreed to purchase the Bonds at a purchase price of $_____ (being the principal amount of the Bonds ($_____) *less* original issue discount of $_____ and *less* an underwriter's discount of $_____).

The Underwriter may change the initial public offering prices of the Bonds from time to time. The agreement under which the Underwriter has agreed to purchase the Bonds provides that the Underwriter will purchase all the Bonds if any are purchased, and that the obligation to make such purchase is subject to certain terms and conditions set forth therein, including, among others, the approval of certain legal matters by counsel.

CONTINUING DISCLOSURE

The City, on behalf of itself and the Authority, will covenant for the benefit of owners of the Bonds to provide certain financial information and operating data relating to the CFD and the Reassessment District (the "**Annual Report**") by not later than nine months following the end of the City's Fiscal Year (currently March 31 based on the City's Fiscal Year ending June 30), commencing March 31, 2012, with the report for the Fiscal Year ending June 30, 2011 and to provide notices of the occurrence of certain listed events.

These covenants have been made in order to assist the Underwriter in complying with Securities Exchange Commission Rule 15c2-12(b)(5), as amended (the "**Rule**"). The specific nature of the information to be contained in the Annual Report or the notices of listed events is set forth in APPENDIX F."

Neither the City nor the Authority has ever failed to comply in all material respects with previous undertakings under the Rule.

EXECUTION

The execution and delivery of this Official Statement have been duly authorized by the Authority and the City.

TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY

By: _____
Treasurer

CITY OF TRACY

By: _____
Finance and Administrative Services
Director

APPENDIX A

SUMMARY OF PRINCIPAL LEGAL DOCUMENTS

APPENDIX B

GENERAL INFORMATION REGARDING THE CITY OF TRACY AND THE COUNTY OF SAN JOAQUIN

The following information concerning the City of Tracy (the "City") and San Joaquin County (the "County") are included only for the purpose of supplying general information regarding the community. The Bonds are not a debt of the City, the County, the State or any of its political subdivisions, and neither the City, the County, the State nor any of its political subdivisions is liable therefor.

Population

Population figures for the City, the County and the State for the last five years are shown in the following table.

CITY OF TRACY AND SAN JOAQUIN COUNTY
Population Estimates
Calendar Years 2007 through 2011

Calendar Year	City of Tracy	County San Joaquin	State of California
2007	80,700	665,304	36,399,676
2008	81,490	672,492	36,704,375
2009	82,040	677,833	36,966,713
2010	82,800	684,057	37,223,900
2011	83,420	690,899	37,510,766

Source: State Department of Finance estimates (as of January 1, 2011)

Employment and Industry

The District is included in the Stockton Metropolitan Statistical Area ("MSA"), which includes all of San Joaquin County. The unemployment rate in the San Joaquin County was 16.1% in August 2011, down from a revised 17.4% in July 2011, and below the year-ago estimate of 16.8%. This compares with an unadjusted unemployment rate of 11.9% for California and 9.1% for the nation during the same period.

Set forth below is data from calendar years 2006 to 2010 reflecting the County's civilian labor force, employment and unemployment. These figures are county-wide statistics and may not necessarily accurately reflect employment trends in the District.

STOCKTON METROPOLITAN STATISTICAL AREA
(San Joaquin County)
Civilian Labor Force, Employment and Unemployment
(Annual Averages)

	2006	2007	2008	2009	2010
Civilian Labor Force [(1)]	284,300	289,200	293,000	298,200	298,900
Employment	263,200	265,800	262,700	252,600	247,200
Unemployment	21,100	23,300	30,300	45,600	51,800
Unemployment Rate	7.4%	8.1%	10.3%	15.3%	17.3%
Wage and Salary Employment: [(2)]					
Agriculture	14,300	14,500	14,900	15,200	15,400
Mining and Logging	200	200	200	100	100
Construction	15,900	13,800	11,400	8,400	7,600
Manufacturing	21,700	21,900	21,200	18,900	17,600
Wholesale Trade	9,800	10,500	10,400	9,900	9,900
Retail Trade	27,200	26,900	25,600	23,700	23,500
Transportation, Warehousing and Utilities	13,500	13,900	14,100	13,900	13,800
Information	2,500	2,500	2,400	2,200	2,100
Financial Activities	9,900	9,900	9,400	8,900	7,800
Professional and Business Services	18,500	18,300	17,600	15,900	15,600
Educational and Health Services	26,100	27,700	28,400	28,300	28,600
Leisure and Hospitality	17,300	17,800	17,500	16,700	16,200
Other Services	6,800	7,700	7,400	7,000	7,000
Federal Government	3,900	3,900	3,900	4,100	4,300
State Government	4,200	4,300	4,300	4,100	3,900
Local Government	31,600	32,100	32,100	31,700	30,000
Total All Industries	223,400	225,900	220,600	209,000	203,400

(1) Labor force data is by place of residence; includes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

(2) Industry employment is by place of work; excludes self-employed individuals, unpaid family workers, household domestic workers, and workers on strike.

Source: State of California Employment Development Department.

The following table list the major employers within the County, as of September 2011.

SAN JOAQUIN COUNTY
Major Employers
As of September 2011

Employer Name	Location	Industry
All Trade Handyman Mgmt LLC	Tracy	Handyman Services
B & B Ranch	Linden	Ranches
Cottage Bakery Inc.	Lodi	Bread/Other Bakery Prod-Ex Cookies
Dameron Hospital	Stockton	Hospitals
Deuel Vocational Institution	Tracy	City Govt-Correctional Institutions
Division Of Juvenile Justice	Stockton	State Govt-Correctional Institutions
Foster Care Services	Stockton	County Government-Social/Human Resources
Lodi Memorial Hospital	Lodi	Physical Therapists
Lodi Memorial Hospital	Lodi	Hospitals
Morada Produce Co.	Stockton	Fruits & Vegetables-Growers & Shippers
North California Youth Ctr.	Not Available	Police Departments
O-G Packing Co.	Stockton	Warehouses-Cold Storage
Pacific Coast Producers	Lodi	Canning (Mfrs)
Picture Me Portrait Studios	Stockton	Photographers-Portrait
San Joaquin Cnty School Supt	Stockton	Schools
San Joaquin County Human Svc	Stockton	County Government-Social/Human Resources
San Joaquin Rehabilitation Svc	French Camp	Schools-Universities & Colleges Academic
San Joaquin Sheriff's Office	French Camp	Sheriff
St Joseph's Medical Ctr.	Stockton	Hospitals
Stockton Police Dept.	Stockton	Police Departments
Tracy Jnt Union High Schl Dist	Tracy	Schools
Tracy Obstetrics & Gynecology	Tracy	Physicians & Surgeons
University of the Pacific	Stockton	Psychologists
Walmart Supercenter	Stockton	Department Stores
Waste Management Inc.	Lodi	Garbage Collection

Source: State of California Employment Development Department, extracted from The America's Labor Market Information System (ALMIS) Employer Database.

Commercial Activity

In 2009, the State Board of Equalization converted the business codes of sales and use tax permit holders to North American Industry Classification System codes. As a result of the coding change, retail stores data for 2009 is not comparable to that of prior years.

A summary of historic taxable sales within the City during the past five years in which data is available is shown in the following table. Total taxable sales during the first two quarters of calendar year 2010 in the City were reported to be $425,327,000, a 2.53% increase over the total taxable sales of $414,816,000 reported during the first two quarters of calendar year 2009. Annual figures are not yet available for 2010.

CITY OF TRACY
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Dollars in Thousands)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2005	833	$1,021,399	1,477	$1,164,898
2006	826	1,020,060	1,476	1,176,772
2007	831	976,047	1,517	1,133,674
2008	848	883,180	1,494	1,026,995
2009(1)	909	752,864	1,338	878,925

(1) Not comparable to prior years. "Retail" category now includes "Food Services."
Source: State Board of Equalization.

A summary of historic taxable sales within the County during the past five years in which data is available is shown in the following table. Total taxable sales during the first two quarters of calendar year 2010 in the County were reported to be $3,633,620,000, a 2.66% increase over the total taxable sales of $3,539,579,000 reported during the first two quarters of calendar year 2009. Annual figures are not yet available for 2010.

COUNTY OF SAN JOAQUIN
Taxable Retail Sales
Number of Permits and Valuation of Taxable Transactions
(Dollars in Thousands)

	Retail Stores		Total All Outlets	
	Number of Permits	Taxable Transactions	Number of Permits	Taxable Transactions
2005	6,843	$6,757,763	13,653	$9,612,059
2006	6,643	6,738,173	13,290	9,528,419
2007	6,435	6,461,257	13,300	9,326,761
2008	6,824	5,834,396	13,419	8,696,074
2009(1)	8,203	4,974,437	12,297	7,260,073

(1) Not comparable to prior years. "Retail" category now includes "Food Services."
Source: State Board of Equalization.

Median Effective Buying Income

"Effective Buying Income" is defined as personal income less personal tax and nontax payments, a number often referred to as "disposable" or "after-tax" income. Personal income is the aggregate of wages and salaries, other labor-related income (such as employer contributions to private pension funds), proprietor's income, rental income (which includes imputed rental income of owner-occupants of non-farm dwellings), dividends paid by corporations, interest income from all sources, and transfer payments (such as pensions and welfare assistance). Deducted from this total are personal taxes (federal, state and local), nontax payments (fines, fees, penalties, etc.) and personal contributions to social insurance. According to U.S. government definitions, the resultant figure is commonly known as "disposable personal income."

The following table summarizes the total effective buying income for the County of San Joaquin, the State and the United States for the period 2006 through 2010.

CITY OF TRACY AND SAN JOAQUIN COUNTY
Effective Buying Income
2006 through 2010

Year	Area	Total Effective Buying Income (000's Omitted)	Median Household Effective Buying Income
2006	City of Tracy	$ 1,744,308	$61,908
	San Joaquin County	11,235,220	41,693
	California	764,120,963	46,275
	United States	6,107,092,244	41,255
2007	City of Tracy	$ 1,733,560	$66,438
	San Joaquin County	11,881,045	43,478
	California	814,894,438	48,203
	United States	6,300,794,040	41,792
2008	City of Tracy	$ 1,762,535	$66,497
	San Joaquin County	11,910,065	43,718
	California	832,531,445	48,952
	United States	6,443,994,426	42,303
2009	City of Tracy	$ 1,914,495	$67,945
	San Joaquin County	12,260,330	44,434
	California	844,823,318	49,736
	United States	6,571,536,768	43,252
2010	City of Tracy	$ 1,713,418	$62,219
	San Joaquin County	11,425,114	42,086
	California	801,393,028	47,177
	United States	6,365,020,076	41,368

Source: The Nielsen Company (US), Inc.

Building Activity

The table below summarizes building activity in the City and the County from calendar years 2006 through 2010.

CITY OF TRACY
Building Permit Activity
Dollars in Thousands

	2006	2007	2008	2009	2010
Permit Valuation					
New Single-family	$32,255.5	$3,874.8	$2,787.7	$5,550.4	$4,549.0
New Multi-family	5,675.6	259.4	0.0	0.0	0.0
Res. Alterations/Additions	2,755.0	3,900.7	1,583.5	1,219.2	1,914.9
Total Residential	40,686.1	8,034.9	4,371.2	6,769.6	6,464.0
New Commercial	15,645.2	4,158.0	80,023.6	1,339.5	13,184.4
New Industrial	4,515.4	19,998.0	0.0	0.0	0.0
New Other	22,935.9	5,609.1	4,470.9	1,587.9	1,234.8
Com. Alterations/Additions	20,947.0	19,236.4	24,485.6	17,036.6	16,082.3
Total Nonresidential	$64,043.5	$49,001.5	$108,980.1	$19,964.0	$30,501.5
New Dwelling Units					
Single Family	175	26	18	28	18
Multiple Family	84	2	0	0	0
TOTAL	259	28	18	28	18

Source: Construction Industry Research Board, Building Permit Summary

COUNTY OF SAN JOAQUIN
Building Permit Activity
Dollars in Thousands

	2006	2007	2008	2009	2010
Permit Valuation					
New Single-family	$801,686.6	$496,495.0	$171,391.3	$160,431.1	$166,223.0
New Multi-family	19,725.6	41,329.0	4,717.6	0.0	15,426.9
Res. Alterations/Additions	55,815.7	49,874.0	34,289.5	25,995.5	28,058.7
Total Residential	877,227.9	587,698.1	210,398.5	186,426.6	209,708.7
New Commercial	178,696.6	252,935.9	306,150.5	18,405.6	31,521.9
New Industrial	36,898.1	112,741.1	38,172.5	3,102.2	1,333.0
New Other	105,925.7	119,439.9	40,025.0	35,574.4	40,130.0
Com. Alterations/Additions	114,395.3	129,865.0	146,515.9	96,536.3	100,108.9
Total Nonresidential	$435,915.6	$614,982.0	$530,863.9	$153,618.4	$173,093.8
New Dwelling Units					
Single Family	3,440	2,138	770	773	801
Multiple Family	210	341	54	0	157
TOTAL	3,650	2,479	824	773	958

Source: Construction Industry Research Board, Building Permit Summary

APPENDIX C

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

APPENDIX D

REASSESSMENT REPORT

APPENDIX E

FORM OF BOND COUNSEL OPINION

APPENDIX F

FORM OF CONTINUING DISCLOSURE CERTIFICATE

$_____
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
REVENUE BONDS
2011 SERIES A

This Continuing Disclosure Certificate (this "Disclosure Certificate") is executed and delivered by the City of Tracy (the "City"), for and on behalf of itself and the Tracy Operating Partnership Joint Powers Authority (the "Authority"), in connection with the issuance by the Authority of the revenue bonds captioned above (the "Bonds").

The Bonds are generally secured by revenues derived from debt service payments made on two series of bonds to be issued by the City concurrently with the Bonds: (i) $_____ City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Refunding Bonds, 2011 Series A (the "CFD Bonds"), and (ii) $_____ City of Tracy Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "Reassessment Bonds").

The Bonds are being issued under an Indenture of Trust, dated as of December 1, 2011 (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee").

The City, on behalf of itself, City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) (the "CFD"), and the Authority, hereby covenants and agrees as follows:

Section 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the City for the benefit of the holders and beneficial owners of the Bonds and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

Section 2. Definitions. In addition to the definitions set forth above and in the Indenture, which apply to any capitalized term used in this Disclosure Certificate unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

"*Annual Report*" means any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

"*Annual Report Date*" means the date that is 9 months after the end of the City's fiscal year (currently March 31 based on the City's fiscal year end of June 30).

"*Dissemination Agent*" means Willdan Financial Services or any successor Dissemination Agent designated in writing by the City and which has filed with the City a written acceptance of such designation.

"*Listed Events*" means any of the events listed in Section 5(a) of this Disclosure Certificate.

"*MSRB*" means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information that may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

"*Official Statement*" means the final official statement executed by the City in connection with the issuance of the Bonds.

"*Participating Underwriter*" means Stifel, Nicolaus & Company, Incorporated, dba Stone & Youngberg, a Division of Stifel Nicolaus, the original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

"*Rule*" means Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as it may be amended from time to time.

Section 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than the Annual Report Date, commencing March 31, 2012, with the report for the 2010-11 fiscal year, provide to the MSRB, in an electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than 15 Business Days prior to the Annual Report Date, the City shall provide the Annual Report to the Dissemination Agent (if other than the City). If by 15 Business Days prior to the Annual Report Date the Dissemination Agent (if other than the City) has not received a copy of the Annual Report, the Dissemination Agent shall contact the City to determine if the City is in compliance with the previous sentence. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may include by reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report, and later than the Annual Report Date, if not available by that date. If the City's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c). The City shall provide a written certification with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by the City hereunder.

(b) If the City does not provide (or cause the Dissemination Agent to provide) an Annual Report by the Annual Report Date, the City shall provide (or cause the Dissemination Agent to provide) to the MSRB, in an electronic format as prescribed by the MSRB, a notice in substantially the form attached as Exhibit A.

(c) With respect to each Annual Report, the Dissemination Agent shall:

(i) determine each year prior to the Annual Report Date the then-applicable rules and electronic format prescribed by the MSRB for the filing of annual continuing disclosure reports; and

(ii) if the Dissemination Agent is other than the City, file a report with the City certifying that the Annual Report has been provided pursuant to this Disclosure Certificate, and stating the date it was provided.

Section 4. Content of Annual Reports. The City's Annual Report shall contain or incorporate by reference the following:

(a) The audited financial statements of the City and the Authority, together with the following statement:

THE CITY'S AND THE AUTHORITY'S ANNUAL FINANCIAL STATEMENTS ARE PROVIDED SOLELY TO COMPLY WITH THE SECURITIES EXCHANGE COMMISSION STAFF'S INTERPRETATION OF RULE 15C2-12. NO FUNDS OR ASSETS OF THE CITY OR THE AUTHORITY OTHER THAN THOSE PLEDGED UNDER THE INDENTURE ARE REQUIRED TO BE USED TO PAY DEBT SERVICE ON THE BONDS, AND NEITHER THE CITY NOR THE AUTHORITY ARE OBLIGATED TO ADVANCE AVAILABLE FUNDS FROM ANY SOURCE TO COVER ANY DELINQUENCIES. INVESTORS SHOULD NOT RELY ON THE FINANCIAL CONDITION OF THE CITY OR THE AUTHORITY IN EVALUATING WHETHER TO BUY, HOLD OR SELL THE BONDS.

The audited financial statements shall be prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board. If such audited financial statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) The following additional items relating to the Authority, and to the CFD and the Reassessment District on a combined basis.

(i) Outstanding principal amount of the Bonds as of the end of the most recent fiscal year.

(ii) A comparison between the CFD and the Reassessment District with regard to land use status, the number of parcels and acres, assessed values, and share of the Special Taxes and Reassessments, and value to burden ratios, based on the most recent Fiscal Year, substantially in the form of Table 8 contained in the Official Statement.

(iii) A description of the issuance of any Additional Bonds.

(c) The following additional items relating to the CFD:

(i) Outstanding principal amount of the CFD Bonds as of the end of the most recent fiscal year.

(ii) Balance of the Reserve Account for the CFD Bonds, and a statement of the applicable Reserve Requirement for the Reserve Account, as of September 1 of the current fiscal year.

(iii) A table showing distribution of value-to-burden ratios for Taxable Property (per the San Joaquin County Assessor's records) for the current fiscal year substantially in the form of Table 12 contained in the Official Statement.

(iv) A table showing a history of special tax collections and delinquencies (per the San Joaquin County Assessor's records) for the current fiscal year substantially in the form of Table 15 contained in the Official Statement.

(v) With respect to delinquent Special Taxes as of June 30 of the preceding fiscal year, (i) a statement of whether or not the CFD continues to participate in the Alternative Method of Distribution of Tax Levies and Collections described in Revenue and Taxation Code Section 4701 et seq., or an equivalent procedure, (ii) a list of all parcels delinquent in the payment of Special Taxes in the aggregate of $3,000 or more (and information relating to the length of delinquency and status of any foreclosure, including results of foreclosure sales), (iii) the total dollar amount of delinquencies and (iv) in the event (A) that the total delinquencies within the CFD as of June 30 of the preceding fiscal year exceed 5% of the Special Tax for the preceding fiscal year or (B) there are 10 or fewer owners of real property within the CFD, determined by reference to the latest available secured property tax roll of the County, delinquency information for each parcel delinquent in the payment of Special Tax, amounts of delinquencies, length of delinquency and status of any foreclosure of each such parcel (including results of foreclosure sale).

(vi) The amount of prepayments of the Special Taxes for the most recently completed Fiscal Year.

(vii) A land ownership summary listing property owners responsible for more than 5% of the annual Special Tax levy, as shown on the San Joaquin County Assessor's equalized tax roll as of June 30 of the preceding fiscal year, and a calculation of each such owner's value-to-burden ratio based upon assessed value and the burden of that property's share of the CFD Bonds only.

(viii) An updated calculation as of June 30 of the preceding fiscal year of the CFD's value-to-burden ratio on a CFD-wide basis, based upon (A) the Taxable Property's assessed value as shown on the San Joaquin County Assessor's equalized tax roll and (B) the burden of that property's share of the CFD Bonds.

(ix) Any changes to the Rate and Method of Apportionment of Special Tax for the CFD as of June 30 of the preceding fiscal year.

(x) Annual information required to be filed by the City with the California Debt and Investment Advisory Commission pursuant to the CFD Act and relating generally to outstanding CFD bond amounts, fund balances, assessed values, special tax delinquencies and foreclosure information.

(xi) A description of the issuance of any Parity Bonds, if any (as defined in the CFD Bonds Fiscal Agent Agreement).

(d) The following additional items relating to the Reassessment District:

(i) Outstanding principal amount of the Reassessment Bonds as of the end of the most recent fiscal year.

(ii) Balance of the Reserve Fund for the Reassessment Bonds, and a statement of the applicable Reserve Requirement for the Reserve Fund, as of September 1 of the current fiscal year.

(iii) A table showing distribution of value-to-burden ratios (per the San Joaquin County Assessor's records) for the current fiscal year substantially in the form of Table 19 contained in the Official Statement.

(iv) A table showing a history of reassessment collections and delinquencies (per the San Joaquin County Assessor's records) for the current fiscal year substantially in the form of Table 21 contained in the Official Statement.

(v) With respect to delinquent Reassessments as of June 30 of the preceding fiscal year, (i) a statement of whether or not the Reassessment District continues to participate in the Alternative Method of Distribution of Tax Levies and Collections described in Revenue and Taxation Code Section 4701 et seq., or an equivalent procedure, (ii) a list of all parcels delinquent in the payment of Reassessments in the aggregate of $1,000 or more (and information relating to the length of delinquency and status of any foreclosure, including results of foreclosure sales), (iii) the total dollar amount of delinquencies and (iv) in the event (A) that the total delinquencies within the Reassessment District as of June 30 of the preceding fiscal year exceed 5% of the Reassessments for the preceding fiscal year or (B) there are 10 or fewer owners of real property within the Reassessment District determined by reference to the latest available secured property tax roll of the County, delinquency information for each parcel delinquent in the payment of Reassessments, amounts of delinquencies, length of delinquency and status of any foreclosure of each such parcel (including results of foreclosure sale).

(vi) The amount of prepayments of the Reassessments for the most recently completed Fiscal Year.

(vii) A land ownership summary listing property owners responsible for more than 5% of the annual Reassessment levy, as shown on the San Joaquin County Assessor's equalized tax roll as of June 30 of the preceding fiscal year, and a calculation of each such owner's value-to-burden ratio based upon assessed value and the burden of that property's share of the Reassessment Bonds only.

(viii) An updated calculation as of June 30 of the preceding fiscal year of the Reassessment District's value-to-burden ratio on a Reassessment District-wide basis, based upon (A) the assessed values as shown on the San Joaquin County Assessor's equalized tax roll and (B) the burden of the property's share of the Reassessment Bonds.

(xi) A description of the issuance of any Parity Bonds, if any (as defined in the Reassessment Bonds Fiscal Agent Agreement).

(e) In addition to any of the information expressly required to be provided under this Disclosure Certificate, the City shall provide such further material information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

(f) Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or related public entities, which are available to the public on the MSRB's Internet web site or filed with the Securities and Exchange Commission. The City shall clearly identify each such other document so included by reference.

Section 5. Reporting of Significant Events.

(a) The City shall give, or cause to be given, notice of the occurrence of any of the following Listed Events with respect to the Bonds:

(1) Principal and interest payment delinquencies.

(2) Non-payment related defaults, if material.

(3) Unscheduled draws on debt service reserves reflecting financial difficulties.

(4) Unscheduled draws on credit enhancements reflecting financial difficulties.

(5) Substitution of credit or liquidity providers, or their failure to perform.

(6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.

(7) Modifications to rights of security holders, if material.

(8) Bond calls, if material, and tender offers.

(9) Defeasances.

(10) Release, substitution, or sale of property securing repayment of the securities, if material.

(11) Rating changes.

(12) Bankruptcy, insolvency, receivership or similar event of the City or other obligated person.

(13) The consummation of a merger, consolidation, or acquisition involving the City or an obligated person, or the sale of all or substantially all of the assets of the City or an obligated person (other than in the ordinary course of business), the entry into a definitive agreement to undertake such an action, or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material.

(14) Appointment of a successor or additional trustee or the change of name of a trustee, if material.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall, or shall cause the Dissemination Agent (if not the City) to, file a notice of such occurrence with the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of the Listed Event.

Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8) and (9) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to holders of affected Bonds under the Indenture.

(c) The City acknowledges that the events described in subparagraphs (a)(2), (a)(7), (a)(8) (if the event is a bond call), (a)(10), (a)(13), and (a)(14) of this Section 5 contain the qualifier "if material." The City shall cause a notice to be filed as set forth in paragraph (b) above with respect to any such event only to the extent that the City determines the event's occurrence is material for purposes of U.S. federal securities law.

(d) For purposes of this Disclosure Certificate, any event described in paragraph (a)(12) above is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

Section 6. Identifying Information for Filings with the MSRB. All documents provided to the MSRB under the Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The City's obligations under this Disclosure Certificate shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 8. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any Dissemination Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be Willdan Financial Services. Any Dissemination Agent may resign by providing 30 days' written notice to the City.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the City may amend this Disclosure Certificate, and any provision of this Disclosure Certificate may be waived, provided that the following conditions are satisfied:

(a) if the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or type of business conducted;

(b) the undertakings herein, as proposed to be amended or waived, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the primary offering of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) the proposed amendment or waiver either (i) is approved by holders of the Bonds in the manner provided in the Indenture for amendments to the Indenture with the consent of holders, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the holders or beneficial owners of the Bonds.

If the annual financial information or operating data to be provided in the Annual Report is amended pursuant to the provisions hereof, the first Annual Report filed pursuant hereto containing the amended operating data or financial information shall explain, in narrative form, the reasons for the amendment and the impact of the change in the type of operating data or financial information being provided.

If an amendment is made to this Disclosure Certificate modifying the accounting principles to be followed in preparing financial statements, the Annual Report for the year in which the change is made shall present a comparison between the financial statements or information prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles. The comparison shall include a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information, in order to provide information to investors to enable them to evaluate the ability of the City to meet its obligations. To the extent reasonably feasible, the comparison shall be quantitative.

A notice of any amendment made pursuant to this Section 9 shall be filed in the same manner as for a Listed Event under Section 5(c).

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the City shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. If the City fails to comply with any provision of this Disclosure Certificate, the Participating Underwriter or any holder or beneficial owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an Event of Default under the Indenture, and the sole remedy under this Disclosure Certificate in the event of any failure of the City to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. (a) The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall have no duty or obligation to review any information provided to it by the City hereunder, and shall not be deemed to be acting in any fiduciary

capacity for the City, the Bond holders or any other party. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

(b) The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as amended from time to time, and shall be reimbursed for all expenses, legal fees and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder.

Section 13. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and the holders and beneficial owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Section 14. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be regarded as an original, and all of which shall constitute one and the same instrument.

Date: _____, 2011

CITY OF TRACY

By: _____

Name: _____

Title: _____

AGREED AND ACCEPTED:
Willdan Financial Services,
as Dissemination Agent

By: _____

Name: _____

Title: _____

EXHIBIT A

NOTICE OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Tracy Operating Partnership Joint Powers Authority

Name of Issue: Tracy Operating Partnership Joint Powers Authority Revenue Bonds 2011 Series A

Date of Issuance: _____, 2011

NOTICE IS HEREBY GIVEN that the City has not provided an Annual Report with respect to the above-named Bonds as required by the Indenture, dated as of December 1, 2011, by and between the City and The Bank of New York Mellon Trust Company, N.A., as trustee. The City anticipates that the Annual Report will be filed by _____.

Dated: _____

DISSEMINATION AGENT:

_____

By: _____
Its: _____

APPENDIX G

DTC AND THE BOOK-ENTRY-ONLY SYSTEM

The following description of the Depository Trust Company ("DTC"), the procedures and record keeping with respect to beneficial ownership interests in the Bonds, payment of principal, interest and other payments on the Bonds to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interest in the Bonds and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.

Neither the issuer of the Bonds (the "Issuer") nor the trustee, fiscal agent or paying agent appointed with respect to the Bonds (the "Agent") take any responsibility for the information contained in this Appendix.

No assurances can be given that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current "Rules" applicable to DTC are on file with the Securities and Exchange Commission and the current "Procedures" of DTC to be followed in dealing with DTC Participants are on file with DTC.

1. The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the securities (the "Securities"). The Securities will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Security certificate will be issued for each issue of the Securities, each in the aggregate principal amount of such issue, and will be deposited with DTC. If, however, the aggregate principal amount of any issue exceeds $500 million, one certificate will be issued with respect to each $500 million of principal amount, and an additional certificate will be issued with respect to any remaining principal amount of such issue.

2. DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is

a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has a Standard & Poor's rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtc.org. *The information contained on this Internet site is not incorporated herein by reference.*

3. Purchases of Securities under the DTC system must be made by or through Direct Participants, which will receive a credit for the Securities on DTC's records. The ownership interest of each actual purchaser of each Security ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Securities are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Securities is discontinued.

4. To facilitate subsequent transfers, all Securities deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Securities with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Securities; DTC's records reflect only the identity of the Direct Participants to whose accounts such Securities are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

5. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Securities may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Securities, such as redemptions, tenders, defaults, and proposed amendments to the Security documents. For example, Beneficial Owners of Securities may wish to ascertain that the nominee holding the Securities for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

6. Redemption notices shall be sent to DTC. If less than all of the Securities within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

7. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Securities unless authorized by a Direct Participant in accordance with DTC's MMI

Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to Issuer as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Securities are credited on the record date (identified in a listing attached to the Omnibus Proxy).

8. Redemption proceeds, distributions, and dividend payments on the Securities will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from Issuer or Agent, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, Agent, or Issuer, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of Issuer or Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

9. DTC may discontinue providing its services as depository with respect to the Securities at any time by giving reasonable notice to Issuer or Agent. Under such circumstances, in the event that a successor depository is not obtained, Security certificates are required to be printed and delivered.

10. Issuer may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Security certificates will be printed and delivered to DTC.

11. The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that Issuer believes to be reliable, but Issuer takes no responsibility for the accuracy thereof.

$_____
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 99-2
(SOUTH MACARTHUR PLANNING AREA)
SPECIAL TAX BONDS
2011 SERIES A

CFD BONDS PURCHASE AGREEMENT

This CFD BONDS PURCHASE AGREEMENT (this "**Purchase Agreement**"), dated as of _____, 2011, is by and between the Tracy Operating Partnership Joint Powers Authority (the "**Authority**"), a joint powers authority organized and existing under the laws of the State of California, and the City of Tracy (the "**City**"), a municipal corporation and general law city organized and existing under and by virtue of the Constitution and laws of the State of California, for and on behalf of Community Facilities District No. 99-2 (South MacArthur Planning Area) (the "**CFD**").

WITNESSETH:

WHEREAS, the Authority is a joint exercise of powers authority duly organized and existing under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, and is authorized pursuant to Article 4 thereof (the "**Bond Law**") to borrow money for the purpose of financing the acquisition of bonds, notes and other obligations to provide financing or refinancing for public capital improvements of local agencies within the State of California; and

WHEREAS, the City is issuing $_____ aggregate principal amount of City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Refunding Bonds, 2011 Series A (the "**CFD Bonds**"), pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code (the "**Act**"), and a Fiscal Agent Agreement dated as of November 1, 2011 (the "**CFD Bonds Fiscal Agent Agreement**"), by and between the City, for and on behalf of the CFD, and The Bank of New York Mellon Trust Company, N.A., as fiscal agent (the "**Fiscal Agent**");

WHEREAS, a portion of the CFD Bonds will be used to refund the following bonds (collectively, the "**Prior CFD Bonds**"):

(i) $3,835,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2000, pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000, between the City and the Fiscal Agent (the "**Series 2000 Fiscal Agent Agreement**"); and

(ii) $7,665,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2002, pursuant to a First Supplemental Fiscal Agent Agreement, dated as of October 1, 2001, between the City and the Fiscal Agent (collectively with the Series 2000 Fiscal Agent Agreement, the "**Prior CFD Bonds Fiscal Agent Agreements**"; and

WHEREAS, the Authority has authorized the issuance of its Revenue Bonds, 2011 Series A in the aggregate principal amount of $_____ (the "**Authority Bonds**") , under an Indenture of Trust dated as of November 1, 2011 (the "**Authority Bond Indenture**"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "**Trustee**") and under the Bond Law for the purpose of providing the funds required to acquire the CFD Bonds; and

WHEREAS, the Authority and the City desire to enter into this Purchase Agreement providing for the purchase and sale of the CFD Bonds by the City to the Authority and containing the other agreements herein set forth;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Authority and the City agree as follows:

Section 1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties and agreements hereinafter set forth, the City hereby commits to sell to the Authority and does hereby sell to the Authority, and the Authority hereby commits to purchase from the City and does hereby purchase from the City with the proceeds of the Authority Bonds all of the $_____ aggregate principal amount of the CFD Bonds.

The purchase price of the CFD bonds shall be their aggregate principal amount of $_____.

Section 2. Description of the CFD Bonds. The CFD Bonds shall be as described in the Official Statement dated as of the date hereof, relating to the Authority Bonds (the "**Official Statement**") and shall be issued and secured under the resolution adopted by the City on _____, 2011 (the "**Resolution**") and the CFD Bonds Fiscal Agent Agreement. The CFD Bonds and interest thereon will be payable from Special Taxes levied and collected in accordance with the Resolution and the CFD Bonds Fiscal Agent Agreement. The CFD Bonds will bear the annual interest rates and mature at the times set forth in Exhibit A attached hereto and hereby made a part hereof.

All terms not herein defined shall have the meanings given such terms in the Authority Bonds Indenture.

Section 3. Actions Binding on the Authority. Any action under this Purchase Agreement taken by the Authority, including payment for and acceptance of the CFD Bonds, and delivery and execution of any receipt for the CFD Bonds and any other instruments in connection with the closing on the Closing Date, shall be valid and sufficient for all purposes and binding upon the Authority, provided that any such action shall not impose any obligation or liability upon the Authority other than as may arise as expressly set forth in this Purchase Agreement.

Section 4. Representations, Warranties and Covenants of the City. The City represents, warrants and covenants to the Authority as follows:

(a) Due Organization, Existence and Authority. The City is a municipal corporation and general law city organized and existing under and by virtue of the Constitution and laws of the State of California, and has, and on the Closing Date will have, full legal right, power and authority

(i) to enter into this Purchase Agreement, the Continuing Disclosure Certificate relating to the Authority Bonds and the CFD Bonds (the "**Continuing Disclosure Certificate**") and the CFD Bonds Fiscal Agent Agreement (collectively, the "**City Documents**"),

(ii) to adopt the Resolution,

(iii) to issue, sell and deliver the CFD Bonds to the Authority as provided herein, and

(iv) to carry out and consummate the transactions contemplated by the Resolution, the City Documents and the Official Statement.

(b) Due Authorization and Approval; Enforceability. By all necessary official action of the City, the City has duly authorized and approved the execution and delivery of, and the performance by the City of the obligations contained in, the City Documents and as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

When executed and delivered, the City Documents will constitute the legally valid and binding obligations of the City enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors' rights generally.

(c) Compliance with City Documents. The City has complied, and will at the Closing be in compliance in all respects, with the terms of the City Documents.

(d) No Conflicts, Breaches or Defaults. The execution and delivery of City Documents and the CFD Bonds, the adoption of the Resolution and compliance with the provisions of each thereof, and the carrying out and consummation of the transactions contemplated by the Official Statement, will not conflict with or constitute a breach of or a default under any applicable law or administrative regulation of the State of California or the United States, or any applicable judgment, decree, agreement or other instrument to which the City is a party or is otherwise subject.

(e) Official Statement Accurate and Complete. To the knowledge of the City, at the time of the City's acceptance hereof and at all times subsequent thereto up to and including the Closing Date, with respect to information describing the City, the CFD, the City Documents and the Resolution and other resolutions relating to the CFD, the Official Statement does not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(f) No Litigation. Except as described in the Official Statement, there is no action, suit, proceeding or investigation before or by any court, public board or body pending or, to the knowledge of the City, threatened, wherein an unfavorable decision, ruling or finding would:

(i) affect the creation, organization, existence or powers of the City or the titles of its members and officers to their respective offices,

(ii) enjoin or restrain the issuance, sale and delivery of the CFD Bonds, the levy and receipt of the Reassessments which secure the CFD Bonds, or the pledge thereof,

(iii) in any way question or affect any of the rights, powers, duties or obligations of the City with respect to the moneys pledged or to be pledged to pay the principal of, premium, if any, or interest on the CFD Bonds,

(iv) in any way question or affect any authority for the issuance of the CFD Bonds, or the validity or enforceability of the CFD Bonds, the Resolution or the City Documents, or

(v) in any way question or affect the City Documents or the transactions contemplated by the City Documents, the Official Statement, the Resolution, the other documents referred to in the Official Statement, or any other agreement or instrument to which the City is a party relating to the CFD Bonds.

(g) The City confirms that there are no substantial conditions precedent to the issuance by the City and to the sale (as provided herein) and the delivery to the Authority of the CFD Bonds.

(h) The City has never failed to comply with a continuing disclosure undertaking pursuant to Rule 15c2-12.

(i) Any certificate signed by any official of the City authorized to do so shall be deemed a representation and warranty by the City to the Authority as to the statements made therein.

(j) If between the date of this Purchase Agreement and the date 90 days after the Closing Date an event occurs which is materially adverse to the purpose for which the Official Statement is to be used which is not disclosed in the Official Statement, the City shall notify the Authority of such fact.

(k) The City has furnished some, but not all, of the information contained in the Official Statement and hereby authorizes the use of that information by the Authority in connection with the public offering and sale of the Authority Bonds.

Section 5. The Closing. At 9:00 a.m., Pacific Time, on _____, 2011, or at such other time or on such other date as is mutually agreed by the City and the Authority (the "**Closing Date**"),

(a) the City will deliver the CFD Bonds to the Trustee in definitive form, duly executed, together with the other documents hereinafter mentioned,

(b) subject to the terms and conditions hereof, the Trustee, solely from moneys held under the Authority Bonds Indenture for this purpose, will accept such delivery and pay the purchase price of the CFD Bonds as referenced in paragraph 1 hereof by wire transfer or other funds which are good funds on the Closing Date, and

(c) the Trustee shall deposit into the funds established under the Bond Indenture the amounts described in the Bond Indenture.

The CFD Bonds shall be registered in the name of the Trustee, as assignee of the Authority. Delivery and payment, as aforesaid, shall be made at such place as are mutually agreed upon by the City, the Trustee and the Authority.

Section 6. Termination Events. The Authority shall have the right to terminate the Authority's obligations under this Purchase Agreement to purchase, to accept delivery of and to pay for the CFD Bonds by notifying the City of its election to do so if, after the execution hereof and prior to the Closing if any of the following events occur:

(i) either the marketability of the Authority Bonds or the market price of the Authority Bonds, in the opinion of the Authority, has been materially and adversely affected by any decision issued by a court of the United States (including the United States Tax Court) or of the State of California, by any ruling or regulation (final, temporary or proposed) issued by or on behalf of the Department of the Treasury of the United States, the Internal Revenue Service, or other governmental agency of the United States, or any governmental agency of the State of California, or by a tentative decision with respect to legislation reached by a committee of the House of Representatives or the Senate of the Congress of the United States, or by legislation enacted by, pending in, or favorably reported to either the House of Representatives or the Senate of the Congress of the United States or either house of the Legislature of the State of California, or formally proposed to the Congress of the United States by the President of the United States or to the Legislature of the State of California by the Governor of the State of California in an executive communication, affecting the tax status of the Authority or the City, their property or income, their bonds (including the Authority Bonds) or the interest thereon, or any tax exemption granted or authorized by the Bond Law;

(ii) the United States becomes engaged in: hostilities which have resulted in a declaration of war or national emergency, or there occurs any other outbreak of hostilities, or a local, national or international calamity or crisis, financial or otherwise, the effect of such outbreak, calamity or crisis being such as, in the reasonable opinion of the Authority, would affect materially and adversely the ability of the Authority to market the Authority Bonds (it being agreed by the Authority that there is no outbreak, calamity or crisis of such a character as of the date hereof);

(iii) there occurs a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by the United States, New York State or California State authorities;

(iv) there occurs a withdrawal or downgrading of any rating assigned to any securities of the City by a national municipal bond rating agency; or

(v) an event occurs which in the opinion of the Authority requires a supplement or amendment to the Official Statement, and such supplement or amendment is not agreed to by the City.

Section 7. Conditions to Closing. The Authority has entered into this Purchase Agreement in reliance upon the representations, warranties and agreements of the City contained herein and to be contained in the documents and instruments to be delivered on the Closing Date, and upon the performance by the City of their respective obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Authority's obligations under this Purchase Agreement to purchase, to accept delivery of and to pay for the CFD Bonds

shall be subject to the performance by the City of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing Date, and shall also be subject to the following conditions:

(a) It is a condition to the City's sale and delivery of the CFD Bonds to the Authority, and to the Authority's purchase of the CFD Bonds and the obligations of the Authority to accept delivery of and to pay for the CFD Bonds, that the entire aggregate principal amount of the CFD Bonds authorized by the Resolution and the Bond Indenture shall be delivered by the City, and accepted and paid for by the Authority, on the Closing Date.

(b) The representations and warranties of the City contained herein shall be true, complete and correct on the date hereof and on and as of the Closing Date, as if made on the Closing Date.

(c) On the Closing Date the Resolution and the City Documents shall be in full force and effect, and shall not have been amended, modified or supplemented, and the Official Statement shall not have been amended, modified or supplemented, except in either case as may have been agreed to by both the Authority and the Underwriter.

(d) As of the Closing Date, all official action of the City relating to the CFD Bonds, including but not limited to the Resolution, shall be in full force and effect, and there shall have been taken all such actions as, in the opinion of Jones Hall, A Professional Law Corporation ("**Bond Counsel**"), are necessary or appropriate in connection therewith, with the issuance of the Authority Bonds and the CFD Bonds, and with the transactions contemplated hereby, all as described in the Official Statement.

(e) On or prior to the Closing Date, the Authority shall receive each of the following documents:

(1) Documents Required to be Received by the Trustee. All documents and opinions required to be received by the Trustee prior to the application of proceeds of the Authority Bonds to the purchase of the CFD Bonds.

(2) Bond Counsel Opinion. An opinion of Bond Counsel, in form and substance satisfactory to the City and the Authority, dated as of the Closing Date, approving, without qualification, the validity of the CFD Bonds.

(3) Reliance Letter. A letter of Bond Counsel, dated the date of the Closing and addressed to the Authority and the Underwriter, to the effect that the opinion referred to in the preceding subparagraph (2) may be relied upon by the Authority to the same extent as if such opinion were addressed to it.

(4) Supplemental Opinion. A supplemental opinion, dated the date of the Closing and addressed to the Authority and the Underwriter, of Bond Counsel to the effect that

(i) this Purchase Agreement has been duly authorized, executed and delivered by, and, assuming due authorization, execution and delivery by the Authority, constitutes a legal, valid and binding agreement of the City enforceable in accordance with its terms, except as such

enforceability may be limited by the application of equitable principles if equitable remedies are sought, and

(ii) the statements contained in the Official Statement (including the cover page and the Appendices thereto), insofar as such statements purport to summarize certain provisions of the CFD Bonds, the City Documents or the Resolution, accurately summarize the information presented therein.

(5) City Closing Certificate. A certificate dated the Closing Date, addressed to the Authority and the Underwriter, signed by a City official having knowledge of the facts to the effect that:

(i) The representations, warranties and covenants of the City contained in this Purchase Agreement are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date;

(ii) The Resolution is in full force and effect at the date of the Closing and has not been amended, modified or supplemented, except as agreed to by the Authority and the Underwriter;

(iii) The City has complied with all agreements, covenants and arrangements, and satisfied all conditions, on its part to be complied with or satisfied on or prior to the Closing Date; and

(iv) Subsequent to the date of the Official Statement and on or prior to the date of such certificate, there has been no adverse change in the condition (financial or otherwise) of the City, whether or not arising in the ordinary course of the operations of the City, as described in the Official Statement, that would materially and adversely affect the CFD Bonds or the City's performance under the City Documents.

(6) City Attorney Opinion. An opinion of the City Attorney, dated the date of Closing and addressed to the Authority and the Underwriter, to the effect that

(i) the City Documents have been duly authorized, executed and delivered by, and, assuming due authorization, execution and delivery, constitute the legal, valid and binding agreement of the City enforceable in accordance with their terms, except as such enforceability may be limited by the application of equitable principles if equitable remedies are sought,

(ii) the Resolution has been duly adopted, is in full force and effect and has not been modified, amended or rescinded, and

(iii) except as described in the Official Statement, there is no action, suit, proceeding or investigation before or by any court, public board or body pending or threatened, wherein an unfavorable decision, ruling or finding would: (A) affect the creation, organization, existence or powers of the City, or the CFD; (B) enjoin or restrain the issuance, sale and delivery of the CFD Bonds, the receipt of any other moneys or

property pledged or to be pledged under the Indentures or the pledge thereof; (C) in any way question or affect any of the rights, powers, duties or obligations of the City with respect to the moneys and assets pledged or to be pledged to pay the principal of, premium, if any, or interest on the CFD Bonds; (D) in any way question or affect any authority for the issuance of the CFD Bonds, or the validity or enforceability of the CFD Bonds, the Resolution or the City Documents; (E) in any way question or affect this Purchase Agreement or the transactions contemplated by the City Documents, the Official Statement or the documents referred to in the Official Statement and (F) the statements in the Official Statements relating to the City are true and accurate.

(7) City Documents. An executed copy of each of the City Documents.

(8) Certified Resolution. The Resolution, certified by authorized officers as a true copy or as having been adopted or executed (as applicable), with only such amendments, modifications or supplements as may have been agreed to by the Authority and the Underwriter.

(9) Compliance with Requirements for Refunding of Prior Bonds. Evidence that all the conditions for the refunding of the Prior Bonds contained in the Act and each of the Prior CFD Bonds Fiscal Agent Agreements have been complied with.

(10) Additional Documents. Such additional legal opinions, certificates, instruments and documents as the Authority may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the Closing Date, of the City's representations and warranties contained herein and of the statements and information contained in the Official Statement.

All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Authority, but the approval of the Authority shall not be unreasonably withheld. Receipt of, and payment for, the CFD Bonds shall constitute evidence of the satisfactory nature of such as to the Authority.

The performance of any and all obligations of the City hereunder and the performance of any and all conditions contained herein for the benefit of the Authority may be waived by the Authority in its sole discretion.

If the City is unable to satisfy the conditions to the obligations of the Authority to purchase, accept delivery of and pay for the CFD Bonds contained in this Purchase Agreement, or if the obligations of the Authority to purchase, accept delivery of and pay for the CFD Bonds is terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate, and neither the Authority nor the City shall be under further obligation hereunder, except that the respective obligations of the City and the Authority set forth in Sections 8, 9 and 10 below shall continue in full force and effect.

Section 8. Payment of Expenses. The Authority and the City shall determine which portion of expenses incurred in connection with issuance of the Authority Bonds and the CFD

Bonds will be paid by each respective entity, in such proportion as is in compliance with all applicable laws.

Section 9. Indemnification. To the extent permitted by law, the City shall indemnify and hold harmless the Authority and the Trustee, and their respective officers, directors, employees and agents, against any and all losses, claims, damages, liabilities, costs and expenses (including without limitation fees and disbursements of counsel and other expenses) incurred by them or any of them in connection with investigating or defending any loss, claim, damages, liability or any suit, action or proceeding, joint or several, to which they or any of them may become subject under the laws of the State of California or under federal tax law, insofar as such losses, claims, damages, liabilities, costs and expenses (or any suit, action or proceeding in respect thereof) arise out of or are based upon the issuance and sale of the CFD Bonds or any untrue statement or alleged untrue statement of a material fact contained in the Official Statement or in any amendment or supplement thereto, or any omission or alleged omission to state therein a material fact relating to the City, the CFD or the CFD Bonds which is required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. This indemnity agreement shall be in addition to any liability which the City or the CFD may otherwise have.

Section 10. Survival of Representations, Warranties and Agreements. All of the City's representations, warranties and agreements contained in this Purchase Agreement shall remain operative and in full force and effect regardless of: (i) any investigations made by or on behalf of the Authority or (ii) delivery of and payment for the CFD Bonds pursuant to this Purchase Agreement.

Section 11. Entire Agreement. This Purchase Agreement is made solely for the benefit of the City and the Authority (including their successors and assigns), and no other person shall acquire or have any right hereunder or by virtue hereof.

Section 12. Counterparts. This Purchase Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 13. Severability. If any one or more of the provisions contained herein is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

Section 14. Governing Law. The validity, interpretation and performance of this Purchase Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the Authority and the City have caused this Purchase Agreement to be executed by their duly authorized officers all as of the date first above written.

TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY

By_____
Zane H. Johnston
Treasurer

CITY OF TRACY, for and on behalf of
Community Facilities District 99-2 (South
MacArthur Planning Area)

By_____
Zane H. Johnston
Finance and Administrative Services
Director

EXHIBIT A

$_____
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 99-2
(SOUTH MACARTHUR PLANNING AREA)
SPECIAL TAX BONDS
2011 SERIES A

Maturity Schedule

Maturity Date (September 1)	Principal Maturity	Interest Rate

BOND PURCHASE AGREEMENT

$_____
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
Revenue Bonds
2011 Series A

_____, 2011

Tracy Operating Partnership Joint Powers Authority
c/o City of Tracy
325 East 10th Street
Tracy, CA 95376

Ladies and Gentlemen:

The undersigned (the "**Underwriter**") offers to enter into this Bond Purchase Agreement (this "**Purchase Agreement**") with the Tracy Operating Partnership Joint Powers Authority (the "**Authority**") which will be binding upon the Authority and the Underwriter upon the acceptance hereof by the Authority. This offer is made subject to its acceptance by the Authority by execution of this Purchase Agreement and its delivery to the Underwriter on or before 5:00 p.m., California time, on the date hereof. All terms used herein and not otherwise defined shall have the respective meanings given to such terms in the Indentures (as hereinafter defined).

The Authority acknowledges and agrees that:

(i) the purchase and sale of the revenue bonds captioned above (the "**Bonds**") under this Purchase Agreement is an arm's-length commercial transaction between the Authority and the Underwriter;

(ii) in connection therewith and with the discussions, undertakings and procedures leading up to the consummation of such transaction, the Underwriter is and has been acting solely as principal and not as the agent or fiduciary of the Authority;

(iii) the Underwriter has not assumed a fiduciary responsibility in favor of the Authority with respect to: (a) the offering of the Bonds or the process leading thereto (whether or not the Underwriter, or any affiliate of the Underwriter, has advised or is currently advising the Authority on other matters) or (b) any other obligation to the Issuer except the obligations expressly set forth in this Bond Purchase Agreement; and

(iv) the Authority has consulted its own legal, financial and other advisors to the extent it has deemed appropriate in connection with this transaction.

Section 1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties and agreements hereinafter set forth, the Underwriter hereby agrees to purchase from the Authority for offering to the public, and the Authority hereby agrees

to sell to the Underwriter for such purpose, all (but not less than all) of the Bonds. The purchase price for the Bonds shall be $_____ (being the aggregate principal amount thereof ($_____), less an underwriter's discount of $_____, less an original issue discount of $_____).

Section 2. Description of the Bonds. The Bonds shall be issued pursuant to an Indenture of Trust (the "**Indenture**") dated as of November 1, 2011 by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "**Trustee**") and pursuant to the Marks-Roos Local Bond Pooling Act (the "**Bond Law**") and a resolution of the Authority adopted on _____, 2011 (the "**Bond Resolution**").

The Bonds shall be as described in the Indenture and the Official Statement dated the date hereof relating to the Bonds (which, together with all exhibits and appendices included therein or attached thereto and such amendments or supplements thereto which shall be approved by the Underwriter, is hereinafter called the "**Official Statement**").

The proceeds of the Bonds shall be applied by the Authority to finance:

(i) the purchase of $_____ aggregate principal amount of the City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Refunding Bonds, 2011 Series A (the "**CFD Bonds**"),

(ii) the purchase of $_____ aggregate principal amount of the City of Tracy Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "**Reassessment Bonds**"), and

(iii) the acquisition and construction of public capital improvements.

The CFD Bonds are being issued, in part, to refund the following bonds (collectively, the "**Prior CFD Bonds**"):

(i) $3,835,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2000; and

(ii) $7,665,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2002.

The CFD Bonds will be purchased by the Authority in accordance with a CFD Bonds Purchase Agreement dated the date hereof (the "**CFD Bonds Purchase Agreement**"), by and between the Authority and the City, for and on behalf of the City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) (the "**CFD**").

The CFD Bonds will be issued pursuant to a Fiscal Agent Agreement dated as of November 1, 2011 (the "**CFD Fiscal Agent Agreement**"), by and between the City, for and on behalf of the CFD, and The Bank of New York Mellon Trust Company, N.A., as fiscal agent.

The Reassessment Bonds are being issued, in part, to refund the following bonds (collectively, the "**Prior Assessment Bonds**"):

(i) $2,485,781 City of Tracy Limited Obligation Improvement Bonds Assessment District No. 98-4 (Morrison Homes); and

(ii) $893,000 Limited Obligation Improvement Bonds City of Tracy Assessment District No. 2000-02 (Heartland Three).

The Reassessment Bonds will be purchased by the Authority in accordance with a Reassessment Bonds Purchase Agreement dated the date hereof (the "**Reassessment Bonds Purchase Agreement**"), by and between the Authority and the City, for its Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "**Reassessment District**").

The Reassessment Bonds will be issued pursuant to a Fiscal Agent Agreement dated as of November 1, 2011 (the "**Reassessment Bonds Fiscal Agent Agreement**"), by and between the City and The Bank of New York Mellon Trust Company, N.A., as fiscal agent.

Section 3. Public Offering. The Underwriter agrees to make a bona fide public offering of all the Bonds initially at the public offering prices (or yields) set forth on Appendix A attached hereto and incorporated herein by reference. Subsequent to the initial public offering, the Underwriter reserves the right to change the public offering prices (or yields) as it deems necessary in connection with the marketing of the Bonds, provided that the Underwriter may not change the interest rates set forth on Appendix A. The Bonds may be offered and sold to certain dealers at prices lower than such initial public offering prices.

Section 4. Delivery of Official Statement. The Authority and the City have delivered or caused to be delivered to the Underwriter copies of the Preliminary Official Statement relating to the Bonds (the "**Preliminary Official Statement**"). This Preliminary Official Statement is the official statement deemed final by the Authority for purposes of Rule 15c2-12 under the Securities Exchange Act of 1934 (the "**Rule**") and approved for distribution by resolution of the Authority. The Authority has executed and delivered to the Underwriter a certification to such effect in the form attached hereto as Appendix B.

Within 7 business days from the date hereof, and in sufficient time to accompany any confirmation that requests payment from a customer, the Authority shall deliver to the Underwriter a final Official Statement, executed on behalf of the Authority by an authorized representative of the Authority and dated the date hereof, which shall include information permitted to be omitted by paragraph (b)(1) of the Rule and with such other amendments or supplements as are approved by the Authority and the Underwriter.

The City, for and on behalf of itself and the Authority, will undertake, pursuant to the the CFD Fiscal Agent Agreement, the Reassessment Bonds Fiscal Agent Agreement, and a continuing disclosure certificate (the "**Continuing Disclosure Certificate**"), to provide certain annual financial information and notices of the occurrence of certain events, if material. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

Section 5. The Closing. At 8:00 a.m., California time, on _____, 2011, or at such other time or on such earlier or later business day as are mutually agreed upon by the Authority, the City and the Underwriter, the Authority will deliver (i) the Bonds in definitive form to the Underwriter at The Depository Trust Company in New York, New York, or such other location as may be specified by the Underwriter, with CUSIP identification numbers printed thereon, in fully registered form and registered in the name of Cede & Co., and (ii) the closing documents hereinafter mentioned at the offices of Jones Hall, A Professional Law Corporation,

San Francisco, California ("**Bond Counsel**") or another place to be mutually agreed upon by the Authority, the City and the Underwriter.

The Underwriter will accept such delivery and pay the purchase price of the Bonds as set forth in Section 1 hereof by federal funds wire payable to the order of the Trustee on behalf of the Authority. This payment and delivery, together with the delivery of the aforementioned documents, is herein called the "**Closing**."

The Bonds will be delivered in such denominations and deposited in the account or accounts specified by the Underwriter pursuant to written notice not later than five business days prior to Closing. The Bonds will be made available to The Depository Trust Company for inspection not fewer than 24 hours prior to the Closing.

Section 6. Representations, Warranties and Covenants. The Authority represents, warrants and covenants to the Underwriter that:

(a) Due Organization, Existence and Authority. The Authority is a joint powers authority duly organized and existing under the laws of the State of California, with full right, power and authority to execute, deliver and perform its obligations under the Indenture, the CFD Bonds Purchase Agreement and the Reassessment Bonds Purchase Agreement (together, the "**Authority Documents**") and to carry out and consummate the transactions contemplated by the Authority Documents and the Official Statement.

(b) Due Authorization and Approval; Enforceability. By all necessary official action of the Authority, including but not limited to the Bond Resolution, the Authority has duly authorized and approved the execution and delivery of, and the performance by the Authority of the obligations contained in, the Authority Documents and as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

When executed and delivered, the Authority Documents will constitute the legally valid and binding obligations of the Authority enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors' rights generally. The Authority has complied, and will at the Closing be in compliance in all respects, with the terms of the Authority Documents.

(c) Official Statement Accurate and Complete. The Preliminary Official Statement was as of its date, and the final Official Statement is, and at all times subsequent to the date of the final Official Statement up to and including the Closing will be, true and correct in all material respects, and the Preliminary Official Statement and the final Official Statement contain, and up to and including the Closing will contain, no misstatement of any material fact and do not, and up to and including the Closing will not, omit any statement necessary to make the statements contained therein, in the light of the circumstances in which such statements were made, not misleading; provided, however, no representation is made with respect to information therein relating to the Depository Trust Company and its book-entry only system and information provided by the Underwriter.

(d) Underwriter's Consent to Amendments and Supplements to Official Statement. The Authority will advise the Underwriter promptly of any proposal to amend or supplement the Official Statement and will not effect or consent to any such amendment or supplement without the consent of the Underwriter, which consent will not be unreasonably withheld. The Authority

will advise the Underwriter promptly of the institution of any proceedings known to it by any governmental authority prohibiting or otherwise affecting the use of the Official Statement in connection with the offering, sale or distribution of the Bonds.

(e) No Breach or Default. As of the time of acceptance hereof and as of the time of the Closing, except as otherwise disclosed in the Official Statement, the Authority is not and will not be in breach of or in default under any applicable constitutional provision, law or administrative rule or regulation of the State of California or the United States, or any applicable judgment or decree or any Indenture, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which the Authority is a party or is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument; and, as of such times, except as disclosed in the Official Statement, the authorization, execution and delivery of the Authority Documents and compliance with the provisions of each of such agreements or instruments do not and will not conflict with or constitute a breach of or default under any applicable constitutional provision, law or administrative rule or regulation of the State of California or the United States, or any applicable judgment, decree, license, permit, indenture, loan agreement, bond, note, resolution, ordinance, agreement or other instrument to which the Authority (or any of its officers in their respective capacities as such) is subject, or by which it or any of its properties is bound, nor will any such authorization, execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of its assets or properties or under the terms of any such law, regulation or instrument, except as may be provided by the Authority Documents.

(f) No Consents or Approvals Required. There is no consent, approval, authorization or other order of, or filing or registration with, or certification by, any regulatory authority having jurisdiction over the Authority required for the execution and delivery of this Purchase Contract or the consummation by the Authority of the other transactions contemplated by the Official Statement or the Authority Documents.

(g) No Litigation. As of the time of acceptance hereof and the Closing, except as disclosed in the Official Statement, no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government authority, public board or body, is or will be pending or threatened

(i) in any way questioning the corporate existence of the Authority or the titles of the officers of the Authority to their respective offices;

(ii) affecting, contesting or seeking to prohibit, restrain or enjoin the issuance or delivery of any of the Bonds, or the payment or collection of any amounts pledged or to be pledged to pay the principal of and interest on the Bonds;

(iii) in any way contesting or affecting the validity of the Bonds or the Authority Documents or the consummation of the transactions contemplated thereby,

(iv) contesting the exclusion of the interest on the Bonds from taxation,

(v) contesting the powers of the Authority and its authority to pledge the revenues securing the Bonds;

(vi) which may result in any material adverse change relating to the Authority; or

(vii) contesting the completeness or accuracy of the Preliminary Official Statement or the final Official Statement or any supplement or amendment thereto or asserting that the Preliminary Official Statement or the final Official Statement contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

and there is no basis for any action, suit, proceeding, inquiry or investigation of the nature described in this sentence.

(h) Cooperation Regarding Blue Sky Laws. The Authority will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Bonds for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and (ii) to determine the eligibility of the Bonds for investment under the laws of such states and other jurisdictions. The Authority will not be required to execute a general or special consent to service of process or qualify to do business in connection with any such qualification or determination in any jurisdiction.

(i) Subsequent Events. If between the date of this Purchase Agreement and the date 90 days after the Closing Date an event occurs which is materially adverse to the purpose for which the Official Statement is to be used which is not disclosed in the Official Statement, the Authority shall notify the Underwriter of such fact.

Section 7. Closing Conditions. The Underwriter has entered into this Purchase Agreement in reliance upon the representations, warranties and covenants herein and the performance by the Authority of its obligations hereunder, both as of the date hereof and as of the date of the Closing. The Underwriter's obligations under this Purchase Agreement to purchase and pay for the Bonds shall be subject to the following additional conditions:

(a) Bring-Down Representation. The representations, warranties and covenants of the Authority contained herein shall be true, complete and correct at the date hereof and at the time of the Closing, as if made on the date of the Closing.

(b) Executed Agreements and Performance Thereunder. At the time of the Closing (i) the Authority Documents shall be in full force and effect, and shall not have been amended, modified or supplemented except with the written consent of the Underwriter and (ii) there shall be in full force and effect such resolutions as, in the opinion of Bond Counsel, shall be necessary in connection with the transactions contemplated by the Official Statement and the Authority Documents.

(c) Issuance and Purchase of CFD Bonds. Concurrently with the issuance of the Bonds and the purchase thereof by the Underwriter in accordance with this Purchase Agreement, the City shall have issued the CFD Bonds, and the CFD Bonds shall have been delivered to the Authority under and in accordance with the CFD Bonds Purchase Agreement, and all conditions set forth in the CFD Bonds Purchase Agreement to the issuance and delivery of the CFD Bonds shall have been satisfied.

(d) Issuance and Purchase of Reassessment Bonds. Concurrently with the issuance of the Bonds and the purchase thereof by the Underwriter in accordance with this Purchase Agreement, the City shall have issued the Reassessment Bonds, and the Reassessment Bonds shall have been delivered to the Authority under and in accordance with the Reassessment Bonds Purchase Agreement, and all conditions set forth in the Reassessment Bonds Purchase Agreement to the issuance and delivery of the Reassessment Bonds shall have been satisfied.

Section 8. Closing Documents. In addition to the other conditions to the Underwriter's obligations under this Purchase Agreement to purchase and pay for the Bonds, at or before the Closing the Underwriter shall receive each of the following documents, provided that the actual payment for the Bonds by the Underwriter and the acceptance of delivery thereof shall be conclusive evidence that the requirements of this Section 8 shall have been satisfied or waived by the Underwriter.

(a) Bond Opinion. An approving opinion of Bond Counsel dated the date of the Closing and substantially in the form appended to the Official Statement, together with a letter from such counsel, dated the date of the Closing and addressed to the Underwriter, to the effect that the foregoing opinion addressed to the Authority may be relied upon by the Underwriter to the same extent as if such opinion were addressed to them.

(b) Supplemental Opinion. A supplemental opinion or opinions of Bond Counsel addressed to the Underwriter, in form and substance acceptable to the Underwriter, and dated the date of the Closing substantially to the following effect:

(i) The statements contained in the Official Statement (including the cover page and the Appendices thereto), insofar as such statements purport to summarize certain provisions of the Bonds, the Indenture or federal tax law, accurately summarize the information presented therein; provided that Bond Counsel need not express any opinion with respect to any financial or statistical information contained therein.

(ii) The Bonds are exempt from registration under the Securities Act of 1933, as amended, and the Indenture is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

(c) Authority Counsel Opinion. An opinion of Counsel to the Authority, dated the date of the Closing and addressed to the Underwriter, in form and substance acceptable to the Underwriter and Bond Counsel substantially to the following effect:

(i) the Authority is duly organized and validly existing as a joint exercise of powers agency under and by virtue of the Constitution and laws of the State, with full legal right, power and authority to adopt the Bond Resolution, execute the Authority Documents and carry out the Authority's obligations contemplated by the Bond Resolution and the Authority Documents;

(ii) the Bond Resolution was duly adopted at a meeting of the Board of Directors of the Authority, which was called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout, and the Bond Resolution is in full force and effect and has not been amended or repealed;

(iii) the Authority has duly and validly executed and delivered the Authority Documents, and the Authority Documents constitute the legal, valid and binding obligations of the Authority enforceable against the Authority in accordance with their terms, subject to bankruptcy, insolvency, reorganization, moratorium and other laws affecting enforcement of creditors' rights in general and to the application of equitable principles if equitable remedies are sought;

(iv) no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body is pending with respect to which the Authority has been served with process or to the knowledge of the Counsel to the Authority, threatened, in any way affecting the existence of the Authority or the titles of the Authority's officials to their respective offices, or seeking to restrain or to enjoin the issuance, sale or delivery of the Bonds or the application of the proceeds thereof in accordance with the Indenture, or the collection or application of the Revenues to pay the principal of and interest on the Bonds, or in any way contesting or affecting the validity or enforceability of the Bonds, the Authority Documents or any action of the Authority contemplated by any of said documents, or in any way contesting the completeness or accuracy of the Official Statement or the powers of the Authority or its authority with respect to the Bonds, the Authority Documents or any action on the part of the Authority contemplated by any of said documents, wherein an unfavorable decision, ruling, or finding could materially adversely affect the validity or enforceability of the Bonds or the Authority Documents;

(v) the execution and delivery of the Bonds and the Authority Documents, and compliance with the provisions of each, will not conflict with or constitute a breach of or default under any loan agreement, note, ordinance, resolution, indenture, contract, agreement or other instrument of which the Authority is a party or is otherwise subject or bound, a consequence of which could be to materially and adversely affect the ability of the Authority to perform its obligations under the Bonds or the Authority Documents; and

(vi) all approvals, consents, authorization, elections and orders of or filings or registrations with any governmental authority, board, agency or commission having jurisdiction which would constitute a condition precedent to, or the absence of which would materially adversely affect, the ability of the Issuer, to perform its obligations under the Bonds or the Authority Documents, have been obtained or made, as the case may be, and are in full force and effect.

(d) Trustee Counsel Opinion. The opinion of counsel to the Trustee, dated the date of the Closing, addressed to the Underwriter, to the effect that:

(i) The Trustee is a national banking association, duly organized and validly existing under the laws of the United States of America, having full power to enter into, accept and administer the trust created under the Indenture.

(ii) The Indenture has been duly authorized, executed and delivered by the Trustee and constitutes the legal, valid and binding obligations of the Trustee enforceable in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles, if equitable remedies are sought.

(e) Authority Certificate. A certificate of the Authority, dated the date of the Closing, signed on behalf of the Authority by the Executive Director, Treasurer or other duly authorized officer of the Authority to the effect that:

(i) The representations, warranties and covenants of the Authority contained in this Purchase Agreement are true and correct and in all material respects on and as of the date of the Closing with the same effect as if made on the date of the Closing.

(ii) The Bond Resolution is in full force and effect at the date of the Closing and has not been amended, modified or supplemented, except as agreed to by the Authority and the Underwriter.

(iii) The Authority has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied on or prior to the date of the Closing.

(iv) Subsequent to the date of the Official Statement and on or prior to the date of such certificate, there has been no adverse change in the condition (financial or otherwise) of the Authority, whether or not arising in the ordinary course of the operations of the Authority, as described in the Official Statement, that would materially and adversely affect the Bonds or the Authority's performance under the Authority Documents.

(v) The final Official Statement is true and correct in all material respects, and the final Official Statement contains no misstatement of any material fact and does not omit any statement necessary to make the statements contained therein, in the light of the circumstances in which such statements were made, not misleading; provided, however, no representation is made with respect to information therein relating to the Depository Trust Company and its book-entry only system and information provided by the Underwriter.

(f) Trustee's Certificate. A certificate of the Trustee, dated the date of Closing, in form and substance acceptable to counsel for the Underwriter, to the following effect:

(i) The Trustee is duly organized and existing as a national banking association in good standing under the laws of the United States of America, having the full power and authority to enter into and perform its duties under the Indenture.

(ii) The Trustee is duly authorized to enter into the Indenture.

(iii) To its best knowledge after due inquiry, there is no action, suit, proceeding or investigation, at law or in equity, before or by any court or governmental district, public board or body pending against the Trustee or threatened against the Trustee which in the reasonable judgment of the Trustee would affect the existence of the Trustee or in any way contesting or affecting the validity or enforceability of the Indenture or contesting the powers of the Trustee or its authority to enter into and perform its obligation under the Indenture.

(g) Disclosure Counsel Letter. An letter from Jones Hall, A Professional Law Corporation ("**Disclosure Counsel**"), dated the Closing Date, and addressed to the Authority and the Underwriter, to the effect that during the course of serving as counsel to the Authority in connection with the execution and delivery of the Bonds and without having undertaken to

determine independently or assuming any responsibility for the accuracy, completeness or fairness of the statements contained in the Official Statement, no information came to the attention of the attorneys in such firm rendering legal services in connection with the issuance of the Bonds that would lead them to believe that the Official Statement (excluding therefrom the financial statements, any financial or statistical data, or forecasts, charts, numbers, estimates, projections, assumptions or expressions of opinion included in the Official Statement, information regarding DTC, and the appendices to the Official Statement as to which no opinion need be expressed), as of the date thereof or the Closing Date, contains any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(h) Original Executed Documents. An original executed copy of each of the Authority Documents.

(i) Certificate of District Administrator. A certificate in form and substance as set forth in Appendix C hereto, of Willdan Financial Services, Temecula, California, dated as of the Closing Date.

(j) Verification Report. A verification report of Causey, Demgen & Moore, Inc., Certified Public Accountants, Denver, Colorado, with respect to the CFD Bonds and the Reassessment Bonds as to (i) the sufficiency of amounts deposited into the escrow fund under the CFD Fiscal Agent Agreement to redeem the Prior CFD Bonds, (ii) the sufficiency of amounts deposited into the escrow fund under the Reassessment Bonds Fiscal Agent Agreement to redeem the Prior Assessment Bonds, and (iii) that the Revenues to be available to the Trustee, assuming timely payment of debt service on the CFD Bonds and the Reassessment Bonds, will be sufficient to permit the timely payment of the principal of and interest on all Outstanding Bonds.

(k) Certificate of the Underwriter. A certificate of the Underwriter, in form and substance satisfactory to Bond Counsel, to the following effect:

(i) The net interest cost to maturity plus the principal amount of the portion of the CFD Bonds attributable to refunding the Prior CFD Bonds is less than the net interest cost to maturity plus the principal amount of the Prior CFD Bonds;

(ii) The maturity schedule of the CFD Bonds is structured so that the maturity dates of the portions of the CFD Bonds attributable to refunding each of the Prior CFD Bonds do not exceed the latest maturity date of the related Prior CFD Bonds;

(iii) The CFD Bonds are being purchased by the Authority at a price to yield (as defined in Government Code Section 6592.5) not in excess of 1% of the yield of the Bonds;

(iv) If applied as set forth in the Indenture, at least 95% of the Revenues received by the Authority will be used for the purposes specified in Government Code Section 6592.5(b).

(v) The Revenues to be available to the Trustee, assuming timely payment of debt service on the CFD Bonds and the Reassessment Bonds, will be sufficient to permit the timely payment of the principal of and interest on all Outstanding Bonds.

(vi) The Underwriter acknowledges that Jones Hall, A Professional Law Corporation, will rely upon these certifications in rendering its opinions in connection with issuance of the Bonds and the CFD Bonds.

(l) Bring-Forward Certificate. A certificate of the City Clerk to the effect that the following resolutions and ordinances of the City Council relating to the CFD remain in full force and effect and have not been amended, supplemented, superseded or repealed by any other action of the City Council since their respective dates of adoption, for the CFD: (i) Resolution of Formation, (ii) Ordinance Levying Special Tax, (iii) Resolution Determining Necessity to Incur Bonded Indebtedness; and (iv) Resolution Declaring Results of Special Election.

(m) Notice of Public Hearing Pursuant to Government Code Section 6586.5. Notice of Public Hearing, along with proof of publication.

(n) Additional Documents. Such additional certificates, instruments and other documents as Bond Counsel, Disclosure Counsel, the Authority or the Underwriter may reasonably deem necessary.

If the Authority is unable to satisfy the conditions contained in this Purchase Agreement, or if the obligations of the Underwriter are terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate and neither the Underwriter nor the Authority shall be under further obligation hereunder, except as further set forth in Section 10.

Section 9. Termination Events. The Underwriter shall have the right to terminate this Purchase Agreement, without liability therefor, by notification to the Authority if at any time between the date hereof and prior to the Closing any of the following occurs:

(a) any event occurs which causes any statement contained in the Official Statement to be materially misleading or results in a failure of the Official Statement to state a material fact necessary to make the statements in the Official Statement, in the light of the circumstances under which they were made, not misleading; or

(b) the marketability of the Bonds or the market price thereof, in the opinion of the Underwriter, has been materially adversely affected by an amendment to the Constitution of the United States or by any legislation in or by the Congress of the United States or by the State, or the amendment of legislation pending as of the date of this Purchase Agreement in the Congress of the United States, or the recommendation to Congress or endorsement for passage (by press release, other form of notice or otherwise) of legislation by the President of the United States, the Treasury Department of the United States, the Internal Revenue Service or the Chairman or ranking minority member of the Committee on Finance of the United States Senate or the Committee on Ways and Means of the United States House of Representatives, or the proposal for consideration of legislation by either such Committee or by any member thereof, or the presentment of legislation for consideration as an option by either such Committee, or by the staff of the Joint Committee on Taxation of the Congress of the United States, or the favorable reporting for passage of legislation to either House of the Congress of the United States by a Committee of such House to which such legislation has been referred for consideration, or any decision of any Federal or State court or any ruling or regulation (final, temporary or proposed) or official statement on behalf of the United States Treasury Department, the Internal Revenue Service or other federal or State authority

materially adversely affecting the federal or State tax status of the Authority, or the interest on bonds or notes or obligations of the general character of the Bonds; or

(c) any legislation, ordinance, rule or regulation is introduced in, or enacted by any governmental body, department or authority of the State, or a decision by any court of competent jurisdiction within the State or any court of the United States is rendered which, in the reasonable opinion of the Underwriter, materially adversely affects the market price of the Bonds; or

(d) legislation is enacted by the Congress of the United States, or a decision by a court of the United States is rendered, or a stop order, ruling, regulation or official statement by, or on behalf of, the Securities and Exchange Commission or any other governmental district having jurisdiction of the subject matter is issued or made, to the effect that the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, including all underlying obligations, as contemplated hereby or by the Official Statement, is in violation or would be in violation of, or that obligations of the general character of the Bonds, or the Bonds, are not exempt from registration under, any provision of the federal securities laws, including the Securities Act of 1933, as amended and as then in effect, or that the Indenture needs to be qualified under the Trust Indenture Act of 1939, as amended and as then in effect; or

(e) additional material restrictions not in force as of the date hereof are imposed upon trading in securities generally by any governmental authority or by any national securities exchange which restrictions materially adversely affect the Underwriter's ability to trade the Bonds; or

(f) a general banking moratorium is established by federal or California authorities; or

(g) the United States has become engaged in hostilities which have resulted in a declaration of war or a national emergency or there has occurred any other outbreak of hostilities or a national or international calamity or crisis, or there has occurred any escalation of existing hostilities, calamity or crisis, financial or otherwise, the effect of which on the financial markets of the United States being such as, in the reasonable opinion of the Underwriter, would affect materially and adversely the ability of the Underwriter to market the Bonds; or

(h) the commencement of any action, suit or proceeding described in Section 6(f)(iii) or 6(g)(iii) with respect to either the Authority or the City which, in the judgment of the Underwriter, materially adversely affects the market price of the Bonds; or

(i) there is in force a general suspension of trading on the New York Stock Exchange.

Section 10. Expenses. The Underwriter shall be under no obligation to pay and the Authority shall pay or cause to be paid the expenses incident to the performance of the obligations of the Authority hereunder including but not limited to (a) the costs of the preparation and printing, or other reproduction (for distribution on or prior to the date hereof) of the Authority Documents and the cost of preparing, printing, issuing and delivering the definitive Bonds, (b) the fees and disbursements of any counsel, financial advisors, accountants or other experts or

consultants retained by the Authority and the City; (c) the fees and disbursements of Bond Counsel and Disclosure Counsel; and (d) the cost of printing of the Preliminary Official Statement and any supplements and amendments thereto and the cost of printing of the Official Statement, including the requisite number of copies thereof for distribution by the Underwriter.

The Underwriter shall pay and the Authority shall be under no obligation to pay all expenses incurred by it in connection with the public offering and distribution of the Bonds, including but not limited to (a) reporting fees chargeable by the California Debt and Investment Advisory Commission, (b) the Underwriter Counsel's fee, and (c) CUSIP Service Bureau fees.

Section 11. Notices. Any notice or other communication to be given to the Authority under this Purchase Agreement may be given by delivering the same in writing to such entity at the address set forth above. Any notice or other communication to be given to the Underwriter under this Purchase Agreement may be given by delivering the same in writing to:

Stifel, Nicolaus & Company, Incorporated
dba Stone & Youngberg a Division of Stifel Nicolaus
One Ferry Building, Suite 275
San Francisco, CA 94111
Attention: Mr. Sohail Bengali.

Section 12. Entire Agreement. This Purchase Agreement, when accepted by the Authority, shall constitute the entire agreement between the Authority and the Underwriter and is made solely for the benefit of the Authority and the Underwriter (including the successors or assigns of any Underwriter). No other person shall acquire or have any right hereunder by virtue hereof, except as provided herein. All the Authority's representations, warranties and agreements in this Purchase Agreement shall remain operative and in full force and effect, regardless of any investigation made by or on behalf of the Underwriter.

Section 13. Counterparts. This Purchase Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 14. Severability. If any one or more of the provisions contained herein is for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

Section 15. Governing Law. The validity, interpretation and performance of this Purchase Agreement shall be governed by the laws of the State of California.

Section 16. No Assignment. The rights and obligations created by this Purchase Agreement shall not be subject to assignment by the Underwriter or the Authority without the prior written consent of the other party hereto.

STIFEL, NICOLAUS & COMPANY,
INCORPORATED,
as Underwriter

By:_____
Managing Director

Accepted as of the date first stated above:

TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY

By:_____
Authorized Representative

APPENDIX A

MATURITY SCHEDULE

Principal Payment Date (September 2)	Principal Amount	Interest Rate	Yield	Price

APPENDIX B

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
Revenue Bonds
2011 Series A

RULE 15c2-12 CERTIFICATE

The undersigned hereby certify and represent that they are, respectively, a duly appointed and acting authorized officer of the Tracy Operating Partnership Joint Powers Authority (the "Authority"), and a duly appointed and acting authorized officer of the City of Tracy (the "City"), and as such are duly authorized to execute and deliver this Certificate and further hereby certifies and reconfirms on behalf of the Authority and the City, as applicable, as follows:

(1) This Certificate is delivered in connection with the offering and sale of the revenue bonds captioned above (the "Bonds") in order to enable the underwriter of the Bonds to comply with Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule").

(2) In connection with the offering and sale of the Bonds, there has been prepared a Preliminary Official Statement (the "Preliminary Official Statement").

(3) As used herein, "Permitted Omissions" shall mean the offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters, all with respect to the Bonds.

(4) The Preliminary Official Statement is, except for the Permitted Omissions, deemed final within the meaning of the Rule.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of _____, 2011.

TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY

By _____

CITY OF TRACY

By _____

APPENDIX C

$_____
TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
Revenue Bonds
2011 Series A

CERTIFICATE OF DISTRICT ADMINISTRATOR

Willdan Financial Services, Temecula, California, California ("District Administrator"), was retained and assisted in the preparation of the Preliminary Official Statement dated _____, 2011 (the "Preliminary Official Statement") and the Official Statement dated _____, 2011 (the "Official Statement") relating to the above-referenced bonds (the "Bonds"). Capitalized terms used herein and not otherwise defined shall have the meanings assigned to them in the Official Statement.

We hereby certify as follows:

(i) The Special Taxes to be levied in the City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) (the "CFD"), if collected in the maximum amounts permitted pursuant to the rate and method of apportionment for the CFD (less the amount the Special Taxes are being reduced as described in (iii) below), would generate at least 110% of the gross annual debt service on the CFD Bonds, provided that (1) the annual debt service figures on the attached debt service schedule, which were relied upon by Special Tax Consultant, are substantially true and correct and (2) no representation is made as to actual amounts of the Special Taxes that will be collected in future years.

(ii) All information with respect to the rate and method of apportionment for the CFD in the Official Statement is true and correct as of the date of the Official Statement and as of the date hereof.

[(iii) As a result of the issuance of the portion of the CFD Bonds for the purpose of refunding the Prior CFD Bonds, the Special Taxes in the CFD will be reduced by approximately __%, although the Special Taxes will actually increase as a result of the issuance of the portion of the CFD Bonds used to finance public capital improvements.]

(iv) All information with respect to the reassessment report prepared by the District Administrator in connection with the creation of the City of Tracy Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) in the Official Statement is true and correct as of the date of the Official Statement and as of the date hereof.

(v) All information supplied by us for use in the Preliminary Official Statement was true and correct as of the date of the Preliminary Official Statement and remains true and correct as of the date hereof; all information supplied by us for use in the Official Statement was true and correct as of the date of the Official Statement and remains true and correct as of the date hereof; and such information does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.

Dated: _____, 2011

WILLDAN FINANCIAL SERVICES

By:_____

10-7-11 Jones Hall Draft

FISCAL AGENT AGREEMENT

by and between

CITY OF TRACY

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Fiscal Agent

Dated as of December 1, 2011

Relating to:

LIMITED OBLIGATION REFUNDING IMPROVEMENT BONDS
CITY OF TRACY
Reassessment District No. 2011-1
(Morrison Homes; Heartland Three)

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* * * * * * * * * * * *

EXHIBIT A PRIOR DISTRICTS AND PRIOR BONDS
EXHIBIT B FORM OF BOND

FISCAL AGENT AGREEMENT

THIS FISCAL AGENT AGREEMENT (the "Agreement") is made and entered into as of December 1, 2011 by and between the CITY OF TRACY, a general law city and a political subdivision of the State of California (the "City") and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association duly organized and existing under the laws of the United States of America with a corporate trust office located in San Francisco, California, as fiscal agent (the "Fiscal Agent"),

W I T N E S S E T H:

WHEREAS, the City has heretofore conducted special assessment proceedings for certain assessment district (collectively, the "Prior District") and issued two series of improvement bonds (collectively, the "Prior Bonds") of the City, all as described in Exhibit A attached hereto and hereby made a part hereof, and reference is hereby expressly made to Exhibit A for further particulars, including the numbers and dates of authorizing resolutions, dates and amounts of the Prior Bonds;

WHEREAS, this City Council, under Resolution No. _____ adopted on November 1, 2011 (the "Resolution of Intention") has conducted proceedings for the levy of reassessments and issuance of refunding bonds pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 (commencing with Section 9500) of the Streets and Highways Code of California (the "Act") in and for the City's Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "District"), and, by the Resolution of Intention, this City Council provided that serial and/or term refunding Limited Obligation Refunding Improvement Bonds of the City in and for the District (the "Bonds") would be issued thereunder pursuant to the provisions of the Improvement Bond Act of 1915, Division 10 of the Streets and Highways Code of California (the "Bond Law") and reference to the Resolution of Intention and proceedings had thereunder is hereby expressly made for further particulars;

WHEREAS, the purpose of the proceedings under the Resolution of Intention was to provide for the reassessment of the Prior District and for the refunding of the Prior Bonds, in advance of the scheduled maturities thereof with the proceeds of the Bonds, and on November 1, 2011, this City Council adopted its Resolution No. _____ (the "Resolution of Issuance"), which Resolution of Issuance, among other things, authorized the City's Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "Bonds");

WHEREAS, there is now on file in the office of the Finance Director of the City a list of the reassessments remaining unpaid for the District and it is in the public interest and for the benefit of the City that this City Council adopt this Resolution providing for the issuance, execution and delivery of the Bonds, the disbursement of proceeds of the Bonds, the disposition of the reassessments securing the Bonds and the administration and payment of the Bonds; and

WHEREAS, the City has determined that all things necessary to cause the Bonds, when authenticated and issued as provided in the Act, and this Resolution, to be legal, valid and binding and limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Resolution and the creation, authorization, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, in consideration of the covenants and provisions herein set forth and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE I

STATUTORY AUTHORITY AND DEFINITIONS

Section 1.01. Authority for this Agreement. This Agreement is entered into pursuant to the provisions of the Act, the Bond Law and the Resolution of Issuance.

Section 1.02. Agreement for Benefit of Bond Owners. The provisions, covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the equal benefit, protection and security of the registered owners of the Bonds. All of the Bonds, without regard to the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof, except as expressly provided in or permitted by this Agreement. The Fiscal Agent may become the owner of any of the Bonds in its own or any other capacity with the same rights it would have if it were not Fiscal Agent.

Section 1.03. Definitions. Unless the context otherwise requires, the terms defined in this Section 1.03 shall, for all purposes of this Agreement, of any Supplemental Agreement (as herein defined), and of any certificate, opinion or other document herein mentioned, have the meanings herein specified. All references herein to Articles, Sections and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Agreement, and the words "herein", "hereof", "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or subdivision hereof.

"*Act*" means the Refunding Act of 1984 for 1915 Improvement Act Bonds, being Division 11.5 of the California Streets and Highways Code.

"*Agreement*" means this Fiscal Agent Agreement, as it may be amended or supplemented from time to time by any Supplemental Agreement executed pursuant to the provisions hereof.

"*Auditor*" means the auditor/controller or tax collector of the County, or such other official of the County who is responsible for preparing real property tax bills.

"*Authority*" means the Tracy Operating Partnership Joint Powers Authority, a joint exercise of powers authority organized and existing under and by virtue of the laws of the State of California.

"*Authority Bonds*" means the Tracy Operating Partnership Joint Powers Authority 2011 Revenue Bonds.

"*Authorized Investments*" means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein:

(a) Federal Securities;

(b) any of the following direct or indirect obligations of the following agencies of the United States of America: (i) direct obligations of the Export-Import Bank; (ii) certificates of beneficial ownership issued by the Farmers Home Administration; (iii) participation certificates issued by the General Services Administration; (iv) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration; (v) project notes issued by the United States Department of Housing and Urban Development; and (vi) public housing notes and bonds guaranteed by the United States of America;

(c) interest-bearing demand or time deposits (including certificates of deposit) or deposit accounts in federal or state chartered savings and loan associations or in federal or State of California banks (including the Trustee), provided that (i) the unsecured short-term obligations of such commercial bank or savings and loan association shall be rated in the highest short-term rating category by any Rating Agency or (ii) such demand or time deposits shall be fully insured by the Federal Deposit Insurance Corporation;

(d) commercial paper rated in the highest short-term rating category by any Rating Agency, issued by corporations which are organized and operating within the United States of America, and which matures not more than 180 days following the date of investment therein;

(e) bankers acceptances, consisting of bills of exchange or time drafts drawn on and accepted by a commercial bank whose short-term obligations are rated in the highest short-term rating category by any Rating Agency or whose long-term obligations are rated A or better by each such Rating Agency, which mature not more than 270 days following the date of investment therein;

(f) obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by any Rating Agency or (b) fully secured as to the payment of principal and interest by Federal Securities;

(g) obligations issued by any corporation organized and operating within the United States of America having assets in excess of Five Hundred Million Dollars ($500,000,000), which obligations are rated A or better by any Rating Agency;

(h) money market funds (including money market funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services) which invest in Federal Securities or which are rated in the highest rating category by any Rating Agency;

(i) any investment agreement, repurchase agreement or other investment instrument which represents the general unsecured obligations of a bank, investment banking firm or other financial institution whose long-term obligations are rated A or better by any Rating Agency; and

(j) the Local Agency Investment Fund of the State, created pursuant to Section 16429.1 of the California Government Code.

"*Authorized Officer*" means the City Manager, Finance Director, the Clerk, or any other officer or employee authorized by the City Council of the City or by an Authorized Officer to undertake the action referenced in this Agreement as required to be undertaken by an Authorized Officer.

"*Bond*" or "*Bonds*" means City of Tracy Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three), at any time Outstanding under this Agreement or any Supplemental Agreement.

"*Bond Counsel*" means any attorney or firm of attorneys acceptable to the City and nationally recognized for expertise in rendering opinions as to the legality and tax-exempt status of securities issued by public entities.

"*Bond Date*" means the dated date of the Bonds which is the Closing Date.

"*Bond Law*" means the Improvement Bond Act of 1915, as amended, Division 10 of the California Streets and Highways Code.

"*Bond Register*" means the books maintained by the Fiscal Agent pursuant to Section 2.08 for the registration and transfer of ownership of the Bonds.

"*Bond Year*" means the twelve-month period beginning on September 3 in each year and ending on September 2 in the following year except that (i) the first Bond Year shall begin on the Closing Date and end on the next September 2, and (ii) the last Bond Year may end on a prior redemption date.

"*Business Day*" means any day other than (i) a Saturday or a Sunday or (ii) a day on which banking institutions in the state in which the Fiscal Agent has its principal corporate trust office are authorized or obligated by law or executive order to be closed.

"*City*" means the City of Tracy, and any successor thereto.

"*City Attorney*" means the City Attorney of the City or other designated counsel to the City with respect to the District.

"*Clerk*" means the Clerk or Deputy Clerk of the City.

"*Closing Date*" means the date upon which there is a physical delivery of the Bonds in exchange for the amount representing the purchase price of the Bonds by the Original Purchaser.

"*Code*" means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Bonds, together with applicable temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

"*City Council*" means the City Council as the legislative body of the City.

"*County*" means the County of San Joaquin, State of California.

"*Debt Service*" means, for each Bond Year, the sum of (i) the interest due on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Bonds are retired as scheduled, and (ii) the principal amount of the Outstanding Bonds due in such Bond Year.

"*District*" means the area within the City designated "Reassessment District No. 2011-1 (Morrison Homes; Heartland Three)" created in proceedings under the Act and the Resolution of Intention.

"*Escrow Agreement (Assessment District No. 98-4)*" means the Escrow Deposit and Trust Agreement (Assessment District No. 98-4) dated as of December 1, 2011 by and between the City and the Escrow Holder by which the Escrow Fund is established and administered.

"*Escrow Agreement (Assessment District No. 2000-02)*" means the Escrow Deposit and Trust Agreement (Assessment District No. 2000-02) dated as of December 1, 2011 by and between the City and the Escrow Holder by which the Escrow Fund is established and administered.

"*Escrow Fund (Assessment District No. 98-4)*" means the fund established pursuant to Section 4.02 of the Escrow Agreement (Assessment District No. 98-4).

"*Escrow Fund (Assessment District No. 2000-02)*" means the fund established pursuant to Section 4.02 of the Escrow Agreement (Assessment District No. 2000-02).

"*Escrow Holder*" means The Bank of New York Mellon Trust Company, N.A., acting as Escrow Holder under the Escrow Agreement (Assessment District No. 98-4) and the Escrow Agreement (Assessment District No. 2000-02).

"*Fair Market Value*" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Code) and, otherwise, the term "fair market value" means the acquisition price in a bona fide arm's length transaction (as referenced above) if (i) the investment is a certificate of deposit that is acquired

in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the code, (iii) the investment is a United States Treasury Security - State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the Authority and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

"*Federal Securities*" means any of the following which are non-callable and which at the time of investment are legal investments under the laws of the State of California for funds held by the Fiscal Agent:

(i) direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the United States Department of the Treasury) and obligations, the payment of principal of and interest on which are directly or indirectly guaranteed by the United States of America, including, without limitation, such of the foregoing which are commonly referred to as stripped obligations and coupons; or

(ii) any of the following obligations of the following agencies of the United States of America: (a) direct obligations of the Export-Import Bank, (b) certificates of beneficial ownership issued by the Farmers Home Administration, (c) participation certificates issued by the General Services Administration (d) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, (e) project notes issued by the United States Department of Housing and Urban Development, and (f) public housing notes and bonds guaranteed by the United States of America.

"*Finance Director*" means the Director of Finance and Administrative Services of the City, or chief financial officer of the City or designee thereof.

"*Fiscal Agent*" means the Fiscal Agent appointed by the City and acting as the registrar, transfer agent, paying and registration agent for the Bonds and as an independent fiscal agent with the duties and powers herein provided, its successors and assigns, and any other corporation or association which may at any time be substituted in its place, as provided in Section 7.01 hereof.

"*Fiscal Year*" means the twelve-month period extending from July 1 in a calendar year to June 30 of the succeeding year, both dates inclusive.

"*Interest Payment Dates*" means March 2 and September 2 of each year, commencing March 1, 2012.

"*List of Unpaid Reassessments*" means the list on file with the Finance Director showing the amounts of the Reassessments upon each of the parcels in the District.

"*Maximum Annual Debt Service*" means the largest Debt Service for any Bond Year after the calculation is made through the final maturity date of any Outstanding Bonds.

"*Original Purchaser*" means the Authority as the first purchaser of the Bonds from the City.

"*Officer's Certificate*" means a written certificate of the City signed by an Authorized Officer of the City.

"*Outstanding*" when used as of any particular time with reference to Bonds, means, subject to the provisions of Section 8.04, all Bonds except:

(i) Bonds theretofore canceled by the Fiscal Agent or surrendered to the Fiscal Agent for cancellation;

(ii) Bonds paid or deemed to have been paid within the meaning of Section 9.03;

(iii) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the City pursuant to this Agreement or any Supplemental Agreement.

"*Owner*" or "*Bond Owner*" means the registered owner of any Outstanding Bond as shown on the Bond Register of the Fiscal Agent under Section 2.08 hereof.

"*Prepayment Account*" means the account within the Redemption Fund and designated "City of Tracy, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three), Limited Obligation Refunding Improvement Bonds, Prepayment Account," established and administered under Section 4.03 hereof.

"*Principal Office*" means the corporate trust office of the Fiscal Agent in San Francisco, California, located at such address as shall be specified in a written notice by the Fiscal Agent to the City under Section 9.06 hereof or such other office of the Fiscal Agent designated for payment, transfer or exchange of the Bonds.

"*Prior AD 98-4 Bonds*" means the $2,485,781 City of Tracy Limited Obligation Improvement Bonds Assessment District No. 98-4 (Morrison Homes), issued pursuant to a Fiscal Agent Agreement, dated as of November 1, 1998, between the City and The Bank of New York Mellon Trust Company, N.A., as successor fiscal agent.

"*Prior AD 2000-02 Bonds*" means the $893,000 Limited Obligation Improvement Bonds City of Tracy Assessment District No. 2000-02 (Heartland Three), issued pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000, between the City and The Bank of New York Mellon Trust Company, N.A., as successor fiscal agent.

"*Prior Bonds*" means, collectively, the Prior AD 98-4 Bonds and the Prior AD 2000-02 Bonds.

"*Prior District*" means, collectively, the assessment districts described in the Resolution of Intention.

"*Project*" means the acquisitions and improvements described in the proceedings for the Prior District.

"*Rating Agency*" means, individually, either (a) Moody's Investors Service, Inc., its successors and assigns, or (b) Standard & Poor's Corporation, its successors and assigns.

"*Reassessments*" means the unpaid reassessments levied within the District by the City Council under the proceedings taken pursuant to the Act and the Resolution of Intention.

"*Record Date*" means the fifteenth day of the calendar month immediately preceding the applicable Interest Payment Date.

"*Redemption Fund*" means the fund designated "City of Tracy, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) Limited Obligation Refunding Improvement Bonds, Redemption Fund," established and administered under Section 4.03 hereof.

"*Redemption Premium*" means the following percentages of the principal amount of the Bonds called for redemption pursuant to Section 2.03(A)(i): on March 2, 20__ and September 2, 20__, _____%; on March 2, 20__ and September 2, 20__, _____%; on March 2, 20__ and September 2, 20__, _____%; and on March 2, 20__ and thereafter, ____%.

"*Reserve Fund*" means the fund designated "Limited Obligation Refunding Improvement Bonds, City of Tracy Reassessment District No. 2011-1 (Morrison Homes; Heartland Three), Reserve Fund" established and administered under Section 4.04.

"*Reserve Requirement*" means as of any date of calculation, an amount equal to the sum of: (1) 75% of Maximum Annual Debt Service on the Outstanding Bonds; plus (2) interest earnings retained in the Reserve Fund; provided that the Reserve Requirement shall not exceed, as of the date of calculation, the least of (i) 10% of the initial principal amount of the Bonds, (ii) Maximum Annual Debt Service on the Outstanding Bonds, or (iii) 125% of average annual Debt Service on the Outstanding Bonds.

"*Resolution of Intention*" means Resolution No. _____, adopted by the City Council of the City on November 1, 2011.

"*Resolution of Issuance*" means, Resolution No. _____, adopted by the City Council of the City on November 1, 2011.

"*Securities Depositories*" means The Depository Trust Company, 711 Stewart Avenue, Garden City, New York 11530, Fax - means DTC; and, in accordance with then current

guidelines of the Securities and Exchange Commission, such other securities depositories as the City designates in written notice filed with the Fiscal Agent.

"Supplemental Agreement" means an agreement the execution of which is authorized by a resolution which has been duly adopted by the City Council of the City under the Bond Law and which agreement is amendatory of or supplemental to this Agreement, but only if and to the extent that such agreement is specifically authorized hereunder.

"Treasurer" means the City Treasurer, or designee thereof.

ARTICLE II

THE BONDS

Section 2.01. Bonds Issued. The Bonds in the aggregate principal amount of _____ Dollars ($_____) are hereby authorized to be issued by the City under and subject to the terms of the Resolution of Issuance and this Agreement, the Act and other applicable laws of the State of California. The Bonds shall be secured by the Reassessments and moneys in the Redemption Fund and the Reserve Fund.

Section 2.02. Terms of Bonds.

(A) *Denominations*. The Bonds shall be issued as fully registered Bonds without coupons in the denomination of $5,000 or any integral multiple thereof. Bonds shall be lettered and numbered in a customary manner as determined by the Fiscal Agent.

(B) *Date of Bonds*. The Bonds shall be dated the Bond Date.

(C) *CUSIP Identification Numbers*. "CUSIP" identification numbers may be imprinted on the Bonds, but such numbers shall not constitute a part of the contract evidenced by the Bonds and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and pay for the Bonds. In addition, failure on the part of the City or the Fiscal Agent to use such CUSIP numbers in any notice to Owners shall not constitute an event of default or any violation of the City's contract with such Owners and shall not impair the effectiveness of any such notice.

(D) *Maturities*. The Bonds shall mature and bear interest at the rates per annum as follows:

Year Ending September 2	Principal Amount	Interest Rate

(E) *Interest*. The Bonds shall bear interest at the rates set forth above payable on the Interest Payment Dates in each year. Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months. Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof unless (i) it is authenticated and registered as of an Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or (ii) it is authenticated prior to the first Interest Payment Date, in which event it shall bear interest from the Bond Date.

(F) *Method of Payment*. Interest on the Bonds (including the final interest payment upon maturity or earlier redemption) is payable by check of the Fiscal Agent mailed by first class mail to the registered Owner thereof at such registered Owner's

address as it appears on the Bond Register maintained by the Fiscal Agent at the close of business on the Record Date preceding the Interest Payment Date, or by wire transfer made on such Interest Payment Date upon written instructions of any Owner of $1,000,000 or more in aggregate principal amount of Bonds delivered to the Fiscal Agent prior to the applicable Record Date. The principal of the Bonds and any premium on the Bonds are payable in lawful money of the United States of America upon surrender of the Bonds at the Principal Office of the Fiscal Agent. All Bonds paid by the Fiscal Agent under this Section shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds and, upon request of the City, issue a certificate of destruction of such Bonds to the City.

Section 2.03. Redemption.

(A) *General*.

(i) Optional Redemption. Each Outstanding Bond, or any portion of the principal thereof, in the principal amount of $5,000 or any integral multiple thereof, may be redeemed and paid in advance of maturity on any Interest Payment Date in any year by giving at least 60 days written notice to the Owner thereof by registered or certified mail or by personal service and by paying the principal amount thereof together with the Redemption Premium thereon plus interest to the date of redemption, unless sooner surrendered, in which event said interest will be paid to the date of payment, all in the manner and as provided in the Bond Law.

The Finance Director shall notify the Fiscal Agent of Bonds to be called for redemption upon prepayment of Reassessments in amounts sufficient therefor, or whenever sufficient surplus funds are available therefor in the Redemption Fund. The Fiscal Agent shall select Bonds for retirement in such a way that the ratio of Outstanding Bonds to issued Bonds shall be approximately the same in each annual series insofar as possible. Within each annual series, the Fiscal Agent shall select Bonds for retirement by lot.

The provisions of Part 11.1 of the Bond Law are applicable to the advance payment of Reassessments and to the calling of the Bonds. The Treasurer shall advise the Fiscal Agent of such provisions to the extent not specified herein.

(B) *Notice to Fiscal Agent*. The Finance Director shall give the Fiscal Agent written notice of the aggregate amount of Bonds to be redeemed pursuant to subsection (A) not less than forty-five (45) days prior to the applicable redemption date.

(C) *Redemption Procedure by Fiscal Agent*. The Fiscal Agent shall cause notice of any redemption to be mailed as provided in Section 2.03(A)(i), to the respective Owners of any Bonds designated for redemption, at their addresses appearing on the Bond Register in the Principal Office of the Fiscal Agent. The Fiscal Agent (but only if the Bonds are not held by the Trustee for the Authority Bonds) shall also cause notice of redemption to be mailed to the Securities Depositories and to the Municipal Securities Rulemaking Board at least one day earlier than the giving of notice to the Owners as

aforesaid; provided, however, such mailing to the Securities Depositories and the Municipal Securities Rulemaking Board shall not be a condition precedent to such redemption and failure to so mail or of any person or entity to receive any such notice, or any defect in any notice of redemption, shall not affect the validity of the proceeding for the redemption of such Bonds.

Such notice shall state the redemption date and the redemption price and, if less than all of the then Outstanding Bonds are to be called for redemption, shall designate the CUSIP numbers and Bond numbers of the Bonds to be redeemed by giving the individual CUSIP number and Bond number of each Bond to be redeemed or shall state that all Bonds between two stated Bond numbers, both inclusive, are to be redeemed or that all of the Bonds of one or more maturities have been called for redemption, shall state as to any Bond called in part the principal amount thereof to be redeemed, and shall require that such Bonds be then surrendered at the Principal Office of the Fiscal Agent for redemption at the said redemption price, and shall state that further interest on such Bonds, or the portion thereof to be redeemed, will not accrue from and after the redemption date.

Any such redemption notice may specify that redemption on the specified date will be subject to receipt by the City of moneys sufficient to cause such redemption, and neither the City nor the Fiscal Agent shall have any liability to the Owners or any other party as a result of its failure to redeem the Bonds as a result of insufficient moneys.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall, to the extent practicable, bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Upon surrender of Bonds redeemed in part only, the City shall execute and the Fiscal Agent shall authenticate and deliver to the registered Owner, at the expense of the City, a new Bond or Bonds, of the same series and maturity, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond or Bonds.

(D) *Effect of Redemption*. From and after the date fixed for redemption, if funds available for the payment of the principal of, and interest and any premium on, the Bonds so called for redemption shall have been deposited in the Redemption Fund on the date fixed for redemption, such Bonds so called shall cease to be entitled to any benefit under this Agreement other than the right to receive payment of the redemption price, and no interest shall accrue thereon on or after the redemption date specified in such notice.

All Bonds redeemed by the Fiscal Agent pursuant to this Section 2.03 shall be canceled by the Fiscal Agent. The Fiscal Agent shall destroy the canceled Bonds and, upon request of the City, issue a certificate of destruction of such Bonds to the City.

Section 2.04. Form of Bonds. The Bonds, the form of Fiscal Agent's certificate of authentication and the form of assignment, to appear thereon, shall be substantially in the forms, respectively, set forth in Exhibit B attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Agreement, the Resolution of Issuance and the Bond Law.

Section 2.05. Execution of Bonds. The Bonds shall be executed on behalf of the City by the facsimile signatures of its Treasurer and its Clerk who are in office on the Closing Date, and the seal of the City shall be impressed, imprinted or reproduced by facsimile thereon. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the Owner, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the Owner. Any Bond may be signed and attested on behalf of the City by such persons as at the actual date of the execution of such Bond shall be the proper officers of the City although at the nominal date of such Bond any such person shall not have been such officer of the City. Only such Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit B, executed and dated by the Fiscal Agent, shall be valid or obligatory for any purpose or entitled to the benefits of this Agreement, and such certificate of authentication of the Fiscal Agent shall be conclusive evidence that the Bonds registered hereunder have been duly authenticated, registered and delivered hereunder and are entitled to the benefits of this Agreement.

Section 2.06. Transfer of Bonds. Any Bond may, in accordance with its terms, be transferred, upon the Bond Register under Section 2.08 hereof by the person in whose name it is registered, in person or by such person's duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a duly written instrument of transfer in a form approved by the Fiscal Agent. The cost for any services rendered or any expenses incurred by the Fiscal Agent in connection with any such transfer shall be paid by the City. The Fiscal Agent shall collect from the Owner requesting such transfer any tax or other governmental charge required to be paid with respect to such transfer. Whenever any Bond or Bonds shall be surrendered for transfer, the City shall execute and the Fiscal Agent shall authenticate and deliver a new Bond or Bonds, for like aggregate principal amount(s), maturity(ies) and interest rate(s) in the denominations herein authorized. Neither the City nor the Fiscal Agent shall be required to make such transfer of Bonds on or after a Record Date and before the next ensuing Interest Payment Date.

Section 2.07. Exchange of Bonds. Bonds may be exchanged at the Principal Office of the Fiscal Agent for a like aggregate principal amount of Bonds of authorized denominations and of the same maturity. The cost for any services rendered or any expenses incurred by the Fiscal Agent in connection with any such exchange shall be paid by the City. The Fiscal Agent shall collect from the Owner requesting such exchange any tax or other governmental charge required to be paid with respect to such exchange. Neither the City nor the Fiscal Agent shall be required to make such exchange of Bonds after a Record Date and before the next ensuing Interest Payment Date.

Section 2.08. Bond Register. The Fiscal Agent will keep, or cause to be kept, at its Principal Office the Bond Register for the registration and transfer of the Bonds which Bond Register shall show the series number, date, maturity amount, rate of interest and last registered

Owner of each Bond and shall at all times be open to inspection by the City during regular business hours on any Business Day, upon reasonable notice; and, upon presentation for such purpose, the Fiscal Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, the ownership of the Bonds as hereinbefore provided.

Section 2.09. Temporary Bonds. The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such authorized denominations as may be determined by the City, and may contain such reference to any of the provisions of this Agreement as may be appropriate. Every temporary Bond shall be executed by the City and authenticated by the Fiscal Agent upon the same conditions and in substantially the same manner as the definitive Bonds. If the City issues temporary Bonds it will execute and furnish definitive Bonds without delay and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange for the definitive Bonds at the Principal Office of the Fiscal Agent or at such other location as the Fiscal Agent shall designate, and the Fiscal Agent shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary bonds shall be entitled to the same benefits under this Agreement as definitive bonds authenticated and delivered hereunder.

Section 2.10. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the City, at the expense of the Owner of said Bond, shall execute, and the Fiscal Agent shall authenticate and deliver, a new Bond of like tenor and principal amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Fiscal Agent of the Bond so mutilated. Every mutilated Bond so surrendered to the Fiscal Agent shall be canceled by it and destroyed by the Fiscal Agent who shall, upon request of the City, deliver a certificate of destruction thereof to the City. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Fiscal Agent and, if such evidence be satisfactory to the Fiscal Agent and indemnity satisfactory to the Fiscal Agent and the City shall be given, the City, at the expense of the Owner, shall execute, and the Fiscal Agent shall authenticate and deliver, a new Bond of like tenor and principal amount in lieu of and in substitution for the Bond so lost, destroyed or stolen. The City may require payment of a sum not exceeding the actual cost of preparing each new Bond delivered under this Section 2.10 and of the expenses which may be incurred by the City and the Fiscal Agent for the preparation, execution, authentication and delivery. Any Bond delivered under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the City whether or not the Bond so alleged to be lost, destroyed or stolen is at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Agreement with all other Bonds issued under this Agreement.

ARTICLE III

ISSUANCE OF BONDS

Section 3.01. Issuance and Delivery of Bonds. At any time after the execution of this Agreement, the City may issue the Bonds in the aggregate principal amount set forth in Section 2.01 hereof and deliver the Bonds to the Original Purchaser. Pursuant to the Resolution of Issuance, the Authorized Officers of the City are authorized and directed to deliver any and all documents and instruments necessary to cause the issuance of the Bonds in accordance with the provisions of the Act, the Bond Law, the Resolution of Issuance and this Agreement, to authorize the payment of Costs of Issuance by the City from the proceeds of the Bonds and to do and cause to be done any and all acts and things necessary or convenient for delivery of the Bonds to the Original Purchaser.

Section 3.02 . Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be dependent upon the completion of public improvements or upon the performance by any person of such person's obligation with respect to the public improvements.

Section 3.03. Pledge of Reassessments and Funds. The Bonds shall be secured by a first pledge (which pledge shall be effected in the manner and to the extent herein provided) of all of the Reassessments and all moneys deposited in the Redemption Fund and the Reserve Fund. The Reassessments and all moneys deposited into said funds (except as otherwise provided herein) are hereby dedicated to the payment of the principal of, and interest and any premium on, the Bonds as provided herein and in the Bond Law until all of the Bonds have been paid and retired or until moneys or Federal Securities have been set aside irrevocably for that purpose in accordance with Section 9.03 hereof.

Section 3.04. Limited Obligation. All obligations of the City under this Agreement and the Bonds shall not be general obligations of the City, but shall be limited obligations, payable solely from the Reassessments and the funds pledged therefore hereunder. Neither the faith and credit of the City nor of the State of California or any political subdivision thereof is pledged to the payment of the Bonds. The Bonds are "Limited Obligation Refunding Improvement Bonds" and are payable solely from and secured solely by the Reassessments and the amounts in the Redemption Fund and the Reserve Fund created hereunder. Notwithstanding any other provision of this Agreement, the City is not obligated to advance available surplus funds from the City treasury to cure any deficiency in the Redemption Fund.

Section 3.05. No Acceleration. The principal of the Bonds shall not be subject to acceleration hereunder. Nothing in this Section 3.05 shall in any way prohibit the redemption of Bonds under Section 2.03 hereof, or the defeasance of the Bonds and discharge of this Agreement under Section 9.03 hereof.

Section 3.06. Refunding of Bonds. The Bonds may be refunded by the City pursuant to Divisions 11 or 11.5 of the California Streets and Highways Code upon the conditions as set forth in appropriate proceedings therefor. This Section shall not apply to or in any manner limit advancement of the maturity of any of the Bonds as provided in Parts 8, 9, 11, or 11.1 of the

Bond Law, nor shall this Section 3.06 apply to or in any manner limit the redemption and payment of any Bond pursuant to subsequent proceedings providing for the payment of amounts to eliminate previously imposed fixed lien assessments, including the Reassessments.

ARTICLE IV

FUNDS AND ACCOUNTS

Section 4.01. Deposit of Bond Proceeds. The proceeds of the purchase of the Bonds by the Original Purchaser ($_____, representing the par amount of the Bonds less an original issue discount of $____ and less the Bonds' share of the Authority Bonds' underwriter discount ($____)), shall be paid to the Fiscal Agent, who shall forthwith set aside, pay over and deposit such proceeds on the Closing Date as follows:

(A) The Fiscal Agent shall deposit the amount of $_____ into the Redemption Fund;

(B) The Fiscal Agent shall transfer the amount of $___ to the Trustee for the Authority Bonds for deposit in the Cost of Issuance Fund (as such term is defined in the Indenture of Trust for the Authority Bonds);

(C) The Fiscal Agent shall deposit the amount of $_____ into the Reserve Fund, which is equal to the Reserve Requirement as of the Closing Date;

(D) The Fiscal Agent shall transfer the amount of $_____ to the Escrow Bank for deposit into the Escrow Fund (Assessment District No. 98-4); and

(E) The Fiscal Agent shall transfer the amount of $_____ to the Escrow Bank for deposit into the Escrow Fund (Assessment District No. 2000-02), being the balance of the proceeds of the Bonds received from the Original Purchaser on the Closing Date.

Section 4.02. Escrow Funds.

(a) On the Closing Date, the City is hereby directed and authorized to cause to be established a fund to be held by the Escrow Holder under the Escrow Agreement (Assessment District No. 98-4) and to be known as the "City of Tracy, Reassessment District No. 2011-1 (Assessment District No. 98-4) Prior Bonds Escrow Fund" (the "Escrow Fund (Assessment District No. 98-4)"). The purpose of the establishment of the Escrow Fund (Assessment District No. 98-4) shall be to assure the timely retirement of the Prior AD 98-4 Bonds in advance of their respective stated maturities, using a portion of the proceeds of the Bonds and other funds held by the City with respect to the Prior AD 98-4 Bonds and investment earnings thereon, all as to be specified by appropriate Certificates of the City and in the Escrow Agreement (Assessment District No. 98-4).

(b) On the Closing Date, the City is hereby directed and authorized to cause to be established a fund to be held by the Escrow Holder under the Escrow Agreement (Assessment District No. 2000-02) and to be known as the "City of Tracy, Reassessment District No. 2011-1 (Assessment District No. 2000-02) Prior Bonds Escrow Fund" (the "Escrow Fund (Assessment District No. 2000-02)"). The purpose of the establishment of the Escrow Fund (Assessment

District No. 2000-02) shall be to assure the timely retirement of the Prior AD 2000-02 Bonds in advance of their respective stated maturities, using a portion of the proceeds of the Bonds and other funds held by the City with respect to the Prior 2000-02 Bonds and investment earnings thereon, all as to be specified by appropriate Certificates of the City and in the Escrow Agreement (Assessment District No. 2000-02).

Section 4.03. Redemption Fund.

(A) *Establishment of Redemption Fund*. The Redemption Fund is hereby established as a separate fund to be held by the Fiscal Agent to the credit of which deposits shall be made as required by this Agreement or the Bond Law. Moneys in the Redemption Fund shall be held by the Fiscal Agent for the benefit of the City and the Owners of the Bonds, shall be disbursed for the payment of the principal of, and interest and any premium on, the Bonds as provided below. Within the Redemption Fund there is hereby established the Prepayment Account, which shall be used exclusively for the administration of any prepayments of Reassessments pursuant to Section 8767 of the Bond Law to assure the timely redemption of Bonds. In the event all of the Reassessments are prepaid in full, the Prepayment Account shall be closed.

(B) *Transfers from the Reserve Fund.* Whenever, after the issuance of the Bonds, a Reassessment is prepaid, in whole or in part, the Fiscal Agent may, pursuant to Section 4.04(D), transfer to the Fiscal Agent an amount from the Reserve Fund. In such event, any such amount shall be applied to such prepayment as directed in writing by the City.

(C) *Disbursements*. On or before each Interest Payment Date, the Fiscal Agent shall withdraw from the Redemption Fund for payment to the Owners of the Bonds the principal of, and interest and any premium, then due and payable on the Bonds. In the event that amounts in the Redemption Fund are insufficient for such purpose, the Fiscal Agent shall promptly withdraw from the Reserve Fund, to the extent of any funds therein, in an amount not to exceed the amount of such insufficiency, and shall transfer any amounts so withdrawn to the Redemption Fund. Amounts so withdrawn from such Reserve Fund and deposited in the Redemption Fund shall be applied to the payment of the Bonds. If there are still insufficient funds in the Redemption Fund to make the payments provided for in the first sentence sentence, the Fiscal Agent shall apply the available funds first to the payment of interest on the Bonds, then to the payment of principal due on the Bonds, and then to payment of principal due on the Bonds by reason of Bonds called for redemption pursuant to Section 2.03(A)(i) hereof.

(C) *Investment.* Moneys in the Redemption Fund (and the accounts therein) shall be invested and deposited in accordance with Section 6.01. Interest earnings and profits resulting from such investment and deposit shall be retained in the Redemption Fund.

Section 4.04. Reserve Fund.

(A) **Establishment of Reserve Fund**. The Reserve Fund is hereby established as a separate fund to be held by the Fiscal Agent to the credit of which (i) a deposit of cash shall be made as required by Section 4.01, and deposits shall be made as provided in the Bond Law. Moneys in the Reserve Fund shall be held by the Fiscal Agent for the benefit of the City and the Bond Owners as a reserve for the payment of principal of, and interest and any premium on, the Bonds. The City shall cause the Reserve Fund to be administered in accordance with Part 16 of the Bond Law; provided that proceeds from redemption or sale of properties with respect to which payment of delinquent Reassessments and interest thereon was made from the Reserve Fund, shall be credited to the Reserve Fund.

(B) **Use of Fund**. Except as otherwise provided in this Section 4.04 all amounts deposited in the Reserve Fund shall be used and withdrawn by the Fiscal Agent solely for the purpose of making transfers to the Redemption Fund in the event of any deficiency at any time in the Redemption Fund of the amount then required for payment of the principal of, and interest and any premium on, the Bonds or, in accordance with the provisions of this Section 4.04, for the purpose of redeeming Bonds from the Redemption Fund.

(C) **Transfer Due to Deficiency in Redemption Fund**. Transfers shall be made from the Reserve Fund to the Redemption Fund in the event of a deficiency in the Redemption Fund, in accordance with Section 4.04(B) hereof.

(D) **Payment of Reassessments**. Whenever, after the issuance of the Bonds, a Reassessment is paid, in whole or in part, as provided in the Bond Law, the Fiscal Agent, at the written direction of an Authorized Officer, shall transfer from the Reserve Fund to the Redemption Fund an amount specified in such direction equal to the product of the ratio of the original amount of the Reassessment securing any Bonds so paid to the original amount of all Reassessments securing any Bonds, times the initial Reserve Requirement.

(E) **Transfer of Excess of Reserve Requirement**. Whenever, on any Interest Payment Date, or on any other date as determined by the Fiscal Agent, the amount in the Reserve Fund exceeds the then applicable Reserve Requirement, the Fiscal Agent shall, except as otherwise provided in Section 5.11 hereof for purposes of rebate, transfer on or before such Interest Payment Date an amount equal to the excess from the Reserve Fund to the Redemption Fund to be used in accordance with Part 16 of the Bond Law.

(F) **Transfer When Balance Exceeds Outstanding Bonds**. Whenever the balance in the Reserve Fund is sufficient to retire all the Outstanding Bonds, whether by advance retirement or otherwise, collection of the principal and interest on the Reassessments shall be discontinued and the Reserve Fund liquidated by the Fiscal Agent in retirement of the Outstanding Bonds. In the event that the balance in the Reserve Fund at the time of liquidation exceeds the amount required to retire all of the Outstanding Bonds, the excess shall be transferred to the City to be used in accordance with the Act and the Bond Law.

(G) **Investment**. Moneys in the Reserve Fund shall be invested and deposited in accordance with Section 6.01. Interest earnings and profits resulting from said investment shall be retained in the Reserve Fund subject to the provisions of Section 4.04(E) hereof.

ARTICLE V

COVENANTS OF THE CITY

Section 5.01. Collection of Reassessments. The City shall comply with all requirements of the Act, the Bond Law and this Agreement to assure the timely collection of the Reassessments, including, without limitation, the enforcement of delinquent Reassessments. Any funds received by the City in and for the District, including, but not limited to, collections of Reassessments upon the secured tax rolls, collections of delinquent Reassessments and penalties thereon, through foreclosure proceedings and the prepayment of Reassessments or portions thereof, shall be immediately transmitted directly to the Fiscal Agent, without deduction, to be deposited into the funds and accounts herein specified. To that end, the following shall apply:

(A) The Reassessments, as set forth on the List of Unpaid Reassessments on file with the Finance Director, together with the interest thereto, shall be payable in annual series corresponding in number to the number of serial maturities of the Bonds issued. An annual proportion of each Reassessment shall be payable in each year preceding the date of maturity of each of the several series of Bonds issued sufficient to pay the Bonds when due and such proportion of each Reassessment coming due in any year, together with the annual interest thereon, shall be payable in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interests after delinquency as do the general taxes on real property. All sums received from the collection of the Reassessments and of the interest and penalties thereon shall be placed in the Redemption Fund. In addition, all su===ms received by the City with respect to the assessments levied in connection with the Prior Bonds, including any penalties and delinquencies, shall be placed in the Redemption Fund. Any prepayments of Reassessments shall be placed in the Prepayment Account established under and administered in accordance with this Agreement.

(B) The Finance Director shall, before the final date on which the Auditor will accept the transmission of the Reassessments for the parcels within the District for inclusion on the next tax roll, prepare or cause to be prepared, and shall transmit to the Auditor, such data as the Auditor requires to include the installments of the Reassessments on the next secured tax roll of the County. The Finance Director is hereby authorized to employ consultants to assist in computing the installments of the Reassessments hereunder and in reconciling Reassessments billed to amounts received as provided in subsection (C) of this Section 5.01.

(C) The Reassessments shall be payable and be collected in the same manner and at the same time and in the same installments as the general taxes on real property are payable, and have the same priority, become delinquent at the same times and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the general taxes on real property. In addition to any amounts

authorized pursuant to the Bond Law to be included with the annual amounts of installments as aforesaid, the City, pursuant to section 8682.1 of the Bond Law, may cause to be entered on the assessment roll on which taxes will next become due, opposite each lot or parcel of land within the District in the manner set forth in said section 8682, each lot's pro rata share of the estimated annual expenses of the City in connection with the administrative duties thereof for the Bonds, including, but not limited to, the costs of registration, authentication, transfer and compliance with the provisions of Article V hereof, which amounts shall be used to defray the costs of the City in complying with the provisions of this Agreement. Delinquent Reassessments shall be subject to foreclosure pursuant to Section 5.02 hereof.

Section 5.02. Foreclosure. The City hereby covenants with and for the benefit of the Owners of the Bonds that it will order, and cause to be commenced, and thereafter diligently prosecute an action in the superior court to foreclose the lien of any Reassessment or installment thereof which has been billed, but has not been paid, pursuant to and as provided in sections 8830 and 8835, inclusive of the Bond Law and the conditions specified in this Section 5.02 The Finance Director shall notify the City Attorney of any such delinquency of which the Finance Director is aware, and the City Attorney shall commence, or cause to be commenced, such foreclosure proceedings, including collection actions preparatory to the filing of any complaint. The City Attorney is hereby authorized to employ counsel to conduct any such foreclosure proceedings.

On or about January 30 and June 30 of each Fiscal Year, the Finance Director shall compare the amount of Reassessments installments theretofore levied in the District to the amount of Reassessments installments theretofore received by the City, and:

(i) *Individual Delinquencies*. If the Finance Director determines that any single parcel is delinquent in the payment of Reassessment installments in the aggregate amount of $1,000 or more, then the Finance Director shall send or cause to be sent a notice of delinquency (and a demand for immediate payment thereof) to the property owner within 60 days of such determination, and (if the delinquency remains uncured) foreclosure proceedings shall be commenced by the City within 120 days of such determination.

(ii) *Aggregate Delinquencies*. If the Finance Director determines that (i) the total amount of delinquent Reassessment for the prior Fiscal Year for the entire District (including the total of delinquencies under subsection (i) above), exceeds 5% of the total Reassessment installments due and payable for the prior Fiscal Year, or (ii) there are ten (10) or fewer owners of real property within the District, determined by reference to the latest available secured property tax roll of the County, the City shall notify or cause to be notified property owners who are then delinquent in the payment of Reassessments (and demand immediate payment of the delinquency) within 60 days of such determination, and shall commence foreclosure proceedings within 120 days of such determination against each parcel of land in the District with a Reassessment delinquency.

Section 5.03. Punctual Payment. The City will punctually pay or cause to be paid the principal of, and interest and any premium on, the Bonds when and as due in strict conformity with the terms of this Agreement and any Supplemental Agreement, and it will faithfully observe and perform all of the conditions, covenants and requirements of this Agreement and all Supplemental Agreements and of the Bonds.

Section 5.04. Extension of Time for Payment. In order to prevent any accumulation of claims for interest after maturity, the City shall not, directly or indirectly, extend or consent to the extension of the time for the payment of any claim for interest on any of the Bonds and shall not, directly or indirectly, be a party to the approval of any such arrangement by purchasing or funding said claims for interest or in any other manner. In case any such claim for interest shall be extended or funded, whether or not with the consent of the City, such claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Agreement, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which shall not have so extended or funded.

Section 5.05. Against Encumbrance. The City will not encumber, pledge or place any charge or lien upon any of the Reassessments or other amounts pledged to the Bonds superior to or on a parity with the pledge and lien herein created for the benefit of the Bonds, except as permitted by the Resolution of Issuance, this Agreement, the Act or the Bond Law.

Section 5.06. Books and Accounts. The City will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the Reassessments, which records shall be subject to inspection by the Owners of the Bonds upon reasonable prior notice on any Business Day.

Section 5.07. Protection of Security and Rights of Owners. The City will preserve and protect the security of the Bonds and the rights of the Owners thereto, and will warrant and defend their rights to such security against all claims and demands of all persons. From and after the delivery of any of the Bonds by the City, the Bonds shall be incontestable by the City.

Section 5.08. Further Assurances. The City will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Agreement, and for the better assuring and confirming unto the Owners of the rights and benefits provided in this Agreement.

Section 5.09. Private Activity Bond Limitation. The City shall assure that the proceeds of the Bonds are not so used as to cause the Authority Bonds to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(c) of the Code.

Section 5.10. Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Authority Bonds to be "federally guaranteed" within the meaning of section 149(b) of the Code.

Section 5.11. Rebate Requirement. The City shall cooperate with and take any and all actions reasonably requested by the Authority to assure compliance by the Authority with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Authority Bonds.

Section 5.12. No Arbitrage. The City shall not take, or permit or suffer to be taken by the Finance Director, by the Fiscal Agent or otherwise, any action with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Authority Bonds would have caused the Authority Bonds to be "arbitrage bonds" within the meaning of section 148 of the Code.

Section 5.13. Yield of the Bonds. In determining the yield of the Authority Bonds to comply with Sections 5.11 and 5.12 hereof, the City will take into account redemption (including premium, if any) in advance of maturity based on the reasonable expectations of the City, as of the Closing Date, regarding prepayments of Reassessments and use of prepayments for redemption of the Bonds, without regard to whether or not prepayments are received or Bonds redeemed.

Section 5.14. Maintenance of Tax-Exemption. The City shall take all actions reasonably requested by the Authority to assure the exclusion of interest on the Authority Bonds from the gross income of the Owners of the Authority Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the Authority Bonds.

ARTICLE VI

INVESTMENTS; LIABILITY OF THE CITY

Section 6.01. Deposit and Investment of Moneys in Funds. Subject in all respects to the provisions of Section 6.02, moneys in any fund or account created or established by this Agreement and held by the Fiscal Agent shall be invested by the Fiscal Agent in Authorized Investments, as directed, in the case of funds held by the Fiscal Agent, pursuant to an Officer's Certificate filed with the Fiscal Agent at least two (2) Business Days in advance of the making of such investments. The following shall apply to such investments:

(A) In the absence of any such Officer's Certificate, the Fiscal Agent shall invest any such moneys in Authorized Investments described in clause (h) of the definition thereof which by their terms mature prior to the date on which such moneys are required to be paid out hereunder. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account, subject, however, to the requirements of this Agreement for transfer of interest earnings and profits resulting from investment of amounts in funds and accounts;

(B) The Fiscal Agent or its affiliates may act as principal or agent in the acquisition or disposition of any investment. The Fiscal Agent shall incur no liability for losses arising from any investments made pursuant to this Section;

(C) Subject in all respects to the provisions of Section 5.14, investments in any and all funds and accounts may at the discretion of the Fiscal Agent be commingled in a separate fund or funds for purposes of making, holding and disposing of investments, notwithstanding provisions herein for transfer to or holding in or to the credit of particular funds or accounts of amounts received or held by the Fiscal Agent hereunder, provided that the Fiscal Agent shall at all times account for such investments strictly in accordance with the funds and accounts to which they are credited and otherwise as provided in this Agreement; and

(D) The Fiscal Agent shall sell at the highest price reasonably obtainable, or present for redemption, any investment security whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such investment security is credited and the Fiscal Agent shall not be liable or responsible for any loss resulting from the acquisition or disposition of such investment security in accordance herewith.

The City acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Fiscal Agent will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Fiscal Agent hereunder.

Section 6.02. Acquisition, Disposition and Valuation of Investments.

(A) Except as otherwise provided in subsection (B) of this Section, the City covenants that all investments of amounts deposited in any fund or account under this Agreement, or otherwise containing gross proceeds of the Bonds (under section 148 of the Code) shall be acquired, disposed of and valued (as of the date that valuation us required by this Agreement or the Code) at Fair Market Value, provided that the Fiscal Agent shall not be responsible for the determination of Fair Market Value.

(B) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code shall be valued at their present value (under section 148 of the Code), provided that the Fiscal Agent shall not be responsible for the determination of present value.

Section 6.03. Liability of City. The City shall not incur any responsibility in respect of the Bonds or this Agreement other than in connection with the duties or obligations explicitly provided herein or in the Bonds. The City shall not be liable to any Owner in connection with the performance of its duties hereunder, except for its own negligence or willful default. The City shall not be bound to ascertain or inquire as to the performance or observance of any of the terms, conditions, covenants or agreements of the Fiscal Agent herein or of any of the documents executed by the Fiscal Agent in connection with the Bonds, or as to the existence of a default thereunder. Under this Agreement, the following shall apply to the City:

(A) In the absence of bad faith, the Fiscal Agent and the City, including the Finance Director, may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Fiscal Agent and the City and conforming to the requirements of this Agreement. The Fiscal Agent and the City, including the Finance Director, shall not be liable for any error of judgment made in good faith unless it shall be proved that it was negligent in ascertaining the pertinent facts;

(B) No provision of this Agreement shall require the City to expend or risk its own general funds or otherwise incur any financial liability (other than with respect to the foreclosure proceedings for delinquent Reassessments and the payment of fees and costs of the Fiscal Agent) in the performance of any of its obligations hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it;

(C) The Fiscal Agent and the City may rely and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Fiscal Agent and the City may consult with counsel, who may be the City Attorney, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith;

(D) The City or the Fiscal Agent shall not be bound to recognize any person as the Owner of a Bond unless duly registered and until such Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed; and

(E) Whenever in the administration of its duties under this Agreement the City or the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of willful misconduct on the part of the City or the Fiscal Agent, be deemed to be conclusively proved and established by a certificate of the Fiscal Agent or other expert retained by the City or the Fiscal Agent for the purposes hereof, and such certificate shall be full warrant to the City or the Fiscal Agent for any action taken or suffered under the provisions of this Agreement or any Supplemental Agreement upon the faith thereof, but in its discretion the or the Fiscal Agent City may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may deem reasonable.

Section 6.04. Employment of Agents by Fiscal Agent or City. In order to perform its duties and obligations hereunder, the Fiscal Agent or the City may employ such persons or entities as it deems necessary or advisable. The Fiscal Agent or the City shall not be liable for any of the acts or omissions of such persons or entities employed by it with reasonable care and in good faith hereunder, and shall be entitled to rely, and shall be fully protected in doing so, upon the opinions, calculations, determinations and directions of such persons or entities.

ARTICLE VII

THE FISCAL AGENT

Section 7.01. Appointment of Fiscal Agent. The Bank of New York Mellon Trust Company, N.A. at the Principal Office, is hereby appointed Fiscal Agent and paying agent for the Bonds. The Fiscal Agent undertakes to perform such duties, and only such duties, as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Fiscal Agent. With respect to the appointment of the Fiscal Agent, the following shall apply:

(A) Any company into which the Fiscal Agent may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under the following paragraph of this Section 7.01 shall be the successor to such Fiscal Agent without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding. The Fiscal Agent shall give the Treasurer written notice of any such succession hereunder.

(B) The City may remove the Fiscal Agent initially appointed and any successor thereto, and may appoint a successor or successor's thereto, but any Fiscal Agent shall be a bank or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least Fifty Million Dollars ($50,000,000) and subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purposes of this Section 7.01, combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

(C) The Fiscal Agent may at any time resign by giving written notice to the City and by giving to the Owners notice by mail of such resignation. Upon receiving notice of such resignation, the City shall promptly appoint a successor Fiscal Agent, satisfying the requirements of Section 7.01(B) above, by an instrument in writing. Any resignation or removal of the Fiscal Agent shall become effective upon acceptance of appointment by the successor Fiscal Agent.

(D) If no appointment of a successor Fiscal Agent shall be made pursuant to the foregoing provisions of this Section within forty-five (45) days after the Fiscal Agent shall have given to the City written notice or after a vacancy in the office of the Fiscal Agent shall have occurred by reason of its inability to act, the Fiscal Agent or any Bond Owner may apply to any court of competent jurisdiction to appoint a successor Fiscal Agent. Said court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Fiscal Agent; and

(E) If, by reason of the judgment of any court, the Fiscal Agent is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Fiscal Agent hereunder shall be assumed by and vest in the Finance Director of the City in trust for the benefit of the Owners. The City covenants for the direct benefit of the Owners that its Treasurer in such case shall be vested with all of the rights and powers of the Fiscal Agent hereunder, and shall assume all of the responsibilities and perform all of the duties of the Fiscal Agent hereunder, in trust for the benefit of the Owners of the Bonds.

Section 7.02. Liability of Fiscal Agent. With respect to the liability of the Fiscal Agent, the following shall apply:

(A) The recitals of facts, covenants and agreements herein and in the Bonds contained shall be taken as statements, covenants and agreements of the City, and the Fiscal Agent assumes no responsibility for the correctness of the same, makes no representations as to the validity or sufficiency of this Agreement or of the Bonds, or shall incur any responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Bonds assigned to or imposed upon it. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Fiscal Agent assumes no responsibility or liability for any information, statement or recital in any official statement or other disclosure material prepared or distributed with respect to the issuance of the Bonds;

(B) The Fiscal Agent may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Fiscal Agent and conforming to the requirements of this Agreement; but in the case of any such certificates or opinions by which any provision hereof are specifically required to be furnished to the Fiscal Agent, the Fiscal Agent shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Agreement. Except as provided above in this paragraph, Fiscal Agent shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Agreement, upon any resolution, order, notice, request, consent or waiver, certificate, statement, affidavit, or other paper or document which it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper person or to have been prepared and furnished pursuant to any provision of this Agreement, and the Fiscal Agent shall not be under any duty to make any investigation or inquiry as to-any statements contained or matters referred to in any such instrument;

(C) The Fiscal Agent shall not be liable for any error of judgment made in good faith by a responsible officer unless it shall be proved that the Fiscal Agent was negligent in ascertaining the pertinent facts;

(D) No provision of this Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers;

(E) The Fiscal Agent shall be under no obligation to exercise any of the rights or powers vested in it by this Agreement at the request or direction of any of the Owners pursuant to this Agreement unless such Owners shall have offered to the Fiscal Agent reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction; and

(F) The Fiscal Agent may become the owner of the Bonds with the same rights it would have if it were not the Fiscal Agent.

Section 7.03. Information; Books and Accounts. The Fiscal Agent will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Fiscal Agent, in which complete and correct entries shall be made of all transactions made by it relating to the expenditure of amounts disbursed from the Redemption Fund. Such books of record and accounts shall, upon reasonable notice, at all times during business hours on any Business Day be subject to the inspection of the City and the Owners of not less than ten percent (10%) of the principal amount of the Bonds then Outstanding, or their representatives duly authorized in writing.

Section 7.04. Notice to Fiscal Agent. The Fiscal Agent may conclusively rely, without undertaking any investigation or inquiry, and shall be protected in acting or refraining from acting upon any notice, resolution, request, consent, order, certificate, report, warrant, Bond or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or proper parties. The Fiscal Agent may consult with counsel, who may be counsel to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance therewith. The Fiscal Agent shall not be bound to recognize any person as the Owner of a Bond unless and until such person is the registered Owner of such Bond and such Bond is submitted for inspection, if required, and such Owner's title thereto satisfactorily established, if disputed. Whenever in the administration of its duties under this Agreement the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of willful misconduct on the part of the Fiscal Agent, be deemed to be conclusively proved and established by a certificate of an Authorized Officer of the City, and such certificate shall be full warrant to the Fiscal Agent for any action taken or suffered under the provisions of this Agreement or any Supplemental Agreement upon the faith thereof, but in its discretion the Fiscal Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

Section 7.05. Compensation; Indemnification. The City shall pay to the Fiscal Agent from time to time reasonable compensation for all services rendered as Fiscal Agent under this Agreement, and also all reasonable expenses, charges, counsel fees and other disbursements, including those of the Fiscal Agent's in house or other attorneys and agents, incurred in and about the performance of their powers and duties under this Agreement, but the Fiscal Agent shall not have a lien therefor on any funds at any time held by it under this Agreement. The City further agrees, to the extent permitted by applicable law, to indemnify and save the Fiscal Agent, its officers, employees, directors and agents harmless against any costs, claims, losses,

expenses or liabilities of any kind whatsoever which it may incur in the exercise and performance of its powers and duties hereunder which are not due to its negligence or willful misconduct. The obligation of the City under this Section shall survive resignation or removal of the Fiscal Agent under this Agreement and payment of the Bonds and discharge of this Agreement.

Section 7.06. Interaction With the City. In conducting its duties hereunder whenever the Fiscal Agent is required or deems it appropriate to communicate with the City, it shall communicate with the Finance Director unless otherwise specifically required hereunder. All statements and reports required to be produced by the Fiscal Agent hereunder shall be provided to the Finance Director unless otherwise specifically provided hereunder.

ARTICLE VIII

MODIFICATION OR AMENDMENT OF THIS AGREEMENT

Section 8.01. Amendments Permitted. This Agreement and the rights and obligations of the City and of the Owners of the Bonds may be modified or amended at any time by a Supplemental Agreement pursuant to the affirmative vote at a meeting of Owners, or with the written consent without a meeting, of the Owners of at least sixty percent (60%) in aggregate principal amount of the Bonds then Outstanding, exclusive of Bonds disqualified as provided in Section 8.04. No such modification or amendment shall (i) extend the maturity of any Bond or reduce the interest rate thereon, or otherwise alter or impair the obligation of the City to pay the principal of, and the interest and any premium on, any Bond, without the express consent of the Owner of such Bond, or (ii) permit the creation by the City of any pledge or lien upon the Reassessments superior to or on a parity with the pledge and lien created for the benefit of the Bonds (except as otherwise permitted by the Act, the Resolution, the laws of the State of California or this Agreement), or reduce the percentage of Bonds required for the amendment hereof, or to amend this Section 8.01. Any such amendment may not modify any of the rights or obligations of the Fiscal Agent without its written consent. This Agreement and the rights and obligations of the City and of the Owners may also be modified or amended at any time by a Supplemental Agreement, without the consent of any Owners, only to the extent permitted by law and only for any one or more of the following purposes:

(A) to add to the covenants and agreements of the City in this Agreement contained, other covenants and agreements thereafter to be observed, or to limit or surrender any right or power herein reserved to or conferred upon the City;

(B) to make modifications not adversely affecting any outstanding series of Bonds of the City in any material respect;

(C) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Agreement, or in regard to questions arising under this Agreement, as the City and the Fiscal Agent may deem necessary or desirable and not inconsistent with this Agreement, and which shall not adversely affect the rights of the Owners of the Bonds; or

(D) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Authority Bonds .

Section 8.02. Owners' Meetings. The City may at any time call a meeting of the Owners. In such event the City is authorized to fix the time and place of said meeting and to provide for the giving of notice thereof and to fix and adopt rules and regulations for the conduct of said meeting.

Section 8.03. Procedure for Amendment with Written Consent of Owners. The City and the Fiscal Agent may at any time adopt a Supplemental Agreement amending the provisions of

the Bonds or of this Agreement or any Supplemental Agreement, to the extent that such amendment is permitted by Section 8.01 hereof, to take effect when and as provided in this Section 8.03. With respect to such Supplemental Agreement under this Section 8.03, the following shall apply:

(A) A copy of such Supplemental Agreement, together with a request to Owners for their consent thereto, shall be mailed by first class mail, by the Fiscal Agent to each Owner of Bonds Outstanding, but failure to mail copies of such Supplemental Agreement and request shall not affect the validity of the Supplemental Agreement when assented to as in this Section provided;

(B) Such Supplemental Agreement shall not become effective unless there shall be filed with the Fiscal Agent the written consents of the Owners of at least sixty percent (60%) in aggregate principal amount of the Bonds then Outstanding (exclusive of Bonds disqualified as provided in Section 8.04) and a notice shall have been mailed as hereinafter in this Section provided. Each such consent shall be effective only if accompanied by proof of ownership of the Bonds for which such consent is given, which proof shall be such as is permitted by Section 9.04. Any such consent shall be binding upon the Owner of the Bonds giving such consent and on any subsequent Owner (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Fiscal Agent prior to the date when the notice hereinafter in this Section provided for has been mailed; and

(C) After the Owners of the required percentage of Bonds shall have filed their consents to the Supplemental Agreement, the City shall mail a notice to the Owners in the manner hereinbefore provided in this Section for the mailing of the Supplemental Agreement, stating in substance that the Supplemental Agreement has been consented to by the Owners of the required percentage of Bonds and will be effective as provided in this Section but failure to mail copies of said notice shall not affect the validity of the Supplemental Agreement or consents thereto). Proof of the mailing of such notice shall be filed with the Fiscal Agent. A record, consisting of the papers required by this Section 8.03 to be filed with the Fiscal Agent, shall be proof of the matters therein stated until the contrary is proved. The Supplemental Agreement shall become effective upon the filing with the Fiscal Agent of the proof of matters therein of such notice, and the Supplemental Agreement shall be deemed conclusively binding (except as otherwise hereinabove specifically provided in this Article) upon the City and the Owners of all Bonds at the expiration of sixty (60) days after such filing, except in the event of a final decree of a court of competent jurisdiction setting aside such consent in a legal action or equitable proceeding for such purpose commenced within such sixty-day period.

Section 8.04. Disqualified Bonds. Bonds owned or held for the account of the City, excepting any pension or retirement fund, shall not be deemed Outstanding for the purpose of any vote, consent or other action or any calculation of Outstanding Bonds provided for in this Article VIII, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Article VIII.

Section 8.05. Effect of Supplemental Agreement. From and after the time any Supplemental Agreement becomes effective pursuant to this Article VIII, this Agreement shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations under this Agreement of the City and all Owners of Bonds Outstanding shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such Supplemental Agreement shall be deemed to be part of the terms and conditions of this Agreement for any and all purposes.

Section 8.06. Endorsement or Replacement of Bonds Issued After Amendment. The City may determine that Bonds issued and delivered after the effective date of any action taken as provided in this Article VIII shall bear a notation, by endorsement or otherwise, in form approved by the City, as to such action. In that case, upon request of the Owner of any Bond Outstanding at such effective date and presentation of his Bond for that purpose at the Principal Office of the Fiscal Agent or at such other office as the City may select and designate for that purpose, a suitable notation shall be made on such Bond. The City may determine that new Bonds, so modified as in the opinion of the City is necessary to conform to such Owners' action, shall be prepared, executed and delivered. In that case, upon request of the Owner of any Bonds then Outstanding, such new Bonds shall be exchanged at the Principal Office of the Fiscal Agent without cost to any Owner, for Bonds then Outstanding, upon surrender of such Bonds.

Section 8.07. Amendatory Endorsement of Bonds. The provisions of this Article VIII shall not prevent any Owner from accepting any amendment as to the particular Bonds held by him, provided that due notation thereof is made on such Bonds.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Benefits of Agreement Limited to Parties. Nothing in this Agreement, expressed or implied, is intended to give to any person other than the City, the Fiscal Agent and the Owners, any right, remedy or claim under or by reason of this Agreement. Any covenants, stipulations, promises or agreements in this Agreement contained by and on behalf of the City shall be for the sole and exclusive benefit of the Owners and the Fiscal Agent.

Section 9.02. Successor is Deemed Included in All Reference to Predecessor. Whenever in this Agreement or any Supplemental Agreement either the City or the Fiscal Agent is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Agreement contained by or on behalf of the City or the Fiscal Agent shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

Section 9.03. Discharge of Agreement. Subject to the provisions of Section 2.13 hereof, if the City shall pay and discharge the entire indebtedness on all Bonds Outstanding in any one or more of the following ways:

(A) by well and truly paying or causing to be paid the principal of and interest and any premium on, all Bonds Outstanding, as and when the same become due and payable;

(B) by depositing with the Fiscal Agent, in trust, at or before maturity, money which, together with the amounts then on deposit in the funds and accounts provided for in Sections 4.04 and 4.05 is fully sufficient to pay all Bonds Outstanding, including all principal, interest and any applicable redemption premiums, or;

(C) by irrevocably depositing with the Fiscal Agent, in trust, cash and Federal Securities in such amount as the City shall determine, as confirmed by an independent certified public accountant, which will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in Sections 4.04 and 4.05, be fully sufficient to pay and discharge the indebtedness on all Bonds, including all principal, interest and any applicable redemption premiums, at or before their respective maturity dates;

and if such Bonds are to be redeemed prior to the maturity thereof notice of such redemption shall have been given as in this Agreement provided or provision satisfactory to the Fiscal Agent shall have been made for the giving of such notice, then, at the election of the City, and notwithstanding that any Bonds shall not have been surrendered for payment, the pledge of the Reassessments and other funds provided for in this Agreement and all other obligations of the City under this Agreement with respect to all Bonds Outstanding shall cease and terminate, except only the obligation of the City to pay or cause to be paid to the Owners of the Bonds not so surrendered and paid all sums due thereon, the obligation of the City to assure

that no action is taken or failed to be taken if such action or failure adversely affects the exclusion of interest on the Bonds from gross income for federal income tax purposes, and all amounts owing to the Fiscal Agent pursuant to Section 7.05 hereof; and thereafter Reassessments shall not be payable to the Fiscal Agent. Notice of such election shall be filed with the Fiscal Agent. Any funds thereafter held by the Finance Director upon payments of all fees and expenses of the Fiscal Agent, which are not required for said purpose, shall be paid over to the City to be used by the City as provided in the Act and the Bond Law.

Section 9.04. Execution of Documents and Proof of Ownership by Owners. Any request, declaration or other instrument which this Agreement may require or permit to be executed by Owners may be in one or more instruments of similar tenor, and shall be executed by Owners in person or by their attorneys appointed in writing. Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. The ownership of registered bonds and the amount, maturity, number and date of holding the same shall be proved by the registry books. Any consent, request, declaration or other instrument or writing of the then registered Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the City or the Fiscal Agent in good faith and in accordance therewith.

Section 9.05. Waiver of Personal Liability. No member, officer, agent or employee of the City shall be individually or personally liable for the payment of the principal of, or interest or any premium on, the Bonds; but nothing herein contained shall relieve any such member, officer, agent or employee from the performance of any official duty provided by law.

Section 9.06. Notices to and Demand on City and Fiscal Agent. Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the Fiscal Agent to or on the City may be given or served by being deposited postage prepaid in a post office letter box addressed (until another address is filed by the City with the Fiscal Agent) as follows:

City of Tracy
City Hall
333 Civic Center Plaza
Tracy, California 95376
Attention: Director of Finance and Administrative Services

Any notice or demand which by any provision of this Agreement is required or permitted to be given or served by the City to or on the Fiscal Agent may be given or served, and shall be effective upon receipt, by being deposited postage prepaid in a post office letter box addressed which notice shall be effective upon receipt (until another address is filed by the Fiscal Agent with the City) as follows:

The Bank of New York Mellon Trust Company, N.A.
550 Kearny Street, Suite 600
San Francisco, California 94108
Attention: Corporate Trust Department

Section 9.07. Partial Invalidity. If any Section, paragraph, sentence, clause or phrase of this Agreement shall for any reason be held illegal or unenforceable, such holding shall not affect the validity of the remaining portions of this Agreement. The City hereby declares that it would have adopted this Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the issue of the Bonds pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Agreement may be held illegal, invalid or unenforceable.

Section 9.08. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any moneys held by the Finance Director or the Fiscal Agent in trust for the payment and discharge of the principal of, and the interest and any premium on, the Bonds which remains unclaimed for two (2) years after the date when payments of principal, interest and any premium have become payable, shall be repaid by the Finance Director or the Fiscal Agent to the City as its absolute property free from any trust, and the Fiscal Agent shall thereupon be released and discharged with respect thereto and the Bond Owners shall look only to the City for the payment of the principal of, and interest and any premium on, such Bonds.

Section 9.09. Applicable Law. This Agreement shall be governed by and enforced in accordance with the laws of the State of California applicable to contracts made and performed in the State of California.

Section 9.10. Conflict with Act. In the event of a conflict between any provision of this Agreement with any provision of the Act, the provision of the Act shall prevail over the conflicting provision of this Agreement.

Section 9.11. Conclusive Evidence of Regularity. Bonds issued pursuant to this Agreement shall constitute conclusive evidence of the regularity of all proceedings under the Act relative to their issuance and the levy of the Reassessments.

Section 9.12. Payment on Business Day. In any case where the date of the maturity of interest or of principal, (and premium, if any) of the Bonds or the date fixed for redemption of any Bonds or the date any action is to be taken pursuant to this Agreement is other than a Business Day, the payment of interest or principal, (and any redemption premium) or the action need not be made on such date but may be made on the next succeeding day which is a Business Day with the same force and effect as if made on the date required and no additional interest shall accrue from such Interest Payment Date until such Business Day.

Section 9.13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the City and the Fiscal Agent have caused this Agreement to be executed, all as of the date first written above.

CITY OF TRACY

By: _____
Director of Finance and Administrative Services

ATTEST:

_____
City Clerk

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Fiscal Agent

By: _____
Authorized Officer

EXHIBIT A
PRIOR DISTRICTS AND PRIOR BONDS

Assessment District Bonds	Resolution of Issuance Number	Date of Resolution of Issuance	Original Principal Amount
City of Tracy Limited Obligation Improvement Bonds Assessment District No. 98-4 (Morrison Homes)	98-337	October 20, 1998	$2,485,781
Limited Obligation Improvement Bonds City of Tracy Assessment District No. 2000-02 (Heartland Three)	2000-106	April 4, 2000	$893,000

EXHIBIT B
[FORM OF BOND]

United States of America
State of California
County of San Joaquin

Registered
Number A- _____ ***$_____***

LIMITED OBLIGATION REFUNDING IMPROVEMENT BOND
CITY OF TRACY
Reassessment District No. 2011-1 (Morrison Homes; Heartland Three)

INTEREST RATE	MATURITY DATE	DATED DATE	CUSIP

REGISTERED OWNER: Tracy Operating Partnership Joint Powers Authority

PRINCIPAL AMOUNT: *** DOLLARS***

Under and by virtue of the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 of the Streets and Highways Code (the "Act"), the City of Tracy, County of San Joaquin, State of California (the "City"), will, out of the redemption fund for the payment of the bonds issued upon the unpaid portion of reassessments made for the refunding bonds more fully described in proceedings taken pursuant to Resolution of Intention No. _____ adopted by the City Council of the City on November 1, 2011, pay to the registered owner named above or registered assigns, on the maturity date stated above, the principal amount stated above, in lawful money of the United States of America and in like manner will pay interest from the Interest Payment Date (as hereinafter defined) next preceding the date on which this bond is authenticated, unless this bond is authenticated and registered as of an Interest Payment Date, in which event it shall bear interest from such Interest Payment Date, or unless this bond is authenticated and registered prior to _____ 15, 20___, in which event it shall bear interest from the dated date above until payment of the principal amount shall have been discharged, at the rate per annum stated above, payable semiannually on March 2 and September 2 (each an "Interest Payment Date) in each year commencing on ____ 2, 20__. Both the principal hereof and redemption premium hereon are payable upon surrender at the corporate trust office of The Bank of New York Mellon Trust Company, N.A., as Authentication Agent, Fiscal Agent, Registrar and Paying Agent (the "Agent"), in San Francisco, California, and the interest hereon is payable by check mailed by first class mail to the registered owner hereof at the owner's address as it appears on the records of the Agent as of the 15th day of the calendar month immediately preceding each Interest Payment Date (the "Record Date"), or by wire transfer made on such Interest Payment Date upon written instructions of any Owner of $1,000,000 or more in aggregate principal amount of Bonds delivered to the Fiscal Agent prior to the applicable Record Date.

This bond will continue to bear interest after maturity at the rate above stated; provided it is presented at maturity and payment thereof is refused upon the sole ground that there are not sufficient moneys in the redemption fund with which to pay same. If it is not presented at maturity, interest thereon will run until maturity.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE HEREOF, WHICH FURTHER PROVISIONS OF THIS BOND SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH IN THIS PLACE.

This bond shall not be entitled to any benefit under the Act, the Resolution Authorizing Issuance of Bonds (the "Resolution of Issuance") and the Fiscal Agent Agreement dated as of December 1, 2011, between the City and the Agent (the "Fiscal Agent Agreement") or become valid or obligatory for any purpose, until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the Agent.

IN WITNESS WHEREOF, the City of Tracy has caused this bond to be signed in facsimile by the Treasurer of the City and by its City Clerk, and has caused its corporate seal to be reproduced in facsimile hereon all as of the dated date specified above..

CITY OF TRACY

_____	_____
City Clerk	Treasurer

[SEAL]

CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This is one of the bonds described in the within mentioned Resolution of Issuance and the Fiscal Agent Agreement.

Dated: _____

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,
as Fiscal Agent

By_____
Authorized Officer

ADDITIONAL PROVISIONS OF THE BOND

This bond is one of several annual series of bonds of like date, tenor, and effect, but differing in amounts, maturities and interest rates, issued by the City of Tracy under the Act, the Resolution of Issuance and the Fiscal Agent Agreement for the purpose of providing means for paying for the improvements described in the proceedings, and is secured by the moneys in the redemption fund and by the unpaid portion of assessments made for the payment of those improvements, and, including principal and interest, is payable exclusively out of the redemption fund.

This bond is transferable by the registered owner hereof, in person or by the owner's attorney duly authorized in writing, at the office of the Agent, subject to the terms and conditions provided in the Resolution of Issuance and the Fiscal Agent Agreement, including the payment of certain charges, if any, upon surrender and cancellation of this bond. Upon such transfer, a new registered bond or bonds, of any authorized denomination or denominations, of the same maturity, and for the same aggregate principal amount, will be issued to the transferee in exchange therefor.

Bonds shall be registered only in the name of an individual (including joint owners), a corporation, a partnership, or a trust.

Neither the City nor the Agent shall be required to make such exchange or registration of transfer of bonds during the 15 days of the calendar month immediately preceding any Interest Payment Date.

The City and the Agent may treat the registered owner hereof as the absolute owner for all purposes, and the City and the Agent shall not be affected by any notice to the contrary.

This bond or any portion of it in the amount of five thousand dollars ($5,000), or any integral multiple thereof, may be redeemed and paid in advance of maturity upon the second day of March or September in any year by giving at least 60 days' notice by registered or certified mail or personal service to the registered owner hereof at the registered owner's address as it appears on the registration books of the Agent and by paying principal and accrued interest together with a redemption premium in the amount of the following percentages of the principal amount redeemed: on March 2, 20__ and September 2, 20__, _____%; on March 2, 20__ and September 2, 20__, _____%; on March 2, 20__ and September 2, 20__, _____%; and on March 2, 20__ and thereafter, ____%.

This bond is a Limited Obligation Refunding Improvement Bond because, under the Resolution of Issuance and the Fiscal Agent Agreement, the City is not obligated to advance funds from the City treasury to cover any deficiency which may occur in the redemption fund for the bonds.

ABBREVIATIONS

The following abbreviations, when used in the inscription on the face of this bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM - as tenants in common
TEN ENT - as tenants by the entireties
JT TEN - as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT - _____Custodian_____ _____
(Cust) (Minor)

under Uniform Gifts to Minors Act

_____
(State)

Additional abbreviations may also be used though not in the above list.

(FORM OF ASSIGNMENT)

For value received, the undersigned do(es) hereby sell, assign and transfer unto

_____

_____

_____

(Name, Address and Tax Identification or Social Security Number of Assignee)

the within mentioned Bond and hereby irrevocably constitute(s) and appoint(s) _____, attorney, to transfer the same on the registration books of the Agent, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

_____

NOTICE: The signature(s) on this assignment must correspond with the name(s) as written on the face of the registered Bond in every particular without alteration or enlargement or any change whatsoever.

Jones Hall Draft 10-7-11

FISCAL AGENT AGREEMENT

Between

CITY OF TRACY

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Fiscal Agent

Dated as of December 1, 2011

$_____
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 99-2
(SOUTH MACARTHUR PLANNING AREA)
SPECIAL TAX BONDS
2011 SERIES A

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EXHIBIT A FORM OF SPECIAL TAX BOND, 2011 SERIES A A-1

FISCAL AGENT AGREEMENT

THIS FISCAL AGENT AGREEMENT (this "**Fiscal Agent Agreement**") is made and entered into as of December 1, 2011, by and between the City of Tracy, a municipal corporation and general law city organized and existing under and by virtue of the Constitution and laws of the State of California (the "**City**"), for and on behalf of the City's Community Facilities District No. 99-2 (South MacArthur Planning Area) (the "**CFD**"), and The Bank of New York Mellon Trust Company, N.A., a national banking association organized and existing under the laws of the United States of America, as fiscal agent (the "**Fiscal Agent**"), and governs the terms of the City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Bonds, 2011 Series A (the "**Bonds**") and any Parity Bonds issued in accordance herewith from time to time.

R E C I T A L S :

WHEREAS, the City Council of the City has conducted proceedings under and pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code (the "**Act**"), to form the CFD, to authorize the levy of special taxes upon the land within the CFD, and to issue bonds secured by said special taxes the proceeds of which special taxes and which bonds were to be used to finance certain public improvements (the "Project"), all as described in those proceedings; and

WHEREAS, under the provisions of the Act, on behalf of the CFD, the City has previously issued the following bonds (collectively, the "**Prior Bonds**"):

(i) $3,835,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2000 (the "**Series 2000 Bonds**") pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000, between the City and the Fiscal Agent; and

(ii) $7,665,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2002 (the "**Series 2002 Bonds**") pursuant to a First Supplemental Fiscal Agent Agreement, dated as of October 1, 2001, between the City and the Fiscal Agent; and

WHEREAS, the City wishes to refinance the Prior Bonds to take advantage of current interest rates; and

WHEREAS, the Prior Bonds are subject to redemption as follows: on any date on or after September 2, 2011, in whole or in part, at a redemption price equal to 100% of the principal amount of the Prior Bonds to be redeemed, plus accrued interest to the date fixed for redemption; and

WHEREAS, on November 1, 2011, for the purpose of refinancing the Prior Bonds, the City Council adopted Resolution No. 2011-___ (the "**Resolution**") authorizing the issuance and sale of the Bonds by the City for and on behalf of the CFD pursuant to this Fiscal Agent Agreement, which special tax bonds shall be issued in a single series; and

WHEREAS, the City has determined that it is in the public interest and for the benefit of the City, the persons responsible for the payment of special taxes and the owners of the Bonds that the City enter into this Fiscal Agent Agreement to provide for the issuance of the Bonds, the disbursement of proceeds of the Bonds, the disposition of the special taxes securing the bonds, and the administration and payment of the Bonds; and

WHEREAS, the City has determined that all things necessary to cause the bonds, when authenticated by the Fiscal Agent and issued as provided in the Act, the Resolution and this Fiscal Agent Agreement, to be legal, valid and binding and limited obligations in accordance with their terms, and all things necessary to cause the creation, authorization, execution and delivery of this Fiscal Agent Agreement and the creation, authorization, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, in order to establish the terms and conditions upon and subject to which the Bonds are to be issued, and in consideration of the premises and of the mutual covenants contained herein and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable consideration, the receipt of which is hereby acknowledged, the City does hereby covenant and agree, for the benefit of the Owners of the Bonds as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. Unless the context otherwise requires, the following terms shall have the following meanings:

"Account" means any account created pursuant to this Fiscal Agent Agreement.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, Sections 53311 et seq. of the California Government Code.

"Administrative Expenses" means any or all of the following:

(a) the expenses directly related to the administration of the CFD, including, but not limited to, the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or a designee thereof or both); the costs of collecting the Special Taxes (whether by the County, the City or otherwise); the costs of remitting the Special Taxes to the Fiscal Agent; the costs associated with preparing Special Tax disclosure statements and responding to the public inquiries regarding the Special Taxes; the costs of the City, the CFD or any designee thereof related to an appeal of the Special Tax;

(b) the costs of the Fiscal Agent (including its legal counsel) in the discharge of the duties of the Fiscal Agent pertaining to the Bonds required under this Fiscal Agent Agreement and any Supplemental Agreement;

(c) the costs of the City or any designee thereof of complying with the City, the CFD, the Authority or obligated person disclosure requirements associated with applicable federal or state securities laws of the Act pertaining to the bonds;

(d) the Authority Administrative Expenses;

(e) any amounts required to be rebated to the federal government; and

(f) all other costs and expenses of the City (including, but not limited to, an allocable share of the salaries of the City staff directly related to the foregoing, a proportionate amount of City general administrative overhead related to the foregoing, and amounts advanced by the City for any administrative purpose of the CFD, including costs related to prepayments of Special Taxes, recordings related to such prepayments and satisfaction of Special Taxes, amounts advanced to ensure maintenance of tax exemption, and the costs of prosecuting foreclosure of delinquent Special Taxes, which amounts advanced are subject to reimbursement from other sources, including proceeds of foreclosure) and the Fiscal Agent incurred in connection with the discharge of their respective duties hereunder and in any way related to the administration of the CFD and all actual costs and expenses incurred in connection with the administration of the Bonds.

"Administrative Expenses Cap" means (i) for fiscal year 2012-13, $_____ and (ii) for each subsequent year, an amount equal to the preceding fiscal year's Administrative Expenses Cap plus an additional 2% of such amount.

"Annual Debt Service" means the principal amount of any Outstanding Bonds or Parity Bonds payable in a Bond Year either at maturity or pursuant to a Sinking Fund Payment and any interest payable on any Outstanding Bonds or Parity Bonds in such Bond Year, if the Bonds and any Parity Bonds are retired as scheduled.

"Authority" means the Tracy Operating Partnership Joint Powers Authority.

"Authority Bonds" means any bonds outstanding under the Authority Indenture, which are secured by payments made on the Bonds.

"Authority Indenture" means that certain Indenture of Trust, dated as of December 1, 2011, by and between the Authority and the Authority Fiscal Agent, pursuant to which the Authority Bonds are issued.

"Authority Fiscal Agent" means The Bank of New York Mellon Trust Company, N.A. or any successor thereto appointed pursuant to the Authority Indenture.

"Authorized Investments" means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein, but only to the extent that the same are acquired at Fair Market Value:

(a) Federal Securities;

(b) any of the following direct or indirect obligations of the following agencies of the United States of America: (i) direct obligations of the Export-Import Bank; (ii) certificates of beneficial ownership issued by the Farmers Home Administration; (iii) participation certificates issued by the General Services Administration; (iv) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration; (v) project notes issued by the United States Department of Housing and Urban Development; and (vi) public housing notes and bonds guaranteed by the United States of America;

(c) interest-bearing demand or time deposits (including certificates of deposit) or deposit accounts in federal or state chartered savings and loan associations or in federal or State of California banks (including the Trustee), provided that (i) the unsecured short-term obligations of such commercial bank or savings and loan association shall be rated in the highest short-term rating category by any Rating Agency or (ii) such demand or time deposits shall be fully insured by the Federal Deposit Insurance Corporation;

(d) commercial paper rated in the highest short-term rating category by any Rating Agency, issued by corporations which are organized and operating

within the United States of America, and which matures not more than 180 days following the date of investment therein;

(e) bankers acceptances, consisting of bills of exchange or time drafts drawn on and accepted by a commercial bank whose short-term obligations are rated in the highest short-term rating category by any Rating Agency or whose long-term obligations are rated A or better by each such Rating Agency, which mature not more than 270 days following the date of investment therein;

(f) obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by any Rating Agency or (b) fully secured as to the payment of principal and interest by Federal Securities;

(g) obligations issued by any corporation organized and operating within the United States of America having assets in excess of Five Hundred Million Dollars ($500,000,000), which obligations are rated A or better by any Rating Agency;

(h) money market funds (including money market funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services) which invest in Federal Securities or which are rated in the highest rating category by any Rating Agency;

(i) any investment agreement, repurchase agreement or other investment instrument which represents the general unsecured obligations of a bank, investment banking firm or other financial institution whose long-term obligations are rated A or better by any Rating Agency; and

(j) the Local Agency Investment Fund of the State, created pursuant to Section 16429.1 of the California Government Code.

"Authorized Representative of the City" means the Mayor, City Manager, Finance Director or City Clerk, or any other person or persons designated by a written certificate signed on behalf of the City by the City Manager or Finance Director of the City and containing the specimen signature of each such person.

"Bond Counsel" means Jones Hall, A Professional Law Corporation, and its successors; or any other attorney at law or firm of attorneys selected by the Authority, of nationally recognized standing in matters pertaining to the federal tax exemption of interest on bonds issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

"Bond Register" means the books which the Fiscal Agent shall keep or cause to be kept on which the registration and transfer of the Bonds and any Parity Bonds shall be recorded.

"Bondowner" or "Owner" means the person or persons in whose name or names any Bond or Parity Bond is registered.

"Bonds" means the $_____ City of Tracy Community Facilities District No. 99-2 Special Tax Bonds, 2011 Series A Bonds.

"Bond Year" means the twelve month period commencing on September 2 of each year and ending on September 1 of the following year, except that the first Bond Year for the Bonds or an issue of Parity Bonds shall begin on the Delivery Date and end on the first September 1 which is not more than 12 months after the Delivery Date.

"Business Day" means a day which is not a Saturday or Sunday or a day of the year on which banks in New York, New York, Los Angeles, California, or the city where the corporate trust office of the Fiscal Agent is located, are not required or authorized to remain closed.

"Certificate of an Authorized Representative" means a written certificate or warrant request executed by an Authorized Representative of the City.

"CFD" means City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) established pursuant to the Act and the Resolution of Formation.

"City" means the City of Tracy.

"Code" means the Internal Revenue Code of 1986 as in effect on the date of issuance of the Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated, and applicable official guidance published, under the Code.

"Costs of Issuance" shall have the meaning set forth in the Authority Indenture.

"Delivery Date" means, with respect to the Bonds and each issue of Parity Bonds, the date on which the bonds of such issue were issued and delivered to the initial purchasers thereof.

"Escrow Agreement" means the Escrow Deposit and Trust Agreement, dated as of December 1, 2011, by and between the City, for and on behalf of the CFD, and the Fiscal Agent.

"Escrow Fund" means the fund of that name established pursuant to the Escrow Agreement.

"Fair Market Value" means, with respect to any investment, the price at which a willing buyer would purchase such investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as described above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States

Treasury Security - State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the Authority and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

"Federal Securities" means any of the following:

(a) Cash (insured at all times by the Federal Deposit Insurance Corporation).

(b) Obligations of, or obligations guaranteed as to principal and interest by, the U.S. or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the U.S. including:

- U.S. treasury obligations
- All direct or fully guaranteed obligations
- Farmers Home Administration
- General Services Administration
- Guaranteed Title XI financing
- Government National Mortgage Association (GNMA)
- State and Local Government Series

"Finance Director" means the official of the City, or such official's designee, who acts in the capacity as the chief financial officer of the City, including the controller or other financial officer.

"Fiscal Agent" means The Bank of New York Mellon Trust Company, N.A., a national banking association organized and existing under the laws of the United States of America, at its principal corporate trust office in San Francisco, California, and its successors or assigns, or any other bank or trust company which may at any time be substituted in its place as provided in Sections 7.2 or 7.3 and any successor thereto.

"Fiscal Agent Agreement" means this Fiscal Agent Agreement, together with any Supplemental Agreement approved pursuant to Article 6 hereof.

"Fiscal Year" means the period beginning on July 1 of each year and ending on the next following June 30.

"Gross Taxes" means the proceeds of the Special Taxes received by the City, including any scheduled payments and any prepayments thereof, interest thereon and proceeds of the redemption or sale of property sold as a result of foreclosure of the lien of the Special Taxes to the amount of said lien and interest thereon. "Gross Taxes" does not include any penalties collected in connection with delinquent Special Taxes or any interest in excess of the interest due on the Bonds.

"Independent Financial Consultant" means a financial consultant or firm of such consultants generally recognized to be well qualified in the financial consulting field, appointed and paid by the City, who, or each of whom:

(1) is in fact independent and not under the domination of the City;

(2) does not have any substantial interest, direct or indirect, in the City; and

(3) is not connected with the City as a member, officer or employee of the City, but who may be regularly retained to make annual or other reports to the City.

"Interest Payment Date" means each March 1 and September 1, commencing March 1, 2012; provided, however, that, if any such day is not a Business Day, interest up to the Interest Payment Date will be paid on the Business Day next preceding such date.

"Maximum Annual Debt Service" means the maximum sum obtained for any Bond Year prior to the final maturity of the Bonds and any Parity Bonds by adding the following for each Bond Year:

(1) the principal amount of all Outstanding Bonds and Parity Bonds payable in such Bond Year either at maturity or pursuant to a Sinking Fund Payment; and

(2) the interest payable on the aggregate principal amount of all Bonds and Parity Bonds Outstanding in such Bond Year if the Bonds and Parity Bonds are retired as scheduled.

"Moody's" means Moody's Investors Service, its successors and assigns.

"Net Taxes" means Gross Taxes minus amounts set aside to pay Administrative Expenses.

"Nominee" shall mean the nominee of the Depository, which may be the Depository, as determined from time to time pursuant to Section 2.16 hereof.

"Ordinance" means any ordinance of the City levying the Special Taxes, including but not limited to Ordinance No. 1012 introduced by the City Council on January 4, 2000 and adopted on January 18, 2000.

"Outstanding" or "Outstanding Bonds and Parity Bonds" means all Bonds and Parity Bonds theretofore issued by the City, except:

(1) Bonds and Parity Bonds theretofore cancelled or surrendered for cancellation in accordance with Section 9.1 hereof;

(2) Bonds and Parity Bonds for payment or redemption of which monies shall have been theretofore deposited in trust (whether upon or prior to the maturity or the redemption date of such Bonds or Parity Bonds), provided that, if such Bonds or Parity Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in this Fiscal Agent Agreement or any applicable Supplemental Agreement for Parity Bonds; and

(3) Bonds and Parity Bonds which have been surrendered to the Fiscal Agent for transfer or exchange pursuant to Section 2.9 hereof or for which a replacement has been issued pursuant to Section 2.10 hereof.

"Parity Bonds" means bonds issued pursuant to Section 8.2 of this Fiscal Agent Agreement that are payable from Net Taxes and other amounts deposited in the Special Tax Fund and secured by a lien and charge upon such amounts equal to the lien and charge securing the Bonds.

“Participants” shall mean those broker-dealers, banks and other financial institutions from time to time for which the Depository holds Bonds or Parity Bonds as securities depository.

“Person” means natural persons, firms, corporations, partnerships, associations, trusts, public bodies and other entities.

“Prepayments” means any amounts paid by the City to the Fiscal Agent and designated by the City as a prepayment of Special Taxes for one or more parcels in the CFD made in accordance with the Rate and Method of Apportionment of Special Taxes attached to the Resolution of Formation.

“Principal Office of the Fiscal Agent” means the office of the Fiscal Agent located in San Francisco, California, or such other office or offices as the Fiscal Agent may designate from time to time, or the office of any successor Fiscal Agent where it principally conducts its business of serving as trustee under indentures pursuant to which municipal or governmental obligations are issued.

“Prior Bonds” means, collectively, the following:

(i) the Series 2000 Bonds; and

(ii) the Series 2002 Bonds

"Prior Bonds Fiscal Agent" means The Bank of New York Mellon Trust Company, N.A., as successor fiscal agent with respect to the Prior Bonds under the Prior Bonds Fiscal Agent Agreement.

“Prior Bonds Fiscal Agent Agreement” means the Fiscal Agent Agreement, dated as of April 1, 2000, between the City, for and on behalf of the CFD, and the Prior Bonds Fiscal Agent, as supplemented by a First Supplemental Fiscal Agent Agreement, dated as of July 1, 2002, between the City and the Prior Bonds Fiscal Agent.

“Project” means those items described as “Facilities” in the Resolution of Formation.

“Rating Agency” means Moody’s and Standard & Poor’s, or both, as the context requires.

“Record Date” means the fifteenth day of the month preceding an Interest Payment Date, regardless of whether such day is a Business Day.

“Reserve Account” means the account by that name created and established in the Special Tax Fund pursuant to Section 3.1 hereof.

“Reserve Requirement” means as of any date of calculation, an amount equal to the sum of: (1) 75% of Maximum Annual Debt Service on the Outstanding Bonds; plus (2) interest earnings retained in the Reserve Account; provided that the Reserve Requirement shall not exceed, as of the date of calculation, the least of (i) 10% of the initial principal amount of the Bonds, (ii) Maximum Annual Debt Service on the Outstanding Bonds, or (iii) 125% of average Annual Debt Service on the Outstanding Bonds.“Resolution of Formation” means Resolution No. 2000-02 adopted by the City Council of the City on January 4, 2000 pursuant to which the City formed the CFD.

“Securities Depositories” means DTC; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other securities depositories as the City designates in written notice filed with the Fiscal Agent.

"Series 2000 Bonds" means the $3,835,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2000.

"Series 2002 Bonds" means the $7,665,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2002

“Sinking Fund Payment” means the annual payment to be deposited in the Redemption Account to redeem a portion of the Term Bonds in accordance with the schedule set forth in Section 4.1(b) hereof and any annual sinking fund payment schedule to retire any Parity Bonds which are designated as Term Bonds.

“Special Tax Fund” means the fund by that name created and established pursuant to Section 3.1 hereof.

“Special Taxes” means the taxes authorized to be levied by the City on property within the CFD in accordance with the Ordinance, the Resolution of Formation, the Act and the voter approval obtained at the January 4, 2000 election in the CFD.

“Standard & Poor’s” means Standard & Poor’s Ratings Group, a division of McGraw-Hill, its successors and assigns.

“Supplemental Agreement” means any Supplemental Agreement amending or supplementing this Fiscal Agent Agreement.

“Surplus Fund” means the fund by that name created and established pursuant to Section 3.1 hereof.

“Term Bonds” means the Bonds subject to mandatory sinking fund redemption.

ARTICLE II

GENERAL AUTHORIZATION AND BOND TERMS

Section 2.1. Amount, Issuance, Purpose and Nature of Bonds and Parity Bonds. Under and pursuant to the Act, the Bonds in the aggregate principal amount of $_____ shall be issued for the purpose of (a) refunding and defeasing the Prior Bonds, (b) funding the Reserve Requirement, and (c) funding a portion of the Costs of Issuance.

Section 2.2. Type and Nature of Bonds and Parity Bonds. Neither the faith and credit nor the taxing power of the City, the State of California or any political subdivision thereof other than the City is pledged to the payment of the Bonds and Parity Bonds. Except for the Special Taxes, no other taxes are pledged to the payment of the Bonds and Parity Bonds. The Bonds and any Parity Bonds are not general obligations of the City, but are limited obligations of the City payable solely from certain amounts deposited by the City in the Special Tax Fund (exclusive of the Administrative Expense Account), as more fully described herein. The City's limited obligation to pay the principal of, premium, if any, and interest on the Bonds and any Parity Bonds from amounts in the Special Tax Fund (exclusive of the Administrative Expense Account) is absolute and unconditional, free of deductions and without any abatement, offset, recoupment, diminution or set-off whatsoever. No Owner of the Bonds or any Parity Bonds may compel the exercise of the taxing power by the City (except as pertains to the Special Taxes) or the forfeiture of any of its property. The principal of and interest on the Bonds and any Parity Bonds and premiums upon the redemption thereof, if any, are not a debt of the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory limitation or restriction. The Bonds and any Parity Bonds are not a legal or equitable pledge, charge, lien, or encumbrance upon any of the City's property, or upon any of its income, receipts or revenues, except the Net Taxes and other amounts in the Special Tax Fund (exclusive of the Administrative Expense Account) which are, under the terms of this Fiscal Agent Agreement and the Act, set aside for the payment of the Bonds and interest thereon and neither the members of the City Council of the City nor any persons executing the Bonds are liable personally on the Bonds by reason of their issuance.

Notwithstanding anything to the contrary contained in this Fiscal Agent Agreement, the City shall not be required to advance any money derived from any source of income other than the Net Taxes for the payment of the interest on or the principal of the Bonds or any Parity Bonds, or for the performance of any covenants contained herein. The City may, however, advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose.

Section 2.3. Equality of Bonds and Parity Bonds and Pledge of Net Taxes. Pursuant to the Act and this Fiscal Agent Agreement, the Bonds and any Parity Bonds shall be equally payable from the Net Taxes and other amounts in the Special Tax Fund (exclusive of the Administrative Expense Account), without priority for number, date of the Bonds or Parity Bonds, date of sale, date of execution, or date of delivery, and the payment of the interest on and principal of the Bonds and any Parity Bonds and premiums upon the redemption thereof, shall be exclusively paid from the Net Taxes and other amounts in the Special Tax Fund (exclusive of the Administrative Expense Account), which are hereby set aside for the payment of the Bonds and any Parity Bonds. Amounts in the Special Tax Fund (other than the Administrative Expense Account therein) shall constitute a trust fund held for the benefit of the

Owners to be applied to the payment of the interest on and principal of the Bonds and any Parity Bonds and so long as any of the Bonds and any Parity Bonds or interest thereon remain Outstanding shall not be used for any other purpose, except as permitted by this Fiscal Agent Agreement or any Supplemental Agreement. Notwithstanding any provision contained in this Fiscal Agent Agreement to the contrary, Net Taxes deposited in the Surplus Fund shall no longer be considered to be pledged to the Bonds or any Parity Bonds, and none of the Surplus Fund, or the Administrative Expense Account of the Special Tax Fund shall be construed as a trust fund held for the benefit of the Owners.

Nothing in this Fiscal Agent Agreement or any Supplemental Agreement shall preclude; (a) the redemption prior to maturity of any Bonds or Parity Bonds subject to call and redemption and payment of said Bonds or Parity Bonds from proceeds of refunding bonds issued under the Act as the same now exists or as hereafter amended, or under any other law of the State of California; or (b) the issuance, subject to the limitations contained herein, of Parity Bonds which shall be payable from Net Taxes.

Section 2.4. Description of Bonds; Interest Rates. The Bonds and any Parity Bonds shall be issued in fully registered form in denominations of $5,000 or any integral multiple thereof. The Bonds and any Parity Bonds of each issue shall be numbered as desired by the Fiscal Agent.

The Bonds shall be designated "CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 99-2 (SOUTH MACARTHUR PLANNING AREA) SPECIAL TAX BONDS, 2011 SERIES A." The Bonds shall be dated as of their Delivery Date and shall mature and be payable on September 1 in the years and in the aggregate principal amounts and shall be subject to and shall bear interest at the rates set forth in the table below, payable on March 1, 2012 and each Interest Payment Date thereafter:

Maturity Date (September 1)	Principal Amount	Interest Rate Per Annum
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2021		
2022		
2023		
2024		
2025		
2026		
2027		

Interest shall be payable on each Bond and Parity Bond from the date established in accordance with Section 2.5 below on each Interest Payment Date thereafter until the principal sum of that Bond or Parity Bond has been paid; provided, however, that if at the maturity date of any Bond funds are available for the payment or redemption thereof in full, in accordance with the terms of this Fiscal Agent Agreement, such Bonds and Parity Bonds shall then cease to bear interest. Interest due on the Bonds and Parity Bonds shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

Section 2.5. Place and Form of Payment. The Bonds and Parity Bonds shall be payable both as to principal and interest, and as to any premiums upon the redemption thereof, in lawful money of the United States of America. The principal of the Bonds and Parity Bonds and any premiums due upon the redemption thereof shall be payable upon presentation and surrender thereof at the Principal Office of the Fiscal Agent, or at the designated office of any successor Fiscal Agent. Interest on any Bond shall be payable from the Interest Payment Date next preceding the date of authentication of that Bond, unless (i) such date of authentication is an Interest Payment Date in which event interest shall be payable from such date of authentication, (ii) the date of authentication is after a Record Date but prior to the immediately succeeding Interest Payment Date, in which event interest shall be payable from the Interest Payment Date immediately succeeding the date of authentication, or (iii) the date of authentication is prior to the close of business on the first Record Date occurring after the issuance of such Bond or Parity Bond, in which event interest shall be payable from the dated date of such Bond or Parity Bond; provided, however, that if at the time of authentication of such Bond or Parity Bond, interest is in default, interest on that Bond or Parity Bond shall be payable from the last Interest Payment Date to which the interest has been paid or made available for payment or, if no interest has been paid or made available for payment on that Bond or Parity Bond, interest on that Bond or Parity Bond shall be payable from its dated date. Interest on any Bond or Parity Bond shall be paid to the person whose name shall appear in the Bond Register as the Owner of such Bond or Parity Bond as of the close of business on the Record Date. Such interest shall be paid by check of the Fiscal Agent mailed by first class mail, postage prepaid, to such Bondowner at his or her address as it appears on the Bond Register. In addition, upon a request in writing received by the Fiscal Agent on or before the applicable Record Date from an Owner of $1,000,000 or more in principal amount of the Bonds, payment shall be made on the Interest Payment Date by wire transfer in immediately available funds to an account designated by such Owner.

Section 2.6. Form of Bonds and Parity Bonds. The Bonds and the certificate of authentication shall be substantially in the form attached hereto as Exhibit A, which forms are hereby approved and adopted as the forms of such Bonds and any Parity Bonds and of the certificate of authentication.

Notwithstanding any provision in this Fiscal Agent Agreement to the contrary, the City may, in its sole discretion, elect to issue the Bonds and any Parity Bonds in book entry form.

Until definitive Bonds or Parity Bonds shall be prepared, the City may cause to be executed and delivered in lieu of such definitive Bonds or Parity Bonds temporary bonds in fully registered form, subject to the same provisions, limitations and conditions as are applicable in the case of definitive Bonds or Parity Bonds, except that they may be in any denominations authorized by the City. Until exchanged for definitive Bonds or Parity Bonds, any temporary bond shall be entitled and subject to the same benefits and provisions of this Fiscal Agent

Agreement as definitive Bonds and Parity Bonds. If the City issues temporary Bonds, it shall execute and furnish definitive Bonds or Parity Bonds, as applicable, without unnecessary delay and thereupon any temporary Bond or Parity Bond may be surrendered to the Fiscal Agent at its office, without expense to the Owner, in exchange for a definitive Bond or Parity Bond of the same issue, maturity, interest rate and principal amount in any authorized denomination. All temporary Bonds and Parity Bonds so surrendered shall be cancelled by the Fiscal Agent and shall not be reissued.

Section 2.7. Execution and Authentication. The Bonds and Parity Bonds shall be signed on behalf of the City by the manual or facsimile signature of the Finance Director and by the manual or facsimile signature of the City Clerk, or any duly appointed deputy City Clerk, in their capacity as officers of the City, and the seal of the City (or a facsimile thereof) shall be impressed, imprinted, engraved or otherwise reproduced thereon, and attested by the signature of the City Clerk. In case any one or more of the officers who shall have signed or sealed any of the Bonds or Parity Bonds shall cease to be such officer before the Bonds or Parity Bonds so signed and sealed have been authenticated and delivered by the Fiscal Agent (including new Bonds or Parity Bonds delivered pursuant to the provisions hereof with reference to the transfer and exchange of Bonds or Parity Bonds or to lost, stolen, destroyed or mutilated Bonds), such Bonds or Parity Bonds shall nevertheless be valid and may be authenticated and delivered as herein provided, and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office.

Only the Bonds as shall bear thereon such certificate of authentication in the form set forth in Exhibit A attached hereto shall be entitled to any right or benefit under this Fiscal Agent Agreement, and no Bond shall be valid or obligatory for any purpose until such certificate of authentication shall have been duly executed by the Fiscal Agent.

Section 2.8. Bond Register. The Fiscal Agent will keep or cause to be kept, at its office, sufficient books for the registration and transfer of the Bonds and any Parity Bonds which shall upon reasonable prior notice be open to inspection by the City during all regular business hours, and, subject to the limitations set forth in Section 2.9 below, upon presentation for such purpose, the Fiscal Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be transferred on said Bond Register, Bonds and any Parity Bonds as herein provided.

The City and the Fiscal Agent may treat the Owner of any Bond or Parity Bond whose name appears on the Bond Register as the absolute Owner of that Bond or Parity Bond for any and all purposes, and the City and the Fiscal Agent shall not be affected by any notice to the contrary. The City and the Fiscal Agent may rely on the address of the Bondowner as it appears in the Bond Register for any and all purposes. It shall be the duty of the Bondowner to give written notice to the Fiscal Agent of any change in the Bondowner's address so that the Bond Register may be revised accordingly.

Section 2.9. Registration of Exchange or Transfer. Subject to the limitations set forth in the following paragraph, the registration of any Bond or Parity Bond may, in accordance with its terms, be transferred upon the Bond Register by the person in whose name it is registered, in person or by his or her duly authorized attorney, upon surrender of such Bond or Parity Bond for cancellation at the office of the Fiscal Agent, accompanied by delivery of written instrument of

transfer in a form acceptable to the Fiscal Agent and duly executed by the Bondowner or his or her duly authorized attorney.

Bonds or Parity Bonds may be exchanged at the office of the Fiscal Agent for a like aggregate principal amount of Bonds or Parity Bonds for other authorized denominations of the same maturity and issue. The Fiscal Agent shall not collect from the Owner any charge for any new Bond or Parity Bond issued upon any exchange or transfer, but shall require the Bondowner requesting such exchange or transfer to pay any tax or other governmental charge required to be paid with respect to such exchange or transfer. Whenever any Bonds or Parity Bonds shall be surrendered for registration of transfer or exchange, the City shall execute and the Fiscal Agent shall authenticate and deliver a new Bond or Bonds or a new Parity Bond or Parity Bonds, as applicable, of the same issue and maturity, for a like aggregate principal amount; provided that the Fiscal Agent shall not be required to register transfers or make exchanges of (i) Bonds or Parity Bonds for a period of 15 days next preceding any selection of the Bonds or Parity Bonds to be redeemed, or (ii) any Bonds or Parity Bonds chosen for redemption.

Section 2.10. Mutilated, Lost, Destroyed or Stolen Bonds or Parity Bonds. If any Bond or Parity Bond shall become mutilated, the City shall execute, and the Fiscal Agent shall authenticate and deliver, a new Bond or Parity Bond of like tenor, date, issue and maturity in exchange and substitution for the Bond or Parity Bond so mutilated, but only upon surrender to the Fiscal Agent of the Bond or Parity Bond so mutilated. Every mutilated Bond or Parity Bond so surrendered to the Fiscal Agent shall be cancelled by the Fiscal Agent pursuant to Section 9.1 hereof. If any Bond or Parity Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Fiscal Agent and, if such evidence is satisfactory to the Fiscal Agent and, if any indemnity satisfactory to the Fiscal Agent shall be given, the City shall execute and the Fiscal Agent shall authenticate and deliver, a new Bond or Parity Bond, as applicable, of like tenor, maturity and issue, numbered and dated as the Fiscal Agent shall determine in lieu of and in substitution for the Bond or Parity Bond so lost, destroyed or stolen. Any Bond or Parity Bond issued in lieu of any Bond or Parity Bond alleged to be mutilated, lost, destroyed or stolen, shall be equally and proportionately entitled to the benefits hereof with all other Bonds or Parity Bonds issued hereunder. The Fiscal Agent shall not treat both the original Bond or Parity Bond and any replacement Bond or Parity Bond as being Outstanding for the purpose of determining the principal amount of Bonds or Parity Bonds which may be executed, authenticated and delivered hereunder or for the purpose of determining any percentage of Bonds or Parity Bonds Outstanding hereunder, but both the original and replacement Bond or Parity Bond shall be treated as one and the same. Notwithstanding any other provision of this Section, in lieu of delivering a new Bond or Parity Bond which has been mutilated, lost, destroyed or stolen, and which has matured, the Fiscal Agent may make payment with respect to such Bonds or Parity Bonds

Section 2.11. Validity of Bonds and Parity Bonds. The validity of the authorization and issuance of the Bonds and any Parity Bonds shall not be affected in any way by any defect in any proceedings taken by the City for the refunding of the Prior Bonds, and the recital contained in the Bonds or any Parity Bonds that the same are issued pursuant to the Act and other applicable laws of the State shall be conclusive evidence of their validity and of the regularity of their issuance.

ARTICLE III

CREATION OF FUNDS AND APPLICATION OF PROCEEDS

Section 3.1. Creation of Funds; Application of Proceeds and Other Moneys.

(a) Creation of Funds. There is hereby created and established and shall be maintained by the Fiscal Agent the following funds and accounts:

(1) The Community Facilities District No. 99-2 Special Tax Fund (the "**Special Tax Fund**") (in which there shall be established and created an Interest Account, a Principal Account, a Redemption Account, a Reserve Account and an Administrative Expense Account); and

(2) The Community Facilities District No. 99-2 Surplus Fund (the "**Surplus Fund**").

The amounts on deposit in the foregoing funds, accounts and subaccounts shall be held by the Fiscal Agent and the Fiscal Agent shall invest and disburse the amounts in such funds, accounts and subaccounts in accordance with the provisions of this Article 3 and shall disburse investment earnings thereon in accordance with the provisions of Section 3.8 hereof.

(b) Application of Proceeds. Proceeds from the sale of the Bonds in the amount of $_____ (representing the par amount of the Bonds less an original issue discount of $_____ and less the Bonds' share of the JPA Bonds' underwriter discount ($_____)) shall be received by the Fiscal Agent and deposited or transferred on the Delivery Date as follows:

(i) $____ of the proceeds of the sale of the Bonds shall be deposited into the Escrow Fund.

(ii) $_____ of the proceeds of the sale of the Bonds representing a portion of the Costs of Issuance shall be immediately transferred to the Authority Fiscal Agent for deposit in the Cost of Issuance Fund (as such term is defined in the Authority Indenture).

(iii) $_____ of the proceeds of the sale of the Bonds shall be transferred to the Reserve Account of the Special Tax Fund to fund the Reserve Requirement.

The Fiscal Agent may, in its discretion, establish a temporary fund or account in its books and records to facilitate such transfers.

(c) Application of Other Moneys. The Fiscal Agent, in its capacity as Prior Bonds Fiscal Agent, shall transfer any remaining moneys in the funds and accounts relating to the Prior Bonds into the Prior Bonds Account of the Project Fund established pursuant to Section 3.10 of the Authority Indenture.

Section 3.2. Deposits to and Disbursements from Special Tax Fund.

(a) Except for the portion of any Prepayment to be deposited to the Redemption Account as specified in a Certificate of an Authorized Representative of the City, and except as set forth in Section 3.1(c) above, the Fiscal Agent shall, on each date on which the Special Taxes are received from the City (pursuant to Section 5.2(a)), deposit the Special Taxes in the Special Tax Fund to be held in trust for the Owners. The Fiscal Agent shall transfer the Special Taxes on deposit in the Special Tax Fund on the dates and in the amounts set forth in the following Sections, in the following order of priority, to:

(1) The Administrative Expense Account of the Special Tax Fund;

(2) The Interest Account of the Special Tax Fund;

(3) The Principal Account of the Special Tax Fund;

(4) The Redemption Account of the Special Tax Fund;

(5) The Reserve Account of the Special Tax Fund;; and

(6) The Surplus Fund.

Section 3.3. Administrative Expense Account of the Special Tax Fund. The Fiscal Agent shall transfer from the Special Tax Fund and deposit in the Administrative Expense Account of the Special Tax Fund from time to time amounts necessary to make timely payment of Administrative Expenses; provided, however, that the total amount transferred in a Bond Year shall not exceed the Administrative Expenses Cap until such time as there has been deposited to the Interest Account and the Principal Account an amount, together with any amounts already on deposit therein, that is sufficient to pay the interest and principal on all Bonds and Parity Bonds due in such Bond Year and to restore the Reserve Account to the Reserve Requirement. Notwithstanding the foregoing, amounts in excess of the Administrative Expenses Cap may be transferred to the Administrative Expense Account prior to the transfers to the Interest Account, the Principal Account and the Redemption Account pursuant to Sections 3.4 and 3.5 below to the extent necessary to collect delinquent Special Taxes.

Following the required transfers pursuant to Sections 3.4 and 3.5 below of amounts sufficient to pay the interest and principal on all Bonds due in a Bond Year and to restore the Reserve Account to the Reserve Requirement , an Authorized Representative of the City may direct the Fiscal Agent, in writing, to transfer additional amounts from the Special Tax Fund to the Administrative Expense Account. Moneys in the Administrative Expense Account of the Special Tax Fund may be invested in any Authorized Investments as directed in writing by an Authorized Representative of the City and shall be disbursed as directed in a Certificate of an Authorized Representative.

Section 3.4. Interest Account and Principal Account of the Special Tax Fund. The principal of and interest due on the Bonds and any Parity Bonds until maturity, other than principal due upon redemption, shall be paid by the Fiscal Agent from the Principal Account and the Interest Account of the Special Tax Fund, respectively. For the purpose of assuring that the payment of principal of and interest on the Bonds and any Parity Bonds will be made when due, after making the transfer required by Section 3.3, at least five Business Days prior to each March 1 and September 1, the Fiscal Agent shall transfer from the Special Tax Fund, first to the

Interest Account and then to the Principal Account, the amount required to pay interest on and principal of the Bonds on the immediately succeeding March 1 or September 1; provided, however, that to the extent that deposits have been made in the Interest Account or the Principal Account from the proceeds of the sale of an issue of the Bonds, any Parity Bonds, or otherwise, the transfer from the Special Tax Fund need not be made; and provided, further, that, if amounts in the Special Tax Fund (exclusive of the Reserve Account) are inadequate to make the foregoing transfers, then any deficiency shall be made up by transfers from the Reserve Account.

Section 3.5. Redemption Account of the Special Tax Fund.

(a) With respect to each September 1 on which a Sinking Fund Payment is due, after the deposits have been made to the Administrative Expense Account, the Interest Account and the Principal Account of the Special Tax Fund as required by Sections 3.3 and 3.4 hereof, the Fiscal Agent shall next transfer into the Redemption Account of the Special Tax Fund from the Special Tax Fund the amount needed to make the balance in the Redemption Account five Business Days prior to each September 1 equal to the Sinking Fund Payment due on any Outstanding Bonds and Parity Bonds on such September 1; provided, however, that, if amounts in the Special Tax Fund are inadequate to make the foregoing transfers, then any deficiency shall be made up by an immediate transfer from the Reserve Account, if funded, pursuant to Section 3.6 below. Moneys so deposited in the Redemption Account shall be used and applied by the Fiscal Agent to call and redeem Term Bonds in accordance with the Sinking Fund Payment schedule set forth in Section 4.1(b) hereof, and to redeem Parity Bonds in accordance with any Sinking Fund Payment schedule set forth in the Supplemental Agreement for such Parity Bonds.

(b) After making the deposits to the Administrative Expense Account, the Interest Account and the Principal Account of the Special Tax Fund pursuant to Sections 3.3 and 3.4 above and to the Redemption Account for Sinking Fund Payments then due pursuant to subparagraph (a) of this Section, and in accordance with the City's election to call Bonds for optional redemption as set forth in Section 4.1(a) hereof, or to call Parity Bonds for optional redemption as set forth in any Supplemental Agreement for Parity Bonds, the Fiscal Agent shall transfer from the Special Tax Fund and deposit in the Redemption Account moneys available for the purpose and sufficient to pay the principal and the premiums, if any, payable on the Bonds or Parity Bonds called for optional redemption; provided, however, that amounts in the Special Tax Fund (other than the Administrative Expense Account therein) may be applied to optionally redeem Bonds and Parity Bonds only if immediately following such redemption the amount in the Reserve Account will equal the Reserve Requirement.

(c) Prepayments of Special Taxes deposited to the Redemption Account shall be applied on the redemption date established pursuant to Section 4.1(c) hereof for the use of such Prepayments to the payment of the principal of, premium, and interest on the Bonds and Parity Bonds to be redeemed with such Prepayments.

(d) Moneys set aside in the Redemption Account shall be used solely for the purpose of redeeming Bonds and Parity Bonds and shall be applied on or after the redemption date to the payment of principal of and premium, if any, on the Bonds or Parity Bonds to be redeemed upon presentation and surrender of such Bonds or Parity Bonds and in the case of an optional redemption or an extraordinary redemption from Prepayments to pay the interest

thereon; provided, however, that in lieu or partially in lieu of such call and redemption, moneys deposited in the Redemption Account, other than Prepayments, may be used to purchase Outstanding Bonds or Parity Bonds in the manner hereinafter provided. Purchases of Outstanding Bonds or Parity Bonds may be made by the City at public or private sale as and when and at such prices as the City may in its discretion determine but only at prices (including brokerage or other expenses) not more than par plus accrued interest, plus, in the case of moneys set aside for an optional redemption, the premium applicable at the next following call date according to the premium schedule established pursuant to Section 4.1(a) hereof, or in the case of Parity Bonds the premium established in any Supplemental Agreement. Any accrued interest payable upon the purchase of Bonds or Parity Bonds may be paid from the amount reserved in the Interest Account of the Special Tax Fund for the payment of interest on the next following Interest Payment Date.

Section 3.6. Reserve Account of the Special Tax Fund. There shall be maintained in the Reserve Account of the Special Tax Fund an amount equal to the Reserve Requirement. If funded, the amounts in the Reserve Account shall be applied as follows:

(a) Moneys in the Reserve Account shall be used solely for the purpose of paying the principal of, including Sinking Fund Payments, and interest on the Bonds when due in the event that the moneys in the Interest Account and the Principal Account of the Special Tax Fund are insufficient therefor or moneys in the Redemption Account of the Special Tax Fund are insufficient to make a Sinking Fund Payment when due. If the amounts in the Interest Account, the Principal Account or the Redemption Account of the Special Tax Fund are insufficient to pay the principal of, including Sinking Fund Payments, or interest on any Bonds when due, the Trustee shall withdraw from the Reserve Account for deposit in the Interest Account, the Principal Account or the Redemption Account of the Special Tax Fund, as applicable, moneys necessary for such purposes.

(b) Whenever moneys are withdrawn from the Reserve Account, after making the required transfers referred to in Sections 3.3, 3.4 and 3.5 above, the Trustee shall transfer to the Reserve Account from available moneys in the Special Tax Fund, or from any other legally available funds which the City elects to apply to such purpose, the amount needed to restore the amount of such Reserve Account to the Reserve Requirement. Moneys in the Special Tax Fund shall be deemed available for transfer to the Reserve Account only if the Trustee determines that such amounts will not be needed to make the deposits required to be made to the Administrative Expenses Account, the Interest Account, the Principal Account or the Redemption Account of the Special Tax Fund on or before the next September 1. If amounts in the Special Tax Fund together with any other amounts transferred to replenish the Reserve Account are inadequate to restore the Reserve Account to the Reserve Requirement, then the City shall include the amount necessary fully to restore the Reserve Account to the Reserve Requirement in the next annual Special Tax levy to the extent of the maximum permitted Special Tax rates.

(c) In connection with a redemption of Bonds pursuant to Section 4.1(a) or (c), or a partial defeasance of Bonds in accordance with Section 9.1 hereof, amounts in the Reserve Account may be applied to such redemption or partial defeasance so long as the amount on deposit in the Reserve Account following such redemption or partial defeasance equals the Reserve Requirement. The City shall set forth in a Certificate of an Authorized Representative the amount in the Reserve Account to be transferred to the Redemption Account on a

redemption date or to be transferred pursuant to Section 9.1(c) to partially defease Bonds, and the Trustee shall make such transfer on the applicable redemption or defeasance date, subject to the limitation in the preceding sentence.

(d) To the extent that the Reserve Account is at the Reserve Requirement as of the first day of the final Bond Year for the Bonds, amounts in the Reserve Account may be applied to pay the principal of and interest due on the Bonds in the final Bond Year for such issue.

Section 3.7. Surplus Fund. After making the transfers required by Sections 3.3, 3.4, 3.5 and 3.6, hereof, as soon as practicable after each September 1, and in any event prior to each October 1, the Fiscal Agent shall transfer all remaining amounts in the Special Tax Fund to the Surplus Fund, unless on or prior to such date, it has received a Certificate of an Authorized Representative of the City directing that certain amounts be retained in the Special Tax Fund because the City has assumed such amounts would be available in the Special Tax Fund in calculating the amount of the levy of Special Taxes for such Fiscal Year pursuant to Section 5.2(b) hereof.

Moneys deposited in the Surplus Fund will be transferred by the Fiscal Agent at the direction of an Authorized Representative of the City as follows:

(i) to the Interest Account, the Principal Account or the Redemption Account of the Special Tax Fund to pay the principal of, including Sinking Fund Payments, premium, if any, and interest on the Bonds and any Parity Bonds when due in the event that moneys in the Special Tax Fund and the Reserve Account are insufficient therefor,

(ii) to the Reserve Account in order to replenish the Reserve Account to the Reserve Requirement,

(iii) to the Administrative Expense Account of the Special Tax Fund to pay Administrative Expenses to the extent that the amounts on deposit in the Administrative Expense Account of the Special Tax Fund are insufficient to pay Administrative Expenses, and

(iv) for any other lawful purpose of the City.

The amounts in the Surplus Fund are not pledged to the repayment of the Bonds or the Parity Bonds and may be used by the City for any lawful purpose.

Section 3.8. Investments. Moneys held in any of the Funds, Accounts and Subaccounts under this Fiscal Agent Agreement shall be invested at the written direction of the City in accordance with the limitations set forth below only in Authorized Investments which shall be deemed at all times to be a part of such Funds, Accounts and Subaccounts. Any loss resulting from such Authorized Investments shall be credited or charged to the Fund, Account or Subaccount from which such investment was made, and any investment earnings on amounts deposited in the Special Tax Fund and the Surplus Fund, and each Account therein, shall be deposited in those respective Funds and Accounts.

Moneys in the Funds, Accounts and Subaccounts held under this Fiscal Agent Agreement may be invested by the Fiscal Agent as directed in writing by the City, from time to time, in Authorized Investments subject to the following restrictions:

(a) Moneys in the Interest Account, the Principal Account, and the Redemption Account of the Special Tax Fund shall be invested only in Authorized Investments which will by their terms mature, or in the case of an Investment Agreement are available for withdrawal without penalty, on such dates so as to ensure the payment of principal of, premium, if any, and interest on the Bonds as the same become due.

(b) Monies in the Reserve Account of the Special Tax Fund may be invested only in Authorized Investments which, taken together, have a weighted average maturity not in excess of five years; provided that no such Authorized Investment of amounts in the Reserve Account allocable to the Bonds shall mature later than the respective final maturity date of the Bonds, as applicable.

(c) In the absence of written investment directions from the City, the Fiscal Agent shall invest solely in Authorized Investments specified in clause (f) of the definition thereof.

The Fiscal Agent shall sell, or present for redemption, any Authorized Investment whenever it may be necessary to do so in order to provide moneys to meet any payment or transfer to such Funds and Accounts or from such Funds and Accounts. For the purpose of determining at any given time the balance in any such Funds and Accounts, any such investments constituting a part of such Funds and Accounts shall be valued at their cost. In making any valuations hereunder, the Fiscal Agent may utilize such computerized securities pricing services as may be available to it, including, without limitation, those available through its regular accounting system, and conclusively rely thereon. Notwithstanding anything herein to the contrary, the Fiscal Agent shall not be responsible for any loss from investments, sales or transfers undertaken in accordance with the provisions of this Fiscal Agent Agreement.

The Fiscal Agent may act as principal or agent in the making or disposing of any investment. The Fiscal Agent may sell at the best market price obtainable, or present for redemption, any Authorized Investment so purchased whenever it shall be necessary to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund or account to which such Authorized Investment is credited, and, subject to the provisions of Section 7.4, the Fiscal Agent shall not be liable or responsible for any loss resulting from such investment. For investment purposes, the Fiscal Agent may commingle the funds and accounts established hereunder, but shall account for each separately.

The City acknowledges that, to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the City the right to receive brokerage confirmations of security transactions as they occur, the City specifically waives receipt of such confirmations to the extent permitted by law. The Fiscal Agent will furnish the City periodic cash transaction statements which include detail for all investment transactions made by the Fiscal Agent hereunder.

Section 3.9. Valuation and Disposition of Investments.

(a) Except as otherwise provided in subsection (b) of this Section, the City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Fiscal Agent Agreement, or otherwise containing gross proceeds of the Bonds or the Authority Bonds (within the meaning of section 148 of the Code), shall be acquired, disposed of, and valued (by the City, as of the date that valuation is required by this Fiscal Agent Agreement or the Code) at Fair Market Value.

(b) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code and (unless valuation is undertaken at least annually) investments in the Reserve Account shall be valued at their present value (within the meaning of section 148 of the Code).

ARTICLE IV

REDEMPTION OF BONDS AND PARITY BONDS

Section 4.1. Redemption of Bonds.

(a) Optional Redemption.

Subject to Section 4.6 hereof, the Bonds maturing on or after September 1, 2022 may be redeemed, at the option of the City from any source of funds on any date on or after September 1, 2021, in whole, or in part and by lot, at a redemption price equal to _____% of the principal amount to be redeemed, together with accrued interest to the date of redemption.

In the event the City elects to redeem Bonds as provided above, the City shall give written notice to the Fiscal Agent of its election to so redeem, the redemption date and the principal amount of the Bonds to be redeemed. The notice to the Fiscal Agent shall be given at least 60 but no more than 90 days prior to the redemption date, or by such later date as is acceptable to the Fiscal Agent, in its sole discretion.

(b) Mandatory Sinking Fund Redemption. There is no mandatory sinking fund redemption.

(c) Extraordinary Redemption.

Subject to Section 4.6 hereof, the Bonds are subject to extraordinary redemption as a whole, or in part on a pro rata basis among maturities, on any Interest Payment Date, and shall be redeemed by the Fiscal Agent, from Prepayments deposited to the Redemption Account pursuant to Section 3.2, plus amounts transferred from the Reserve Account pursuant to Section 3.6(c), at the following redemption prices, expressed as a percentage of the principal amount to be redeemed, together with accrued interest to the redemption date:

Redemption Date	Redemption Price
Delivery Date through ____, 20__	___%
September 1, 20__ through August 31, 20__	____
September 1, 20__ and thereafter	____

The provisions of Section 3.5(d) shall govern the City's right to use moneys in the Redemption Account to purchase Bonds rather than redeem Bonds.

(d) The redemption provisions for Parity Bonds shall be set forth in a Supplemental Agreement.

Section 4.2. Selection of Bonds and Parity Bonds for Redemption. If fewer than all of the Bonds or Parity Bonds Outstanding are to be redeemed, the portion of any Bond or Parity Bond of a denomination of more than $5,000 to be redeemed shall be in the principal amount of $5,000 or an integral multiple thereof. In selecting portions of such Bonds or Parity Bonds for redemption, the Fiscal Agent shall treat such Bonds or Parity Bonds, as applicable, as representing that number of Bonds or Parity Bonds of $5,000 denominations which is obtained by dividing the principal amount of such Bonds or Parity Bonds to be redeemed in part by

$5,000. The procedure for the selection of Parity Bonds for redemption may be modified as set forth in the Supplemental Agreement for such Parity Bonds. The Fiscal Agent shall promptly notify the City in writing of the Bonds or Parity Bonds, or portions thereof, selected for redemption.

Section 4.3. Notice of Redemption. When Bonds or Parity Bonds are due for redemption under Section 4.1 above or under another redemption provision set forth in a Supplemental Agreement relating to any Parity Bonds, the Fiscal Agent shall give notice, in the name of the City, of the redemption of such Bonds or Parity Bonds. The City may instruct the Fiscal Agent to specify in the redemption notice that such redemption may be subject to receipt of funds sufficient to accomplish the redemption. Such notice of redemption shall (a) specify the CUSIP numbers (if any), the bond numbers and the maturity date or dates of the Bonds or Parity Bonds selected for redemption, except that where all of the Bonds or all of an issue of Parity Bonds are subject to redemption, or all the Bonds or Parity Bonds of one maturity, are to be redeemed, the bond numbers of such issue need not be specified; (b) state the date fixed for redemption and surrender of the Bonds or Parity Bonds to be redeemed; (c) state the redemption price; (d) state the place or places where the Bonds or Parity Bonds are to be redeemed; (e) in the case of Bonds or Parity Bonds to be redeemed only in part, state the portion of such Bond or Parity Bond which is to be redeemed; (f) state the date of issue of the Bonds or Parity Bonds as originally issued; (g) state the rate of interest borne by each Bond or Parity Bond being redeemed; and (h) state any other descriptive information needed to identify accurately the Bonds or Parity Bonds being redeemed as shall be specified by the Fiscal Agent. Such notice shall further state that on the date fixed for redemption, there shall become due and payable on each Bond, Parity Bond or portion thereof called for redemption, the principal thereof, together with any premium, and interest accrued to the redemption date, and that from and after such date, interest thereon shall cease to accrue and be payable. At least 30 days but no more than 45 days prior to the redemption date, the Fiscal Agent shall mail a copy of such notice, by first class mail, postage prepaid, to the respective Owners thereof at their addresses appearing on the Bond Register. The actual receipt by the Owner of any Bond or Parity Bond of notice of such redemption shall not be a condition precedent to redemption, and neither the failure to receive nor any defect in such notice shall affect the validity of the proceedings for the redemption of such Bonds or Parity Bonds, or the cessation of interest on the redemption date. A certificate by the Fiscal Agent that notice of such redemption has been given as herein provided shall be conclusive as against all parties and the Owner shall not be entitled to show that he or she failed to receive notice of such redemption.

Any such redemption notice may specify that redemption on the specified date will be subject to receipt by the City of moneys sufficient to cause such redemption, and neither the City nor the Fiscal Agent shall have any liability to the Owners or any other party as a result of its failure to redeem the Bonds as a result of insufficient moneys.

In addition to the foregoing notice, further notice shall be given by the Fiscal Agent as set out below, but only if the Bonds or Parity Bonds are not owned by the Authority at the time the notice of redemption is given pursuant to this Section 4.3, provided that no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

At such time as the Bonds are not owned by the Original Purchaser, notice of redemption shall be sent at least two days before notice of redemption is mailed to the

Bondowners pursuant to the first paragraph of this Section by registered or certified mail or overnight delivery service to the Securities Depositories and the Municipal Securities Rulemaking Board.

Upon the payment of the redemption price of any Bonds and Parity Bonds being redeemed, each check or other transfer of funds issued for such purpose shall to the extent practicable bear the CUSIP number identifying, by issue and maturity, the Bonds and Parity Bonds being redeemed with the proceeds of such check or other transfer.

Section 4.4. Partial Redemption of Bonds or Parity Bonds. Upon surrender of any Bond or Parity Bond to be redeemed in part only, the City shall execute and the Fiscal Agent shall authenticate and deliver to the Bondowner, at the expense of the City, a new Bond or Bonds or a new Parity Bond or Parity Bonds of authorized denominations equal in aggregate principal amount to the unredeemed portion of the Bonds surrendered, with the same interest rate and the same maturity or, in the case of surrender of a Parity Bond, a new Parity Bond or Parity Bonds subject to the foregoing limitations.

Section 4.5. Effect of Notice and Availability of Redemption Money. Notice of redemption having been duly given, as provided in Section 4.3 hereof, and the amount necessary for the redemption having been made available for that purpose and being available therefor on the date fixed for such redemption:

(a) The Bonds and Parity Bonds, or portions thereof, designated for redemption shall, on the date fixed for redemption, become due and payable at the redemption price thereof as provided in this Fiscal Agent Agreement or in any Supplemental Agreement with respect to any Parity Bonds, anything in this Fiscal Agent Agreement or in the Bonds or the Parity Bonds to the contrary notwithstanding;

(b) Upon presentation and surrender thereof at the office of the Fiscal Agent, the redemption price of such Bonds and Parity Bonds shall be paid to the Owners thereof;

(c) As of the redemption date the Bonds or the Parity Bonds, or portions thereof so designated for redemption shall be deemed to be no longer Outstanding and such Bonds or Parity Bonds, or portions thereof, shall cease to bear further interest; and

(d) As of the date fixed for redemption no Owner of any of the Bonds, Parity Bonds or portions thereof so designated for redemption shall be entitled to any of the benefits of this Fiscal Agent Agreement or any Supplemental Agreement, or to any other rights, except with respect to payment of the redemption price and interest accrued to the redemption date from the amounts so made available.

Section 4.6. Certification of Independent Financial Consultant. The City shall not be authorized to redeem bonds pursuant to Section 4.1(a) or 4.1(c) hereof unless it has provided the Fiscal Agent with a certificate of an Independent Financial Consultant to the effect that the proposed redemption, assuming a corresponding redemption of the Authority Bonds, and assuming continuing payment of Special Taxes by property owners not then in default, will not adversely impact the availability of Revenues (as defined in the Authority Indenture) in an amount sufficient to pay debt service on the Authority Bonds, as scheduled.

ARTICLE V

COVENANTS AND WARRANTY

Section 5.1. Warranty. The City shall preserve and protect the security pledged hereunder to the Bonds and any Parity Bonds against all claims and demands of all persons.

Section 5.2. Covenants. So long as any of the Bonds or Parity Bonds issued hereunder are Outstanding and unpaid, the City makes the following covenants with the Bondowners under the provisions of the Act and this Fiscal Agent Agreement (to be performed by the City or its proper officers, agents or employees), which covenants are necessary and desirable to secure the Bonds and Parity Bonds and tend to make them more marketable; provided, however, that said covenants do not require the City to expend any funds or moneys other than the Special Taxes and other amounts deposited to the Special Tax Fund:

(a) Punctual Payment; Against Encumbrances. The City covenants that it will receive all Special Taxes in trust for the Owners and will instruct the Finance Director to deposit all Special Taxes with the Fiscal Agent immediately upon their apportionment to the City, and the City shall have no beneficial right or interest in the amounts so deposited except as provided by this Fiscal Agent Agreement. All such Special Taxes shall be disbursed, allocated and applied solely to the uses and purposes set forth herein, and shall be accounted for separately and apart from all other money, funds, accounts or other resources of the City.

The City covenants that it will duly and punctually pay or cause to be paid the principal of and interest on every Bond and Parity Bond issued hereunder, together with the premium, if any, thereon on the date, at the place and in the manner set forth in the Bonds and the Parity Bonds and in accordance with this Fiscal Agent Agreement to the extent that Net Taxes and other amounts pledged hereunder are available therefor, and that the payments into the Funds and Accounts created hereunder will be made, all in strict conformity with the terms of the Bonds, any Parity Bonds, and this Fiscal Agent Agreement, and that it will faithfully observe and perform all of the conditions, covenants and requirements of this Fiscal Agent Agreement and all Supplemental Agreements and of the Bonds and any Parity Bonds issued hereunder.

The City will not mortgage or otherwise encumber, pledge or place any charge upon any of the Net Taxes except as provided in this Fiscal Agent Agreement, and will not issue any obligation or security having a lien or charge upon the Net Taxes superior to or on a parity with the Bonds, other than Parity Bonds. Nothing herein shall prevent the City from issuing or incurring indebtedness which is payable from a pledge of Net Taxes which is subordinate in all respects to the pledge of Net Taxes to repay the Bonds and the Parity Bonds.

(b) Levy of Special Tax. The City shall comply with all requirements of the Act so as to assure the timely collection of Gross Taxes, including without limitation, the enforcement of delinquent Special Taxes.

(i) *Processing*. On or within five (5) Business Days of each June 1, the Fiscal Agent shall provide the Finance Director with a notice stating the amount then on deposit in the Special Tax Fund and the other funds and accounts held by the Fiscal Agent under the Fiscal Agent Agreement, whether or not amounts need to be deposited into the Reserve Account to increase the amounts on deposit therein to the Reserve

Requirement, and informing the City that the Special Taxes need to be levied under the Ordinance as necessary to provide for the Special Tax Requirement (as defined in clause (iv) below). The receipt of or failure to receive such notice by the Finance Director shall in no way affect the obligations of the Finance Director under the following two paragraphs and the Fiscal Agent shall not be liable for failure to provide such notice to the Finance Director. Upon receipt of such notice, the Finance Director shall communicate with the Auditor to ascertain the relevant parcels on which the Special Taxes are to be levied, taking into account any parcel splits or combinations during the preceding and then current year.

(ii) *Levy*. The Finance Director shall effect the levy of the Special Taxes each Fiscal Year in accordance with the Ordinance by each August 1 that the Bonds are outstanding, or otherwise such that the computation of the levy is complete before the final date on which Auditor will accept the transmission of the Special Tax amounts for the parcels within the CFD for inclusion on the next real property tax roll. Upon the completion of the computation of the amounts of the levy, the Finance Director shall prepare or cause to be prepared, and shall transmit to the Auditor, such data as the Auditor requires to include the levy of the Special Taxes on the next real property tax roll.

(iii) *Computation*. The Finance Director shall fix and levy the amount of Special Taxes within the CFD in an amount sufficient, together with other amounts on deposit in the Special Tax Fund and available for such purpose, to pay (A) the principal of and interest on the Bonds and any Parity Bonds when due, (B) the Administrative Expenses, including amounts necessary to discharge any rebate obligation, during such year and (C) any amounts required to replenish the Reserve Account to the Reserve Requirement (the "**Special Tax Requirement**"), taking into account the balances in such funds and in the Special Tax Fund. The Special Taxes so levied shall not exceed the authorized amounts as provided in the proceedings under the Resolution of Formation.

(iv) *Collection*. The Special Taxes shall be payable and be collected in the same manner and at the same time and in the same installment as the general taxes on real property are payable, and have the same priority, become delinquent at the same time and in the same proportionate amounts and bear the same proportionate penalties and interest after delinquency as do the ad valorem taxes on real property.

(c) Commence Foreclosure Proceedings. Under the Act, the City hereby covenants with and for the benefit of the Owners of the Bonds that it will order, and cause to be commenced as hereinafter provided, and thereafter diligently prosecute to judgment (unless such delinquency is theretofore brought current), an action in the superior court to foreclose the lien of any Special Tax or installment thereof not paid when due as provided in the following two paragraphs. The Finance Director shall notify the City Attorney of any such delinquency of which the Finance Director is aware, and the City Attorney shall commence, or cause to be commenced, such proceedings.

On or about January 30 and June 30 of each Fiscal Year, the Finance Director shall compare the amount of Special Taxes theretofore levied in the CFD to the amount of Gross Taxes theretofore received by the City, and:

(i) *Individual Delinquencies*. If the Finance Director determines that any single parcel subject to the Special Tax in the CFD is delinquent in the payment of Special Taxes in the aggregate amount of $3,000 or more, then the Finance Director shall send or cause to be sent a notice of delinquency (and a demand for immediate payment thereof) to the property owner within 60 days of such determination, and (if the delinquency remains uncured) foreclosure proceedings shall be commenced by the City within 120 days of such determination.

(ii) *Aggregate Delinquencies*. If the Finance Director determines that (i) the total amount of delinquent Special Tax for the prior Fiscal Year for the entire CFD, (including the total of delinquencies under subsection (i) above), exceeds 5% of the total Special Tax due and payable for the prior Fiscal Year, or (ii) there are ten (10) or fewer owners of real property within the CFD, determined by reference to the latest available secured property tax roll of the County, the City shall notify or cause to be notified property owners who are then delinquent in the payment of Special Taxes (and demand immediate payment of the delinquency) within 60 days of such determination, and shall commence foreclosure proceedings within 120 days of such determination against each parcel of land in the CFD with a Special Tax delinquency.

(d) Payment of Claims. The City will pay and discharge any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the Net Taxes or other funds in the Special Tax Fund (other than the Administrative Expense Account therein), or which might impair the security of the Bonds or any Parity Bonds then Outstanding; provided that nothing herein contained shall require the City to make any such payments so long as the City in good faith shall contest the validity of any such claims.

(e) Books and Accounts. The City will keep proper books of records and accounts, separate from all other records and accounts of the City, in which complete and correct entries shall be made of all transactions relating to the Project, the levy of the Special Tax and the deposits to the Special Tax Fund. Such books of records and accounts shall at all times during business hours be subject to the inspection of the Fiscal Agent or of the Owners of not less than 10% of the principal amount of the Bonds or the Owners of not less than 10% of any issue of Parity Bonds then Outstanding or their representatives authorized in writing.

(f) Reduction of Maximum Special Taxes. The City hereby determines that a reduction in the maximum Special Tax rates authorized to be levied on parcels in the CFD below the levels provided in this Section 5.2(f) would interfere with the timely retirement of the Bonds and Parity Bonds. The City determines it to be necessary in order to preserve the security for the Bonds and Parity Bonds to covenant, and, to the maximum extent that the law permits it to do so, the City hereby does covenant, that it shall not initiate proceedings to reduce the maximum Special Tax rates for the City, unless, in connection therewith, (i) the City receives a certificate from one or more Independent Financial Consultants which, when taken together, certify that, on the basis of the parcels of land and improvements existing in the CFD as of the July 1 preceding the reduction, the maximum amount of the Special Tax which may be levied on then existing Developed Property (as defined in the Rate and Method of Apportionment of Special Taxes then in effect in the CFD) in each Bond Year for any Bonds and Parity Bonds Outstanding will equal at least 110% of the sum of the estimated Administrative Expenses and gross debt service in each Bond Year on all Bonds and Parity Bonds to remain Outstanding after the reduction is approved, (ii) the City finds that any reduction made under such conditions will not adversely affect the interests of the Owners of the Bonds and Parity Bonds, and (iii) the City is not delinquent in the payment of the principal of or interest on the Bonds or any Parity

Bonds. For purposes of estimating Administrative Expenses for the foregoing calculation, the Independent Financial Consultants shall compute the Administrative Expenses for the current Fiscal Year and escalate that amount by two percent (2%) in each subsequent Fiscal Year.

(g) Covenants to Defend. The City covenants that, in the event that any initiative is adopted by the qualified electors in the CFD which purports to reduce the minimum or the maximum Special Tax below the levels specified in Section 5.2(f) above or to limit the power of the City to levy the Special Taxes for the purposes set forth in Section 5.2(b) above, it will commence and pursue legal action in order to preserve its ability to comply with such covenants.

(i) Limitation on Right to Tender Bonds. The City hereby covenants that it will not adopt any policy pursuant to Section 53341.1 of the Act permitting the tender of Bonds or Parity Bonds in full payment or partial payment of any Special Taxes unless the City shall have first received a certificate from an Independent Financial Consultant that the acceptance of such a tender will not result in the City having insufficient Net Taxes to pay the principal of and interest on the Bonds and Parity Bonds when due.

(j) Further Assurances. The City shall make, execute and deliver any and all such further agreements, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Fiscal Agent Agreement and for the better assuring and confirming unto the Owners of the Bonds and any Parity Bonds of the rights and benefits provided in this Fiscal Agent Agreement.

(k) Tax Covenants. The City covenants as follows:

(i) *Private Activity Bond Limitation*. The City shall assure that the proceeds of the Bonds are not so used as to cause the Authority Bonds to satisfy the private business tests of section 141(b) of the Code or the private loan financing test of section 141(c) of the Code.

(ii) *Federal Guarantee Prohibition.* The City shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause any of the Authority Bonds to be "federally guaranteed" within the meaning of section 149(b) of the Code.

(iii) *Rebate Requirement*. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Authority Bonds.

(iv) *No Arbitrage*. The City shall not take, or permit or suffer to be taken by the Fiscal Agent or otherwise, any action with respect to the proceeds of the Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Bonds would have caused the Authority Bonds to be "arbitrage bonds" within the meaning of section 148 of the Code.

(v) *Maintenance of Tax-Exemption*. The City shall take all actions necessary to assure the exclusion of interest on the Authority Bonds from the gross income of the Owners of the Authority Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the Authority Bonds. In addition, the City shall not take any action or fail to take any action if the action or failure adversely affect the exclusion of interest on the Prior Bonds from the gross income of the owners of the Prior Bonds to the same extent as such interest was permitted to be excluded from gross income for federal income tax purposes on the date of issuance of the Prior Bonds.

(l) Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Fiscal Agent Agreement, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, the Original Purchaser of the Authority Bonds and any holder or beneficial owner of the Bonds may, take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

(m) State Reporting Requirements. The following requirements shall apply to the Bonds, in addition to those requirements under the preceding clause (l):

(i) *Annual Reporting*. Not later than October 30 of each calendar year, beginning with the October 30 first succeeding the date of the Bonds, and in each calendar year thereafter until the October 30 following the final maturity of the Bonds, the Finance Director shall cause the following information to be supplied to CDIAC: (i) the principal amount of the Bonds Outstanding; (ii) the balance in the Reserve Account; (iii) the amount of any capitalized interest funded from the proceeds of the Bonds and the amount thereof used for payment of the Bonds; (iv) the number of parcels in the CFD which are delinquent in the payment of Special Taxes, the amount of each delinquency, the length of time delinquent and when foreclosure was commenced for each delinquent parcel; (v) that no new improvement fund moneys were funded from the Bonds; and (vi) the assessed value of all parcels in the CFD subject to the levy of the Special Taxes as shown in most recent equalized roll. The annual reporting shall be made using such form or forms as may be prescribed by CDIAC.

(ii) *Other Reporting*. If at any time the Fiscal Agent fails to pay principal and interest due on any scheduled payment date for the Bonds, or if funds are withdrawn from the Reserve Account to pay principal and interest on the Bonds, the Fiscal Agent shall notify the Finance Director of such failure or withdrawal in writing. The Finance Director shall notify CDIAC and the Original Purchaser of the Authority Bonds of such failure or withdrawal within 10 days of such failure or withdrawal.

(iii) *Amendment*. The reporting requirements of this clause (m) shall be amended from time to time, without action by the City or the Fiscal Agent, to reflect any amendments to Section 53359.5(b) or Section 53359.5(c) of the Act. The Finance Director shall provide the Fiscal Agent with a copy of any such amendment. Notwithstanding the foregoing, any such amendment shall not, in itself, affect the City's obligations under Section 4 of the Continuing Disclosure Certificate.

(iv) *No Liability*. None of the City and its officers, agents and employees, the Finance Director or the Fiscal Agent shall be liable for any inadvertent error in reporting the information required by this clause (m).

ARTICLE VI

AMENDMENTS TO FISCAL AGENT AGREEMENT

Section 6.1. Supplemental Agreements or Orders Not Requiring Bondowner Consent. The City may from time to time, and at any time, without notice to or consent of any of the Bondowners, adopt Supplemental Agreements for any of the following purposes:

(a) to cure any ambiguity, to correct or supplement any provisions herein which may be inconsistent with any other provision herein, or to make any other provision with respect to matters or questions arising under this Fiscal Agent Agreement or in any additional resolution or order, provided that such action is not materially adverse to the interests of the Bondowners;

(b) to add to the covenants and agreements of and the limitations and the restrictions upon the City contained in this Fiscal Agent Agreement, other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary to or inconsistent with this Fiscal Agent Agreement as theretofore in effect or which further secure Bond or Parity Bond payments;

(c) to provide for the issuance of any Parity Bonds, and to provide the terms and conditions under which such Parity Bonds may be issued, subject to and in accordance with the provisions of this Fiscal Agent Agreement;

(d) to modify, amend or supplement this Fiscal Agent Agreement in such manner as to permit the qualification hereof under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect, and to add such other terms, conditions and provisions as may be permitted by said act or similar federal statute, and which shall not materially adversely affect the interests of the Owners of the Bonds or any Parity Bonds then Outstanding; or

(e) to modify, alter or amend the rate and method of apportionment of the Special Taxes in any manner so long as such changes do not reduce the maximum Special Taxes that may be levied in each year on property within the CFD to an amount which is less than 110% of the principal and interest due in each corresponding future Bond Year with respect to the Bonds and Parity Bonds Outstanding as of the date of such amendment; or

(f) to modify, alter, amend or supplement this Fiscal Agent Agreement in any other respect which is not materially adverse to the Bondowners; or

(g) to make such additions, deletions or modifications as may be necessary or desirable to assure exemption from federal income taxation of interest on the Authority Bonds.

Section 6.2. Supplemental Agreements or Orders Requiring Bondowner Consent. Exclusive of the Supplemental Agreements described in Section 6.1, the Owners of not less than a majority in aggregate principal amount of the Bonds and Parity Bonds Outstanding shall have the right to consent to and approve the adoption by the City of such Supplemental Agreements as shall be deemed necessary or desirable by the City for the purpose of waiving, modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Fiscal Agent Agreement; provided, however, that nothing herein

shall permit, or be construed as permitting, (a) an extension of the maturity date of the principal, or the payment date of interest on, any Bond or Parity Bond, (b) a reduction in the principal amount of, or redemption premium on, any Bond or Parity Bond or the rate of interest thereon, (c) a preference or priority of any Bond or Parity Bond over any other Bond or Parity Bond, or (d) a reduction in the aggregate principal amount of the Bonds and Parity Bonds the Owners of which are required to consent to such Supplemental Agreement, without the consent of the Owners of all Bonds and Parity Bonds then Outstanding.

If at any time the City shall desire to adopt a Supplemental Agreement, which pursuant to the terms of this Section shall require the consent of the Bondowners, the City shall so notify the Fiscal Agent and shall deliver to the Fiscal Agent a copy of the proposed Supplemental Agreement. The Fiscal Agent shall, at the expense of the City, cause notice of the proposed Supplemental Agreement to be mailed, by first class mail, postage prepaid, to all Bondowners at their addresses as they appear in the Bond Register. Such notice shall briefly set forth the nature of the proposed Supplemental Agreement and shall state that a copy thereof is on file at the office of the Fiscal Agent for inspection by all Bondowners. The failure of any Bondowners to receive such notice shall not affect the validity of such Supplemental Agreement when consented to and approved by the Owners of not less than a majority in aggregate principal amount of the Bonds and Parity Bonds Outstanding as required by this Section. Whenever at any time within one year after the date of the first mailing of such notice, the Fiscal Agent shall receive an instrument or instruments purporting to be executed by the Owners of not less than a majority in aggregate principal amount of the Bonds and Parity Bonds Outstanding, which instrument or instruments shall refer to the proposed Supplemental Agreement described in such notice, and shall specifically consent to and approve the adoption thereof by the City substantially in the form of the copy referred to in such notice as on file with the Fiscal Agent, such proposed Supplemental Agreement, when duly adopted by the City, shall thereafter become a part of the proceedings for the issuance of the Bonds and any Parity Bonds. In determining whether the Owners of a majority of the aggregate principal amount of the Bonds and Parity Bonds have consented to the adoption of any Supplemental Agreement, Bonds or Parity Bonds which are owned by the City or by any person directly or indirectly controlling or controlled by or under the direct or indirect common control with the City, shall be disregarded and shall be treated as though they were not Outstanding for the purpose of any such determination.

Upon the adoption of any Supplemental Agreement and the receipt of consent to any such Supplemental Agreement from the Owners of not less than a majority in aggregate principal amount of the Outstanding Bonds and Parity Bonds in instances where such consent is required pursuant to the provisions of this section, this Fiscal Agent Agreement shall be, and shall be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this Fiscal Agent Agreement of the City and all Owners of Outstanding Bonds and Parity Bonds shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

Section 6.3. Notation of Bonds or Parity Bonds; Delivery of Amended Bonds or Parity Bonds. After the effective date of any action taken as hereinabove provided, the City may determine that the Bonds or any Parity Bonds may bear a notation, by endorsement in form approved by the City, as to such action, and in that case upon demand of the Owner of any Outstanding Bond or Parity Bond at such effective date and presentation of his Bond or Parity Bond for the purpose at the office of the Fiscal Agent or at such additional offices as the Fiscal

Agent may select and designate for that purpose, a suitable notation as to such action shall be made on such Bonds or Parity Bonds. If the City shall so determine, new Bonds or Parity Bonds so modified as, in the opinion of the City, shall be necessary to conform to such action shall be prepared and executed, and in that case upon demand of the Owner of any Outstanding Bond or Parity Bond at such effective date such new Bonds or Parity Bonds shall be exchanged at the office of the Fiscal Agent or at such additional offices as the Fiscal Agent may select and designate for that purpose, without cost to each Owner of Outstanding Bonds or Parity Bonds, upon surrender of such Outstanding Bonds or Parity Bonds.

ARTICLE VII

FISCAL AGENT

Section 7.1. Fiscal Agent. The Bank of New York Mellon Trust Company, N.A., shall be the Fiscal Agent for the Bonds and any Parity Bonds unless and until another Fiscal Agent is appointed by the City hereunder. The City may, at any time, appoint a successor Fiscal Agent satisfying the requirements of Section 7.2 below for the purpose of receiving all money which the City is required to deposit with the Fiscal Agent hereunder and to allocate, use and apply the same as provided in this Fiscal Agent Agreement.

The Fiscal Agent is hereby authorized to and shall mail by first class mail, postage prepaid, or wire transfer in accordance with Section 2.5 above, interest payments to the Bondowners, to select Bonds and Parity Bonds for redemption, and to maintain the Bond Register. The Fiscal Agent is hereby authorized to pay the principal of and premium, if any, on the Bonds and Parity Bonds when the same are duly presented to it for payment at maturity or on call and redemption, to provide for the registration of transfer and exchange of Bonds and Parity Bonds presented to it for such purposes, to provide for the cancellation of Bonds and Parity Bonds all as provided in this Fiscal Agent Agreement, and to provide for the authentication of Bonds and Parity Bonds, and shall perform all other duties assigned to or imposed on it as provided in this Fiscal Agent Agreement. The Fiscal Agent shall keep accurate records of all funds administered by it and all Bonds and Parity Bonds paid, discharged and cancelled by it.

The Fiscal Agent is hereby authorized to redeem the Bonds and Parity Bonds when duly presented for payment at maturity, or on redemption prior to maturity. The Fiscal Agent shall cancel all Bonds and Parity Bonds upon payment thereof in accordance with the provisions of Section 9.1 hereof.

The City shall from time to time, subject to any agreement between the City and the Fiscal Agent then in force, pay to the Fiscal Agent compensation for its services, reimburse the Fiscal Agent for all its advances and expenditures, including, but not limited to, advances to and fees and expenses of independent accountants or counsel employed by it in the exercise and performance of its powers and duties hereunder, and indemnify and save the Fiscal Agent, its officers, directors, employees and agents, harmless against costs, claims, expenses and liabilities, including, without limitation, fees and expenses of its attorneys, not arising from its own negligence or willful misconduct which it may incur in the exercise and performance of its powers and duties hereunder. The foregoing obligation of the City to indemnify the Fiscal Agent shall survive the removal or resignation of the Fiscal Agent or the discharge of the Bonds.

Section 7.2. Removal of Fiscal Agent. The City may at any time at its sole discretion remove the Fiscal Agent initially appointed, and any successor thereto, by delivering to the Fiscal Agent a written notice of its decision to remove the Fiscal Agent and may appoint a successor or successors thereto; provided that any such successor shall be a bank or trust company having a combined capital (exclusive of borrowed capital) and surplus of at least $75,000,000, and subject to supervision or examination by federal or state authority. Any removal shall become effective only upon acceptance of appointment by the successor Fiscal Agent. If any bank or trust company appointed as a successor publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority

above referred to, then for the purposes of this section the combined capital and surplus of such bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. Any removal of the Fiscal Agent and appointment of a successor Fiscal Agent shall become effective only upon acceptance of appointment by the successor Fiscal Agent and notice being sent by the successor Fiscal Agent to the Bondowners of the successor Fiscal Agent's identity and address.

Section 7.3. Resignation of Fiscal Agent. The Fiscal Agent may at any time resign by giving written notice to the City and by giving to the Owners notice of such resignation, which notice shall be mailed to the Owners at their addresses appearing in the registration books in the office of the Fiscal Agent. Upon receiving such notice of resignation, the City shall promptly appoint a successor Fiscal Agent satisfying the criteria in Section 7.2 above by an instrument in writing. Any resignation or removal of the Fiscal Agent and appointment of a successor Fiscal Agent shall become effective only upon acceptance of appointment by the successor Fiscal Agent.

Section 7.4. Liability of Fiscal Agent. The recitals of fact and all promises, covenants and agreements contained herein and in the Bonds and any Parity Bonds shall be taken as statements, promises, covenants and agreements of the City, and the Fiscal Agent assumes no responsibility for the correctness of the same and makes no representations as to the validity or sufficiency of this Fiscal Agent Agreement, the Bonds or any Parity Bonds, and shall incur no responsibility in respect thereof, other than in connection with its duties or obligations specifically set forth herein, in the Bonds and any Parity Bonds, or in the certificate of authentication assigned to or imposed upon the Fiscal Agent. The Fiscal Agent shall be under no responsibility or duty with respect to the issuance of the Bonds or any Parity Bonds for value. The Fiscal Agent shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct.

The Fiscal Agent shall be protected in acting upon any notice, resolution, request, consent, order, certificate, facsimile transmission, electronic mail, report, Bond, Parity Bond or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The Fiscal Agent may consult with counsel, who may be counsel to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered hereunder in good faith and in accordance therewith.

The Fiscal Agent shall not be bound to recognize any person as the Owner of a Bond or Parity Bond unless and until such Bond or Parity Bond is submitted for inspection, if required, and his title thereto satisfactorily established, if disputed.

Whenever in the administration of its duties under this Fiscal Agent Agreement the Fiscal Agent shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Fiscal Agent, be deemed to be conclusively proved and established by a written certificate of the City, and such certificate shall be full warrant to the Fiscal Agent for any action taken or suffered under the provisions of this Fiscal Agent Agreement upon the faith thereof, but in its discretion the Fiscal Agent may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as to it may seem reasonable.

The Fiscal Agent shall have no duty or obligation whatsoever to enforce the collection of Special Taxes or other funds to be deposited with it hereunder, or as to the correctness of any amounts received, but its liability shall be limited to the proper accounting for such funds as it shall actually receive. No provision in this Fiscal Agent Agreement shall require the Fiscal Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of its rights or powers.

The Fiscal Agent shall not be deemed to have knowledge of any default or event of default until an officer at the Fiscal Agent's corporate trust office responsible for the administration of its duties hereunder shall have actual knowledge thereof or the Fiscal Agent shall have received written notice thereof at its corporate trust office.

The Fiscal Agent shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources of energy, material or supplies in the open market, litigation or arbitration involving a party or others relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Fiscal Agent.

The Fiscal Agent agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Fiscal Agent Agreement provided, however, that: (a) subsequent to such facsimile transmission of written instructions and/or directions the Fiscal Agent shall forthwith receive the originally executed instructions and/or directions, (b) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (c) the Fiscal Agent shall have received a current incumbency certificate containing the specimen signature of such designated person.

Section 7.5. Merger or Consolidation. Any company into which the Fiscal Agent may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Fiscal Agent may sell or transfer all or substantially all of its corporate trust business, shall be the successor to the Fiscal Agent without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding.

ARTICLE VIII

[RESERVED]

ARTICLE IX

DEFEASANCE AND PARITY BONDS

Section 8.1. Defeasance. If the City shall pay or cause to be paid, or there shall otherwise be paid, to the Owner of an Outstanding Bond or Parity Bond the interest due thereon and the principal thereof, at the times and in the manner stipulated in this Fiscal Agent Agreement or any Supplemental Agreement, then the Owner of such Bond or Parity Bond shall cease to be entitled to the pledge of Net Taxes, and, other than as set forth below, all covenants, agreements and other obligations of the City to the Owner of such Bond or Parity Bond under this Fiscal Agent Agreement and any Supplemental Agreement relating to such Parity Bond shall thereupon cease, terminate and become void and be discharged and satisfied. In the event of a defeasance of all Outstanding Bonds and Parity Bonds pursuant to this Section, the Fiscal Agent shall execute and deliver to the City all such instruments as may be desirable to evidence such discharge and satisfaction, and the Fiscal Agent shall pay over or deliver to the City's general fund all money or securities held by it pursuant to this Fiscal Agent Agreement which are not required for the payment of the principal of, premium, if any, and interest due on such Bonds and Parity Bonds.

Any Outstanding Bond or Parity Bond shall be deemed to have been paid within the meaning expressed in the first paragraph of this Section if such Bond or Parity Bond is paid in any one or more of the following ways:

(a) by paying or causing to be paid the principal of, premium, if any, and interest on such Bond or Parity Bond, as and when the same become due and payable;

(b) by depositing with the Fiscal Agent, in trust, at or before maturity, money which, together with the amounts then on deposit in the Special Tax Fund (exclusive of the Administrative Expense Account) and available for such purpose, is fully sufficient to pay the principal of, premium, if any, and interest on such Bond or Parity Bond, as and when the same shall become due and payable; or

(c) by depositing with the Fiscal Agent or another escrow bank appointed by the City, in trust, Federal Securities, in which the City may lawfully invest its money, in such amount as will be sufficient, together with the interest to accrue thereon and moneys then on deposit in the Special Tax Fund (exclusive of the Administrative Expense Account) and available for such purpose, together with the interest to accrue thereon, to pay and discharge the principal of, premium, if any, and interest on such Bond or Parity Bond, as and when the same shall become due and payable;

then, at the election of the City, and notwithstanding that any Outstanding Bonds and Parity Bonds shall not have been surrendered for payment, all obligations of the City under this Fiscal Agent Agreement and any Supplemental Agreement with respect to such Bond or Parity Bond shall cease and terminate, except for the obligation of the Fiscal Agent to pay or cause to be paid to the Owners of any such Bond or Parity Bond not so surrendered and paid, all sums due thereon. Notice of such election shall be filed with the Fiscal Agent not fewer than ten days prior to the proposed defeasance date, or such shorter period of time as may be acceptable to the Fiscal Agent. In connection with a defeasance under (b) or (c) above, there shall be provided to the City a verification report from an independent nationally recognized certified

public accountant stating its opinion as to the sufficiency of the moneys or securities deposited with the Fiscal Agent or the escrow bank to pay and discharge the principal of, premium, if any, and interest on all Outstanding Bonds and Parity Bonds to be defeased in accordance with this Section, as and when the same shall become due and payable, and an opinion of Bond Counsel (which may rely upon the opinion of the certified public accountant) to the effect that the Bonds or Parity Bonds being defeased have been legally defeased in accordance with this Fiscal Agent Agreement and any applicable Supplemental Agreement.

Upon a defeasance, the Fiscal Agent, upon request of the City, shall release the rights of the Owners of such Bonds and Parity Bonds which have been defeased under this Fiscal Agent Agreement and any Supplemental Agreement and execute and deliver to the City all such instruments as may be desirable to evidence such release, discharge and satisfaction. In the case of a defeasance hereunder of all Outstanding Bonds and Parity Bonds, the Fiscal Agent shall pay over or deliver to the City any funds held by the Fiscal Agent at the time of a defeasance, which are not required for the purpose of paying and discharging the principal of or interest on the Bonds and Parity Bonds when due. The Fiscal Agent shall, at the written direction of the City, mail, first class, postage prepaid, a notice to the Bondowners whose Bonds or Parity Bonds have been defeased, in the form directed by the City, stating that the defeasance has occurred.

Defeasance shall be accomplished only with an irrevocable deposit in escrow of certain investments referred to in this section. Further substitutions of securities in the escrow are not permitted. The deposit in the escrow must be sufficient, without reinvestment, to pay all principal and interest as schedule on the Bonds to and including the date of redemption. Any security used for defeasance must provide for the timely payment of principal and interest and cannot be callable or prepayable prior to maturity or earlier redemption of the rated debt (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date).

Section 8.2. Conditions for the Issuance of Parity Bonds and Other Additional Indebtedness. The City may at any time after the issuance and delivery of the Bonds hereunder issue Parity Bonds payable from the Net Taxes and other amounts deposited in the Special Tax Fund (other than in the Administrative Expense Account therein) and secured by a lien and charge upon such amounts equal to the lien and charge securing the Outstanding Bonds and any other Parity Bonds theretofore issued hereunder or under any Supplemental Agreement; provided, however, that Parity Bonds may only be issued for the purpose of refunding all or a portion of the Bonds or any Parity Bonds then Outstanding. Parity Bonds which may only be issued to effect a partial refunding may be issued subject to the following additional specific conditions, which are hereby made conditions precedent to the issuance of any such Parity Bonds:

(a) The City shall be in compliance with all covenants set forth in this Fiscal Agent Agreement and any Supplemental Agreement then in effect and a certificate of the City to that effect shall have been filed with the Fiscal Agent; provided, however, that Parity Bonds may be issued notwithstanding that the City is not in compliance with all such covenants so long as immediately following the issuance of such Parity Bonds the City will be in compliance with all such covenants.

(b) The issuance of such Parity Bonds shall have been duly authorized pursuant to the Act and all applicable laws, and the issuance of such Parity Bonds shall have been provided for by a Supplemental Agreement duly adopted by the City which shall specify the following:

(1) The purpose for which such Parity Bonds are to be issued and the fund or funds into which the proceeds thereof are to be deposited, including a provision requiring the proceeds of such Parity Bonds to be applied solely for the purpose of refunding any Outstanding Bonds or Parity Bonds, including payment of all costs and the funding of all reserves incidental to or connected with such refunding;

(2) The authorized principal amount of such Parity Bonds;

(3) The date and the maturity date or dates of such Parity Bonds; provided that (i) each maturity date shall fall on an September 1, (ii) all such Parity Bonds of like maturity shall be identical in all respects, except as to number, and (iii) fixed serial maturities or Sinking Fund Payments, or any combination thereof, shall be established to provide for the retirement of all such Parity Bonds on or before their respective maturity dates;

(4) The description of the Parity Bonds, the place of payment thereof and the procedure for execution and authentication;

(5) The denominations and method of numbering of such Parity Bonds;

(6) The amount and due date of each mandatory Sinking Fund Payment, if any, for such Parity Bonds;

(7) The amount, if any, to be deposited from the proceeds of such Parity Bonds in the Reserve Account to increase the amount therein to the Reserve Requirement;

(8) The form of such Parity Bonds; and

(9) Such other provisions as are necessary or appropriate and not inconsistent with this Fiscal Agent Agreement.

(c) The City shall have received the following documents or money or securities, all of such documents dated or certified, as the case may be, as of the date of delivery of such Parity Bonds by the Fiscal Agent (unless the Fiscal Agent shall accept any of such documents bearing a prior date):

(1) A certified copy of the Supplemental Agreement authorizing the issuance of such Parity Bonds;

(2) A written request of the City as to the delivery of such Parity Bonds;

(3) An opinion of Bond Counsel and/or general counsel to the City to the effect that (a) the City has the right and power under the Act to adopt this Fiscal Agent Agreement and the Supplemental Agreements relating to such Parity Bonds, and this

Fiscal Agent Agreement and all such Supplemental Agreements have been duly and lawfully adopted by the City, are in full force and effect and are valid and binding upon the City and enforceable in accordance with their terms (except as enforcement may be limited by bankruptcy, insolvency, reorganization and other similar laws relating to the enforcement of creditors' rights); (b) this Fiscal Agent Agreement creates the valid pledge which it purports to create of the Net Taxes and other amounts as provided in this Fiscal Agent Agreement, subject to the application thereof to the purposes and on the conditions permitted by this Fiscal Agent Agreement; and (c) such Parity Bonds are valid and binding limited obligations of the City, enforceable in accordance with their terms (except as enforcement may be limited by bankruptcy, insolvency, reorganization and other similar laws relating to the enforcement of creditors' rights) and the terms of this Fiscal Agent Agreement and all Supplemental Agreements thereto and entitled to the benefits of this Fiscal Agent Agreement and all such Supplemental Agreements, and such Parity Bonds have been duly and validly authorized and issued in accordance with the Act (or other applicable laws) and this Fiscal Agent Agreement and all such Supplemental Agreements.

(4) A certificate of the City containing such statements as may be reasonably necessary to show compliance with the requirements of this Fiscal Agent Agreement;

(5) A certificate of an Independent Financial Consultant certifying that (i) the total net interest cost to maturity on the Parity Bonds plus the principal amount of the Parity Bonds exceeds the total net interest cost to maturity on the Bonds or Parity Bonds to be refunded plus the principal amount of the Bonds or Parity Bonds to be refunded, (ii) the maturity date of the Parity Bonds will not exceed the latest maturity date of the Bonds or Parity Bonds being refunded, and (iii) issuance of the Parity Bonds will not adversely impact the ability of the Authority to pay debt service on the Authority Bonds; and

(6) Such further documents, money and securities as are required by the provisions of this Fiscal Agent Agreement and the Supplemental Agreement providing for the issuance of such Parity Bonds.

ARTICLE X

MISCELLANEOUS

Section 9.1. Cancellation of Bonds and Parity Bonds. All Bonds and Parity Bonds surrendered to the Fiscal Agent for payment upon maturity or for redemption shall be upon payment therefor, and any Bond or Parity Bond purchased by the City as authorized herein and delivered to the Fiscal Agent for such purpose shall be, cancelled forthwith and shall not be reissued. The Fiscal Agent shall destroy such Bonds and Parity Bonds, as provided by law, and, upon request of the City, furnish to the City a certificate of such destruction.

Section 9.2. Execution of Documents and Proof of Ownership. Any request, direction, consent, revocation of consent, or other instrument in writing required or permitted by this Fiscal Agent Agreement to be signed or executed by Bondowners may be in any number of concurrent instruments of similar tenor may be signed or executed by such Owners in person or by their attorneys appointed by an instrument in writing for that purpose, or by the bank, trust company or other depository for such Bonds. Proof of the execution of any such instrument, or of any instrument appointing any such attorney, and of the ownership of Bonds or Parity Bonds shall be sufficient for the purposes of this Fiscal Agent Agreement (except as otherwise herein provided), if made in the following manner:

(a) The fact and date of the execution by any Owner or his or her attorney of any such instrument and of any instrument appointing any such attorney, may be proved by a signature guarantee of any bank or trust company located within the United States of America. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such signature guarantee shall also constitute sufficient proof of his authority.

(b) As to any Bond or Parity Bond, the person in whose name the same shall be registered in the Bond Register shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Bond or Parity Bond, and the interest thereon, shall be made only to or upon the order of the registered Owner thereof or his or her legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond or Parity Bond and the interest thereon to the extent of the sum or sums to be paid. Neither the City nor the Fiscal Agent shall be affected by any notice to the contrary.

Nothing contained in this Fiscal Agent Agreement shall be construed as limiting the Fiscal Agent or the City to such proof, it being intended that the Fiscal Agent or the City may accept any other evidence of the matters herein stated which the Fiscal Agent or the City may deem sufficient. Any request or consent of the Owner of any Bond or Parity Bond shall bind every future Owner of the same Bond or Parity Bond in respect of anything done or suffered to be done by the Fiscal Agent or the City in pursuance of such request or consent.

Section 9.3. Unclaimed Moneys. Anything in this Fiscal Agent Agreement to the contrary notwithstanding, any money held by the Fiscal Agent or the Fiscal Agent in trust for the payment and discharge of any of the Outstanding Bonds and Parity Bonds which remain unclaimed for two years after the date when such Outstanding Bonds or Parity Bonds have become due and payable, if such money was held by the Fiscal Agent or the Fiscal Agent at

such date, or for two years after the date of deposit of such money if deposited with the Fiscal Agent or the Fiscal Agent after the date when such Outstanding Bonds or Parity Bonds become due and payable, shall be repaid by the Fiscal Agent or the Fiscal Agent to the City, as its absolute property and free from trust, and the Fiscal Agent or the Fiscal Agent shall thereupon be released and discharged with respect thereto and the Owners shall look only to the City for the payment of such Outstanding Bonds or Parity Bonds; provided, however, that, before being required to make any such payment to the City, the Fiscal Agent at the written request of the City or the Fiscal Agent shall, at the expense of the City, cause to be mailed by first-class mail, postage prepaid, to the registered Owners of such Outstanding Bonds or Parity Bonds at their addresses as they appear on the registration books of the Fiscal Agent a notice that said money remains unclaimed and that, after a date named in said notice, which date shall not be fewer than 30 days after the date of the mailing of such notice, the balance of such money then unclaimed will be returned to the City.

Section 9.4. Provisions Constitute Contract. The provisions of this Fiscal Agent Agreement shall constitute a contract between the City and the Bondowners and the provisions hereof shall be construed in accordance with the laws of the State of California.

In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and, should said suit, action or proceeding be abandoned, or be determined adversely to the Bondowners or the Fiscal Agent, then the City, the Fiscal Agent and the Bondowners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

After the issuance and delivery of the Bonds this Fiscal Agent Agreement shall be irrepealable, but shall be subject to modifications to the extent and in the manner provided in this Fiscal Agent Agreement, but to no greater extent and in no other manner.

Section 9.5. Future Contracts. Nothing herein contained shall be deemed to restrict or prohibit the City from making contracts or creating bonded or other indebtedness payable from a pledge of the Net Taxes which is subordinate to the pledge hereunder, or which is payable from the general fund of the City or from taxes or any source other than the Net Taxes and other amounts pledged hereunder.

Section 9.6. Further Assurances. The City will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Fiscal Agent Agreement, and for the better assuring and confirming unto the Owners of the Bonds or any Parity Bonds the rights and benefits provided in this Fiscal Agent Agreement.

Section 9.7. Severability. If any covenant, agreement or provision, or any portion thereof, contained in this Fiscal Agent Agreement, or the application thereof to any person or circumstance, is held to be unconstitutional, invalid or unenforceable, the remainder of this Fiscal Agent Agreement and the application of any such covenant, agreement or provision, or portion thereof, to other persons or circumstances, shall be deemed severable and shall not be affected thereby, and this Fiscal Agent Agreement, the Bonds and any Parity Bonds issued pursuant hereto shall remain valid and the Bondowners shall retain all valid rights and benefits accorded to them under the laws of the State of California.

Section 9.8. Notices. Any notices required to be given to the City with respect to the Bonds or this Fiscal Agent Agreement shall be mailed, first class, postage prepaid, or personally delivered as follows:

If to the City:	City of Tracy 333 Civic Center Plaza Tracy, California, 95376 Attention: Finance Director
If to the Trustee:	The Bank of New York Mellon Trust Company, N.A. 550 Kearny Street, Suite 600 San Francisco, California 94108 Attention: Corporate Trust Department

IN WITNESS WHEREOF, THE CITY OF TRACY, for and on behalf of its Community Facilities District No. 99-2 (South MacArthur Planning Area), has caused this Fiscal Agent Agreement to be signed by its Director of Finance and Administrative Services and City Clerk, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., in token of its acceptance of the duties hereunder, has caused this Fiscal Agent Agreement to be signed in its corporate name by its officers identified below, all as of the day and year first above written.

CITY OF TRACY, for and on behalf of its Community Facilities District No. 99-2 (South MacArthur Planning Area)

By:_____
Director of Finance and Administrative Services

ATTEST:

_____
City Clerk

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Fiscal Agent

By:_____
Its: Authorized Officer

JH:CKL:30016-46

EXHIBIT A

FORM OF SPECIAL TAX BOND, 2011 SERIES A

R-__ $_____

UNITED STATES OF AMERICA
STATE OF CALIFORNIA
CITY OF TRACY
COMMUNITY FACILITIES DISTRICT NO. 99-2
(SOUTH MACARTHUR PLANNING AREA)
SPECIAL TAX BOND, 2011 SERIES A

INTEREST RATE:	**MATURITY DATE:**	**DATED DATE:**	**CUSIP:**
___%	SEPTEMBER 1, ____	_____, 2011	N/A

REGISTERED OWNER: THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Fiscal Agent under that certain Indenture of Trust dated as of December 1, 2011 by and between the Tracy Operating Partnership Joint Powers Authority and The Bank of New York Mellon Trust Company, N.A.

PRINCIPAL AMOUNT: _____ AND NO/100 DOLLARS

THE CITY OF TRACY (the "City"), for and on behalf of City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) (the "CFD"), FOR VALUE RECEIVED, hereby promises to pay, solely from certain amounts held under the Fiscal Agent Agreement (as hereinafter defined), to the Registered Owner named above, or registered assigns, on the Maturity Date set forth above, unless redeemed prior thereto as hereinafter provided, the Principal Amount set forth above, and to pay interest on such Principal Amount from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication hereof, unless (i) the date of authentication is an Interest Payment Date in which event interest shall be payable from such date of authentication, (ii) the date of authentication is after a Record Date (as hereinafter defined) but prior to the immediately succeeding Interest Payment Date, in which event interest shall be payable from the Interest Payment Date immediately succeeding the date of authentication, or (iii) the date of authentication is prior to the close of business on the first Record Date in which event interest shall be payable from the Dated Date set forth above. Notwithstanding the foregoing, if at the time of authentication of this Bond interest is in default, interest on this Bond shall be payable from the last Interest Payment Date to which the interest has been paid or made available for payment or, if no interest has been paid or made available for payment, interest on this Bond shall be payable from the Dated Date set forth above. Interest will be paid semiannually on March 1 and September 1 (each an "Interest Payment Date"), commencing March 1, 2012, at the Interest Rate set forth above, until the Principal Amount hereof is paid or made available for payment.

The principal of and premium, if any, on this Bond are payable to the Registered Owner hereof in lawful money of the United States of America upon presentation and surrender of this Bond at the Principal Office of the Fiscal Agent (as such term is defined in the Fiscal Agent Agreement), initially The Bank of New York Mellon Trust Company, N.A. (the "Fiscal Agent"). Interest on this Bond shall be paid by check of the Fiscal Agent mailed, by first class mail, postage prepaid, or in certain circumstances described in the Fiscal Agent Agreement by wire transfer to an account within the United States of America, to the Registered Owner hereof as of the close of business on the fifteenth day of the month preceding the month in which the Interest Payment Date occurs (the "Record Date") at such Registered Owner's address as it appears on the registration books maintained by the Fiscal Agent.

This Bond is one of a duly authorized issue of "City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Bonds, 2011 Series A" (the "Bonds") issued in the aggregate principal amount of $_____ pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, being Sections 53311, et seq., of the California Government Code (the "Act") for the purpose of refinancing outstanding special tax bonds of the City and paying certain costs related to the issuance of the Bonds. The issuance of the Bonds and the terms and conditions thereof are provided for by a resolution adopted by the City Council of the City acting in its capacity as the legislative body of the CFD (the "Legislative Body") on November 1, 2011 and a Fiscal Agent Agreement executed in connection therewith (the "Fiscal Agent Agreement"), and this reference incorporates the Fiscal Agent Agreement herein, and by acceptance hereof the Registered Owner of this Bond assents to said terms and conditions. The Fiscal Agent Agreement is adopted under and this Bond is issued under, and both are to be construed in accordance with, the laws of the State of California.

Pursuant to the Act and the Fiscal Agent Agreement, the principal of, premium, if any, and interest on this Bond are payable solely from the portion of the annual special taxes authorized under the Act to be levied and collected within the CFD (the "Special Taxes") and certain other amounts pledged to the repayment of the Bonds as set forth in the Fiscal Agent Agreement. Any amounts for the payment hereof shall be limited to the Special Taxes pledged and collected or foreclosure proceeds received following a default in payment of the Special Taxes and other amounts deposited to the Special Tax Fund established under the Fiscal Agent Agreement, except to the extent that other provision for payment has been made by the Legislative Body, as may be permitted by law. The City has covenanted for the benefit of the owners of the Bonds that under certain circumstances described in the Fiscal Agent Agreement it will commence and diligently pursue to completion appropriate foreclosure proceedings in the event of delinquencies of Special Tax installments levied for payment of principal and interest on the Bonds.

Optional Redemption. The Bonds maturing on or after September 1, 2022 may be redeemed, at the option of the City from any source of funds on any Interest Payment Date on or after September 1, 2021, in whole, or in part and by lot, at a redemption price equal to _____% of the principal amount to be redeemed, together with accrued interest to the date of redemption.

Mandatory Sinking Fund Redemption. There is no mandatory sinking fund redemption.

Extraordinary Redemption. The Bonds are subject to extraordinary redemption as a whole, or in part on a pro rata basis among maturities, on any Interest Payment Date, and shall be redeemed by the Fiscal Agent, from Prepayments deposited to the Redemption Account, plus amounts transferred from the Reserve Account in connection with such transfers, at the following redemption prices, expressed as a percentage of the principal amount to be redeemed, together with accrued interest to the redemption date:

Redemption Date	Redemption Price
Delivery Date through August 31, 20__	
September 1, 20__ through August 31, 20__	
September 1, 20__ and thereafter	

In lieu of applying amounts in the Redemption Account to redeem Bonds, an Authorized Representative of the City may instruct the Fiscal Agent to apply such amounts to purchase Bonds as set forth in the Fiscal Agent Agreement.

Notice of redemption with respect to the Bonds to be redeemed shall be mailed to the registered owners thereof not fewer than 30 nor more than 45 days prior to the redemption date by first class mail, postage prepaid, to the addresses set forth in the registration books. Neither a failure of the Registered Owner hereof to receive such notice nor any defect therein will affect the validity of the proceedings for redemption. All Bonds or portions thereof so called for redemption will cease to accrue interest on the specified redemption date; provided that funds for the redemption are on deposit with the Fiscal Agent on the redemption date. Thereafter, the registered owners of such Bonds shall have no rights except to receive payment of the redemption price upon the surrender of the Bonds.

This Bond shall be registered in the name of the Registered Owner hereof, as to both principal and interest, and the City and the Fiscal Agent may treat the Registered Owner hereof as the absolute owner for all purposes and shall not be affected by any notice to the contrary.

The Bonds are issuable only in fully registered form in the denomination of $5,000 or any integral multiple thereof and may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations of the same issue and maturity, all as more fully set forth in the Fiscal Agent Agreement. This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Principal Office of the Fiscal Agent, but only in the manner, subject to the limitations and upon payment of the charges provided in the Fiscal Agent Agreement, upon surrender and cancellation of this Bond. Upon such transfer, a new registered Bond of authorized denomination or denominations for the same aggregate principal amount of the same issue and maturity will be issued to the transferee in exchange therefor.

The Fiscal Agent shall not be required to register transfers or make exchanges of (i) any Bonds for a period of 15 days next preceding any selection of the Bonds to be redeemed, or (ii) any Bonds chosen for redemption.

The rights and obligations of the City and of the registered owners of the Bonds may be amended at any time, and in certain cases without notice to or the consent of the registered owners, to the extent and upon the terms provided in the Fiscal Agent Agreement.

THE BONDS DO NOT CONSTITUTE OBLIGATIONS OF THE CITY OR THE CFD FOR WHICH THE CITY OR THE CFD IS OBLIGATED TO LEVY OR PLEDGE, OR HAS LEVIED OR PLEDGED, GENERAL OR SPECIAL TAXES, OTHER THAN THE SPECIAL TAXES REFERENCED HEREIN. THE BONDS ARE LIMITED OBLIGATIONS OF THE CITY PAYABLE FROM THE PORTION OF THE SPECIAL TAXES AND OTHER AMOUNTS PLEDGED UNDER THE FISCAL AGENT AGREEMENT BUT ARE NOT A DEBT OF THE CITY, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION OR RESTRICTION.

This Bond shall not become valid or obligatory for any purpose until the certificate of authentication and registration hereon endorsed shall have been dated and signed by the Fiscal Agent.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required by law to exist, happen and be performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all other indebtedness of the City, does not exceed any debt limit prescribed by the laws or Constitution of the State of California.

IN WITNESS WHEREOF, the City of Tracy, for and on behalf of its City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) has caused this Bond to be dated as of _____, 2011, to be signed on behalf of the City by the Director of Finance and Administrative Services by his facsimile signature and attested by the facsimile signature of the City Clerk and has caused its seal to be reproduced hereon.

[SEAL]

_____
Director of Finance and Administrative Services

ATTEST:

_____
City Clerk

[FORM OF FISCAL AGENT'S CERTIFICATE
OF AUTHENTICATION AND REGISTRATION]

This is one of the Bonds described in the within-defined Fiscal Agent Agreement.

Dated: _____, 2011

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Fiscal Agent

By:_____
Its: Authorized Officer

[FORM OF ASSIGNMENT]

For value received the undersigned do(es) hereby sell, assign and transfer unto

_____

whose tax identification number is _____,
the within-mentioned registered Bond and hereby irrevocably constitute(s) and appoint(s)

_____

attorney to transfer the same on the books of the Fiscal Agent with full power of substitution in the premises.

Dated:_____

Signature guaranteed:

_____

NOTE: Signature(s) must be guaranteed by an eligible guarantor institution.

_____

NOTE: The signatures(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

Attachment F

$_____
LIMITED OBLIGATION REFUNDING IMPROVEMENT BONDS
CITY OF TRACY
Reassessment District No. 2011-1
(Morrison Homes; Heartland Three)

REASSESSMENT BONDS PURCHASE AGREEMENT

This REASSESSMENT BONDS PURCHASE AGREEMENT (this "**Purchase Agreement**"), dated as of _____, 2011, is by and between the Tracy Operating Partnership Joint Powers Authority (the "**Authority**"), a joint powers authority organized and existing under the laws of the State of California, and the City of Tracy (the "**City**"), a municipal corporation and general law city organized and existing under and by virtue of the Constitution and laws of the State of California, with respect to the City's Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "**District**")

WITNESSETH:

WHEREAS, the Authority is a joint exercise of powers authority duly organized and existing under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California, and is authorized pursuant to Article 4 thereof (the "**Bond Law**") to borrow money for the purpose of financing the acquisition of bonds, notes and other obligations to provide financing or refinancing for public capital improvements of local agencies within the State of California; and

WHEREAS, the City is issuing $_____ aggregate principal amount of City of Tracy Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "**Reassessment Bonds**"), pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 of the Streets and Highways Code (the "**Act**"), and a Fiscal Agent Agreement dated as of November 1, 2011 (the "**Reassessment Bonds Fiscal Agent Agreement**"), by and between the City and The Bank of New York Mellon Trust Company, N.A., as fiscal agent (the "**Fiscal Agent**");

WHEREAS, a portion of the Reassessment Bonds will be used to refund the following bonds (collectively, the "**Prior Assessment Bonds**"):

(i) $2,485,781 City of Tracy Limited Obligation Improvement Bonds Assessment District No. 98-4 (Morrison Homes); and

(ii) $893,000 Limited Obligation Improvement Bonds City of Tracy Assessment District No. 2000-02 (Heartland Three).

WHEREAS, the Authority has authorized the issuance of its Revenue Bonds, 2011 Series A in the aggregate principal amount of $_____ (the "**Authority Bonds**") , under an Indenture of Trust dated as of November 1, 2011 (the "**Authority Bond Indenture**"), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "**Trustee**") and under the Bond Law for the purpose of providing the funds required to acquire the Reassessment Bonds; and

WHEREAS, the Authority and the City desire to enter into this Purchase Agreement providing for the purchase and sale of the Reassessment Bonds by the City to the Authority and containing the other agreements herein set forth;

NOW, THEREFORE, in consideration of the mutual agreements herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Authority and the City agree as follows:

Section 1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties and agreements hereinafter set forth, the City hereby commits to sell to the Authority and does hereby sell to the Authority, and the Authority hereby commits to purchase from the City and does hereby purchase from the City with the proceeds of the Authority Bonds all of the $_____ aggregate principal amount of the Reassessment Bonds.

The purchase price of the Reassessment bonds shall be their aggregate principal amount of $_____.

Section 2. Description of the Reassessment Bonds. The Reassessment Bonds shall be as described in the Official Statement dated as of the date hereof, relating to the Authority Bonds (the "**Official Statement**") and shall be issued and secured under the resolution adopted by the City on _____, 2011 (the "**Resolution**") and the Reassessment Bonds Fiscal Agent Agreement. The Reassessment Bonds and interest thereon will be payable from reassessments levied and collected in accordance with the Resolution and the Reassessment Bonds Fiscal Agent Agreement. The Reassessment Bonds will bear the annual interest rates and mature at the times set forth in Exhibit A attached hereto and hereby made a part hereof.

All terms not herein defined shall have the meanings given such terms in the Authority Bonds Indenture.

Section 3. Actions Binding on the Authority. Any action under this Purchase Agreement taken by the Authority, including payment for and acceptance of the Reassessment Bonds, and delivery and execution of any receipt for the Reassessment Bonds and any other instruments in connection with the closing on the Closing Date, shall be valid and sufficient for all purposes and binding upon the Authority, provided that any such action shall not impose any obligation or liability upon the Authority other than as may arise as expressly set forth in this Purchase Agreement.

Section 4. Representations, Warranties and Covenants of the City. The City represents, warrants and covenants to the Authority as follows:

(a) Due Organization, Existence and Authority. The City is a municipal corporation and general law city organized and existing under and by virtue of the Constitution and laws of the State of California, and has, and on the Closing Date will have, full legal right, power and authority

(i) to enter into this Purchase Agreement, the Continuing Disclosure Certificate relating to the Authority Bonds and the Reassessment Bonds (the "**Continuing Disclosure Certificate**") and the Reassessment Bonds Fiscal Agent Agreement (collectively, the "**City Documents**"),

(ii) to adopt the Resolution,

(iii) to issue, sell and deliver the Reassessment Bonds to the Authority as provided herein, and

(iv) to carry out and consummate the transactions contemplated by the Resolution, the City Documents and the Official Statement.

(b) Due Authorization and Approval; Enforceability. By all necessary official action of the City, the City has duly authorized and approved the execution and delivery of, and the performance by the City of the obligations contained in, the City Documents and as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded.

When executed and delivered, the City Documents will constitute the legally valid and binding obligations of the City enforceable in accordance with their respective terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or affecting creditors' rights generally.

(c) Compliance with City Documents. The City has complied, and will at the Closing be in compliance in all respects, with the terms of the City Documents.

(d) No Conflicts, Breaches or Defaults. The execution and delivery of City Documents and the Reassessment Bonds, the adoption of the Resolution and compliance with the provisions of each thereof, and the carrying out and consummation of the transactions contemplated by the Official Statement, will not conflict with or constitute a breach of or a default under any applicable law or administrative regulation of the State of California or the United States, or any applicable judgment, decree, agreement or other instrument to which the City is a party or is otherwise subject.

(e) Official Statement Accurate and Complete. To the knowledge of the City, at the time of the City's acceptance hereof and at all times subsequent thereto up to and including the Closing Date, with respect to information describing the City, the District, the City Documents and the Resolution and other resolutions relating to the District, the Official Statement does not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(f) No Litigation. Except as described in the Official Statement, there is no action, suit, proceeding or investigation before or by any court, public board or body pending or, to the knowledge of the City, threatened, wherein an unfavorable decision, ruling or finding would:

(i) affect the creation, organization, existence or powers of the City or the titles of its members and officers to their respective offices,

(ii) enjoin or restrain the issuance, sale and delivery of the Reassessment Bonds, the levy and receipt of the reassessments which secure the Reassessment Bonds, or the pledge thereof,

(iii) in any way question or affect any of the rights, powers, duties or obligations of the City with respect to the moneys pledged or to be pledged to pay the principal of, premium, if any, or interest on the Reassessment Bonds,

(iv) in any way question or affect any authority for the issuance of the Reassessment Bonds, or the validity or enforceability of the Reassessment Bonds, the Resolution or the City Documents, or

(v) in any way question or affect the City Documents or the transactions contemplated by the City Documents, the Official Statement, the Resolution, the other documents referred to in the Official Statement, or any other agreement or instrument to which the City is a party relating to the Reassessment Bonds.

(g) The City confirms that there are no substantial conditions precedent to the issuance by the City and to the sale (as provided herein) and the delivery to the Authority of the Reassessment Bonds.

(h) The City has never failed to comply with a continuing disclosure undertaking pursuant to Rule 15c2-12.

(i) Any certificate signed by any official of the City authorized to do so shall be deemed a representation and warranty by the City to the Authority as to the statements made therein.

(j) If between the date of this Purchase Agreement and the date 90 days after the Closing Date an event occurs which is materially adverse to the purpose for which the Official Statement is to be used which is not disclosed in the Official Statement, the City shall notify the Authority of such fact.

(k) The City has furnished some, but not all, of the information contained in the Official Statement and hereby authorizes the use of that information by the Authority in connection with the public offering and sale of the Authority Bonds.

Section 5. The Closing. At 9:00 a.m., Pacific Time, on _____, 2011, or at such other time or on such other date as is mutually agreed by the City and the Authority (the "**Closing Date**"),

(a) the City will deliver the Reassessment Bonds to the Trustee in definitive form, duly executed, together with the other documents hereinafter mentioned,

(b) subject to the terms and conditions hereof, the Trustee, solely from moneys held under the Authority Bonds Indenture for this purpose, will accept such delivery and pay the purchase price of the Reassessment Bonds as referenced in paragraph 1 hereof by wire transfer or other funds which are good funds on the Closing Date, and

(c) the Trustee shall deposit into the funds established under the Bond Indenture the amounts described in the Bond Indenture.

The Reassessment Bonds shall be registered in the name of the Trustee, as assignee of the Authority. Delivery and payment, as aforesaid, shall be made at such place as are mutually agreed upon by the City, the Trustee and the Authority.

Section 6. Termination Events. The Authority shall have the right to terminate the Authority's obligations under this Purchase Agreement to purchase, to accept delivery of and to pay for the Reassessment Bonds by notifying the City of its election to do so if, after the execution hereof and prior to the Closing if any of the following events occur:

(i) either the marketability of the Authority Bonds or the market price of the Authority Bonds, in the opinion of the Authority, has been materially and adversely affected by any decision issued by a court of the United States (including the United States Tax Court) or of the State of California, by any ruling or regulation (final, temporary or proposed) issued by or on behalf of the Department of the Treasury of the United States, the Internal Revenue Service, or other governmental agency of the United States, or any governmental agency of the State of California, or by a tentative decision with respect to legislation reached by a committee of the House of Representatives or the Senate of the Congress of the United States, or by legislation enacted by, pending in, or favorably reported to either the House of Representatives or the Senate of the Congress of the United States or either house of the Legislature of the State of California, or formally proposed to the Congress of the United States by the President of the United States or to the Legislature of the State of California by the Governor of the State of California in an executive communication, affecting the tax status of the Authority or the City, their property or income, their bonds (including the Authority Bonds) or the interest thereon, or any tax exemption granted or authorized by the Bond Law;

(ii) the United States becomes engaged in: hostilities which have resulted in a declaration of war or national emergency, or there occurs any other outbreak of hostilities, or a local, national or international calamity or crisis, financial or otherwise, the effect of such outbreak, calamity or crisis being such as, in the reasonable opinion of the Authority, would affect materially and adversely the ability of the Authority to market the Authority Bonds (it being agreed by the Authority that there is no outbreak, calamity or crisis of such a character as of the date hereof);

(iii) there occurs a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by the United States, New York State or California State authorities;

(iv) there occurs a withdrawal or downgrading of any rating assigned to any securities of the City by a national municipal bond rating agency; or

(v) an event occurs which in the opinion of the Authority requires a supplement or amendment to the Official Statement, and such supplement or amendment is not agreed to by the City.

Section 7. Conditions to Closing. The Authority has entered into this Purchase Agreement in reliance upon the representations, warranties and agreements of the City contained herein and to be contained in the documents and instruments to be delivered on the Closing Date, and upon the performance by the City of their respective obligations hereunder, both as of the date hereof and as of the Closing Date. Accordingly, the Authority's obligations under this Purchase Agreement to purchase, to accept delivery of and to pay for the Reassessment Bonds shall be subject to the performance by the City of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing Date, and shall also be subject to the following conditions:

(a) It is a condition to the City's sale and delivery of the Reassessment Bonds to the Authority, and to the Authority's purchase of the Reassessment Bonds and the obligations of the Authority to accept delivery of and to pay for the Reassessment Bonds, that the entire aggregate principal amount of the Reassessment Bonds authorized by the Resolution and the Bond Indenture shall be delivered by the City, and accepted and paid for by the Authority, on the Closing Date.

(b) The representations and warranties of the City contained herein shall be true, complete and correct on the date hereof and on and as of the Closing Date, as if made on the Closing Date.

(c) On the Closing Date the Resolution and the City Documents shall be in full force and effect, and shall not have been amended, modified or supplemented, and the Official Statement shall not have been amended, modified or supplemented, except in either case as may have been agreed to by both the Authority and the Underwriter.

(d) As of the Closing Date, all official action of the City relating to the Reassessment Bonds, including but not limited to the Resolution, shall be in full force and effect, and there shall have been taken all such actions as, in the opinion of Jones Hall, A Professional Law Corporation ("**Bond Counsel**"), are necessary or appropriate in connection therewith, with the issuance of the Authority Bonds and the Reassessment Bonds, and with the transactions contemplated hereby, all as described in the Official Statement.

(e) On or prior to the Closing Date, the Authority shall receive each of the following documents:

(1) Documents Required to be Received by the Trustee. All documents and opinions required to be received by the Trustee prior to the application of proceeds of the Authority Bonds to the purchase of the Reassessment Bonds.

(2) Bond Counsel Opinion. An opinion of Bond Counsel, in form and substance satisfactory to the City and the Authority, dated as of the Closing Date, approving, without qualification, the validity of the Reassessment Bonds.

(3) Reliance Letter. A letter of Bond Counsel, dated the date of the Closing and addressed to the Authority and the Underwriter, to the effect that the opinion referred to in the preceding subparagraph (2) may be relied upon by the Authority to the same extent as if such opinion were addressed to it.

(4) Supplemental Opinion. A supplemental opinion, dated the date of the Closing and addressed to the Authority and the Underwriter, of Bond Counsel to the effect that

(i) this Purchase Agreement has been duly authorized, executed and delivered by, and, assuming due authorization, execution and delivery by the Authority, constitutes a legal, valid and binding agreement of the City enforceable in accordance with its terms, except as such enforceability may be limited by the application of equitable principles if equitable remedies are sought, and

(ii) the statements contained in the Official Statement (including the cover page and the Appendices thereto), insofar as such statements purport to summarize certain provisions of the Reassessment Bonds, the City Documents or the Resolution, accurately summarize the information presented therein.

(5) City Closing Certificate. A certificate dated the Closing Date, addressed to the Authority and the Underwriter, signed by a City official having knowledge of the facts to the effect that:

(i) The representations, warranties and covenants of the City contained in this Purchase Agreement are true and correct in all material respects on and as of the Closing Date as if made on the Closing Date;

(ii) The Resolution is in full force and effect at the date of the Closing and has not been amended, modified or supplemented, except as agreed to by the Authority and the Underwriter;

(iii) The City has complied with all agreements, covenants and arrangements, and satisfied all conditions, on its part to be complied with or satisfied on or prior to the Closing Date; and

(iv) Subsequent to the date of the Official Statement and on or prior to the date of such certificate, there has been no adverse change in the condition (financial or otherwise) of the City, whether or not arising in the ordinary course of the operations of the City, as described in the Official Statement, that would materially and adversely affect the Reassessment Bonds or the City's performance under the City Documents.

(6) City Attorney Opinion. An opinion of the City Attorney, dated the date of Closing and addressed to the Authority and the Underwriter, to the effect that

(i) the City Documents have been duly authorized, executed and delivered by, and, assuming due authorization, execution and delivery, constitute the legal, valid and binding agreement of the City enforceable in accordance with their terms, except as such enforceability may be limited by the application of equitable principles if equitable remedies are sought,

(ii) the Resolution has been duly adopted, is in full force and effect and has not been modified, amended or rescinded, and

(iii) except as described in the Official Statement, there is no action, suit, proceeding or investigation before or by any court, public board or body pending or threatened, wherein an unfavorable decision, ruling or finding would: (A) affect the creation, organization, existence or powers of the City, or the District; (B) enjoin or restrain the issuance, sale and delivery of the Reassessment Bonds, the receipt of any other moneys or property pledged or to be pledged under the Indentures or the pledge thereof; (C) in any way question or affect any of the rights,

powers, duties or obligations of the City with respect to the moneys and assets pledged or to be pledged to pay the principal of, premium, if any, or interest on the Reassessment Bonds; (D) in any way question or affect any authority for the issuance of the Reassessment Bonds, or the validity or enforceability of the Reassessment Bonds, the Resolution or the City Documents; (E) in any way question or affect this Purchase Agreement or the transactions contemplated by the City Documents, the Official Statement or the documents referred to in the Official Statement and (F) the statements in the Official Statements relating to the City are true and accurate.

(7) City Documents. An executed copy of each of the City Documents.

(8) Certified Resolution. The Resolution, certified by authorized officers as a true copy or as having been adopted or executed (as applicable), with only such amendments, modifications or supplements as may have been agreed to by the Authority and the Underwriter.

(9) Compliance with Requirements for Refunding of Prior Assessment Bonds. Evidence that all the conditions in the Reassessment Law for the refunding of the Prior Assessment Bonds have been complied with.

(10) Additional Documents. Such additional legal opinions, certificates, instruments and documents as the Authority may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the Closing Date, of the City's representations and warranties contained herein and of the statements and information contained in the Official Statement.

All of the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Authority, but the approval of the Authority shall not be unreasonably withheld. Receipt of, and payment for, the Reassessment Bonds shall constitute evidence of the satisfactory nature of such as to the Authority.

The performance of any and all obligations of the City hereunder and the performance of any and all conditions contained herein for the benefit of the Authority may be waived by the Authority in its sole discretion.

If the City is unable to satisfy the conditions to the obligations of the Authority to purchase, accept delivery of and pay for the Reassessment Bonds contained in this Purchase Agreement, or if the obligations of the Authority to purchase, accept delivery of and pay for the Reassessment Bonds is terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate, and neither the Authority nor the City shall be under further obligation hereunder, except that the respective obligations of the City and the Authority set forth in Sections 8, 9 and 10 below shall continue in full force and effect.

Section 8. Payment of Expenses. The Authority and the City shall determine which portion of expenses incurred in connection with issuance of the Authority Bonds and the Reassessment Bonds will be paid by each respective entity, in such proportion as is in compliance with all applicable laws.

Section 9. Indemnification. To the extent permitted by law, the City shall indemnify and hold harmless the Authority and the Trustee, and their respective officers, directors, employees and agents, against any and all losses, claims, damages, liabilities, costs and expenses (including without limitation fees and disbursements of counsel and other expenses) incurred by them or any of them in connection with investigating or defending any loss, claim, damages, liability or any suit, action or proceeding, joint or several, to which they or any of them may become subject under the laws of the State of California or under federal tax law, insofar as such losses, claims, damages, liabilities, costs and expenses (or any suit, action or proceeding in respect thereof) arise out of or are based upon the issuance and sale of the Reassessment Bonds or any untrue statement or alleged untrue statement of a material fact contained in the Official Statement or in any amendment or supplement thereto, or any omission or alleged omission to state therein a material fact relating to the City, the District or the Reassessment Bonds which is required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. This indemnity agreement shall be in addition to any liability which the City may otherwise have.

Section 10. Survival of Representations, Warranties and Agreements. All of the City's representations, warranties and agreements contained in this Purchase Agreement shall remain operative and in full force and effect regardless of: (i) any investigations made by or on behalf of the Authority or (ii) delivery of and payment for the Reassessment Bonds pursuant to this Purchase Agreement.

Section 11. Entire Agreement. This Purchase Agreement is made solely for the benefit of the City and the Authority (including their successors and assigns), and no other person shall acquire or have any right hereunder or by virtue hereof.

Section 12. Counterparts. This Purchase Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 13. Severability. If any one or more of the provisions contained herein is for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

Section 14. Governing Law. The validity, interpretation and performance of this Purchase Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the Authority and the City have caused this Purchase Agreement to be executed by their duly authorized officers all as of the date first above written.

TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY

By_____
Zane H. Johnston
Treasurer

CITY OF TRACY

By_____
Zane H. Johnston
Finance and Administrative Services
Director

EXHIBIT A

$_____
LIMITED OBLIGATION REFUNDING IMPROVEMENT BONDS
CITY OF TRACY
Reassessment District No. 2011-1
(Morrison Homes; Heartland Three)

Maturity Schedule

Maturity Date (September 2)	Principal Maturity	Interest Rate

Jones Hall Draft 10-7-11

ESCROW DEPOSIT AND TRUST AGREEMENT

Relating to the
City of Tracy Limited Obligation Improvement Bonds
Assessment District No. 2000-02 (Heartland Three)

THIS ESCROW DEPOSIT AND TRUST AGREEMENT (the "Agreement") is dated as of December 1, 2011 in connection with the issuance of the Limited Obligation Refunding Improvement Bonds, City of Tracy, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "Refunding Bonds"), and is entered into by and between the CITY OF TRACY (herein the "City"), a general law city, duly organized and existing under and by virtue of the Constitution and laws of the State of California, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Escrow Holder (the "Escrow Holder"), a national banking association having a corporate trust office in California;

W I T N E S S E T H:

WHEREAS, the City previously issued its City of Tracy Limited Obligation Improvement Bonds Assessment District No. 2000-02 (Heartland Three) (the "Prior Bonds"), pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000 (the "Prior Bonds Fiscal Agent Agreement"), by and between the City and the Escrow Holder, as successor fiscal agent (the "Prior Bonds Fiscal Agent"); and

WHEREAS, pursuant to Section 2.03(A)(i) of the Prior Bonds Fiscal Agent Agreement, the City is authorized to redeem the Prior Bonds on March 2, 2012 at a redemption price equal to the outstanding principal amount of the Prior Bonds to be redeemed plus interest accrued to the redemption date; and

WHEREAS, pursuant to Section 2.03(A)(i), the City is required to give at least 30 days' notice by first class mail or by personal service to the registered owner of the Prior Bonds at such owner's address as it appears on the registration books of the fiscal agent for the Prior Bonds; and

WHEREAS, pursuant to Section 9.03 of the Prior Bonds Fiscal Agent Agreement, the City may, by irrevocably depositing with the Prior Bonds Fiscal Agent, in trust, cash and Federal Securities (defined below) in such amount as the City shall determine, as confirmed by an independent certified public accountant, which will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in the Redemption Fund and the Reserve Fund, be fully sufficient to pay and discharge the indebtedness on all Bonds, including all principal, interest and any applicable redemption premiums, at or before their respective maturity dates, and if notice of such redemption shall have been given as

provided in the Prior Bonds Fiscal Agent Agreement or provision satisfactory to the Prior Bonds Fiscal Agent shall have been made for the giving of such notice, then, at the election of the City, and notwithstanding that any Prior Bonds shall not have been surrendered for payment, the pledge of the Assessments (defined in the Prior Bonds Fiscal Agent Agreement) and other funds provided for in the Prior Bonds Fiscal Agent Agreement and all other obligations of the City under the Prior Bonds Fiscal Agent Agreement with respect to all outstanding Prior Bonds shall cease and terminate, except only the obligation of the City to pay or cause to be paid to the owners of the Prior Bonds all sums due thereon; and

WHEREAS, the City, by its Resolution No. _____ adopted on November 1, 2011 (the "Resolution of Issuance") has authorized the issuance of the Refunding Bonds, and therein determined to use the proceeds of the Refunding Bonds to retire, in advance of their stated maturities, the Prior Bonds, all as described in the Resolution of Issuance;

WHEREAS, the City, has directed that the Director of Finance and Administrative Services of the City enter into this Agreement whereby the proceeds of sale of the Refunding Bonds, together with other funds held by the Prior Bonds Fiscal Agent, shall be deposited in an irrevocable special escrow fund (the "Escrow Fund") created and maintained with the Escrow Holder;

WHEREAS, in furtherance of the proposed redemption of the Prior Bonds, the City wishes to provide for the investment, use and disposition of, interest on the funds deposited into the Escrow Fund to accomplish the timely redemption and payment of the Prior Bonds; and

WHEREAS, the Escrow Holder has full powers to act with respect to said Escrow Fund and to perform the duties and obligations to be undertaken pursuant to this Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth and for other valuable consideration, the City and the Escrow Holder agree as follows:

Section 1. Definitions. Capitalized terms used herein are used with the meanings assigned to them in the Resolution of Issuance and in this Agreement unless the context clearly requires some other meaning.

"Federal Securities" is defined in the Prior Bonds Fiscal Agent Agreement as any of the following which are non-callable and which at the time of investment are legal investments under the laws of the State of California for funds held by the Fiscal Agent:

(i) direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the United States Department of the Treasury) and obligations, the payment of principal of and interest on which are directly or indirectly guaranteed by the United States of America, including, without limitation, such of the foregoing which are commonly referred to as stripped obligations and coupons; or

(ii) any of the following obligations of the following agencies of the United States of America: (a) direct obligations of the Export-Import Bank, (b) certificates of beneficial

ownership issued by the Farmers Home Administration, (c) participation certificates issued by the General Services Administration (d) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, (e) project notes issued by the United States Department of Housing and Urban Development, and (f) public housing notes and bonds guaranteed by the United States of America.

Section 2. Establishment of Escrow; Deposit of Funds. The Escrow Fund is hereby established by the City with the Escrow Holder as an irrevocable escrow to be maintained by the Escrow Holder in escrow for the benefit and protection of the owners of the Prior Bonds.

The Escrow Agent shall deposit in the Escrow Fund (i) on the date of issuance of the Refunding Bonds, certain proceeds of the Refunding Bonds (in the amount of $_____) transferred to it by The Bank of New York Mellon Trust Company, N.A., as fiscal agent for the Refunding Bonds (the "Refunding Bonds Fiscal Agent") and (ii) on the date of issuance of the Refunding Bonds, certain other funds related to the Prior Bonds in the amount of $_____ (all as set forth in Exhibit A hereto) transferred to it by the Prior Bonds Fiscal Agent. The Prior Bonds Fiscal Agent is hereby directed by the City to transfer such amounts held by it as set forth in such Exhibit A to the Escrow Holder for deposit as provided herein.

The Prior Bonds Fiscal Agent is further directed to transfer any balance of funds held by it with respect to the Prior Bonds together with any interest earnings received with respect thereto received on and after the date of delivery of the Refunding Bonds to the Refunding Bonds Fiscal Agent for deposit into the Redemption Fund for the Refunding Bonds.

If at any time the Escrow Holder shall receive actual knowledge that the moneys and Federal Securities in the Escrow Fund will not be sufficient to make any payment required hereunder, the Escrow Holder shall notify the City of such fact and the City shall promptly cure such deficiency. The Escrow Holder shall not be liable for any such deficiency.

Section 3. Purchase of Federal Securities. The Escrow Holder shall use such portion of the amounts deposited in the Escrow Fund pursuant to Section 2 to acquire in its own name as Escrow Holder, the Federal Securities described in "Exhibit B" attached hereto and by this reference incorporated herein, and shall hold any remaining amount of $_____ in cash uninvested.

Section 4. Payment for and Use of Federal Securities. Payment for the Federal Securities referred to in Section 3 shall be conclusively evidenced by the Escrow Holder's execution and delivery of an acknowledgment of payment. The Federal Securities and the interest thereon shall be used to satisfy the requirement of payment and discharge of the Prior Bonds in lawful money of the United States of America and shall be held by the Escrow Holder solely for redemption and payment of the Prior Bonds.

Section 5. Retention for, and Payment of, the Prior Bonds. There shall be retained in the Escrow Fund all interest accruing from and principal paid on the Federal Securities deposited therein pursuant to Section 3 hereof to the extent required for the payment of the principal of, premium and interest on the Prior Bonds, and all of the moneys and Federal Securities in the Escrow Fund, except as herein otherwise expressly provided, are hereby irrevocably pledged, in trust, to the payment of the principal of, premium and interest on the Prior Bonds.

The City hereby instructs the Prior Bonds Fiscal Agent to redeem the Prior Bonds on March 2, 2012 at the redemption price identified in the recitals of this Agreement, and, the Escrow Holder shall transfer to the Prior Bonds Fiscal Agent from the Escrow Fund such amounts as may be necessary for such purposes, as shown on Exhibit C attached hereto and by this reference incorporated therein. Any monies remaining in the Escrow Fund established under this Agreement after making all of the payments described in this Section 5 shall be transferred to the Fiscal Agent for the Refunding Bonds, for deposit into the Redemption Fund for the Refunding Bonds.

Section 6. Notice of Refunding. The Escrow Agent, in its capacity as Prior Bonds Fiscal Agent, is hereby irrevocably instructed to mail, on a timely basis, pursuant to Section 2.03(A)(i) of the Prior Bonds Fiscal Agent Agreement, and with respect to the proposed redemption of the Prior Bonds on March 2, 2012, a notice of redemption not less than 30 days prior to the redemption date, in the form attached hereto as Exhibit D.

Section 7. Substitution of Federal Securities. The City may at any time direct the Escrow Holder to substitute Federal Securities for any or all of the Federal Securities then deposited in the Escrow Fund, provided that any such direction and substitution shall be accompanied with a certification of an independent certified public accountant or firm of certified public accountant or firm of certified public accountants of favorable national reputation experienced in the refunding of obligations of political subdivisions that the Federal Securities then to be so deposited in the Escrow Fund, together with interest to be derived therefrom, shall be in an amount at all times at least sufficient to make the payments specified in Section 5 hereof and, further, to be accompanied with an opinion of nationally recognized bond counsel that the substitution will not affect, for Federal income tax purposes, the exemption from Federal income taxes of the interest on the Prior Bonds and the Refunding Bonds. In the event that, following any such substitution of Federal Securities pursuant to this Section 7, there is an amount of moneys or Federal Securities in excess of an amount sufficient to make the payments required by Section 5 hereof, such excess shall be paid to the City.

Section 8. Limited Power of Escrow Holder; Permitted Investments. Except as herein otherwise expressly provided, the Escrow Holder shall have no power or duty to make substitutions of the Federal Securities, or to sell, transfer or otherwise dispose of the Federal Securities.

Section 9. No Arbitrage. The City hereby covenants that no part of the Escrow Fund shall be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause the Prior Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code and regulations promulgated thereunder.

Section 10. Records. The Escrow Holder will keep books of record and account in which complete and correct entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Federal Securities accruing to the Escrow Holder hereunder, and such books shall be available for inspection at reasonable hours and under reasonable conditions with reasonable prior notice by the owners of the Prior Bonds and the Bonds.

Section 11. Proper Filings. The City will, at its expense, execute, acknowledge, deliver or file this Agreement and assignments, transfers, financing statements, continuation statements, and assurances required for the better assuring, conveying, pledging, assigning and confirming unto the Escrow Holder, the moneys and Federal Securities hereby pledged, or intended so to be or which the City may be or may hereafter become bound to pledge, convey or assign to the Escrow Holder or for carrying out the intention or facilitating the performance of the terms of this Agreement.

Section 12. Discharge. The covenants, liens and pledges entered into, created or imposed pursuant to this Agreement shall be fully discharged, and satisfied when all of the Prior Bonds shall have been paid in full, as to principal, premium and interest. Upon such discharge and satisfaction this Agreement shall cease, terminate and become null and void, and thereupon the Escrow Holder shall, upon the written request of the City, forthwith execute proper instruments acknowledging satisfaction and discharge of this Agreement.

Section 13. Termination; Unclaimed Funds. Notwithstanding any other provision of this Agreement any money held by the Prior Bonds Fiscal Agent for the payment of the principal of, premium and interest on the Prior Bonds and remaining unclaimed for two (2) years after the principal of all of the Prior Bonds shall have been called for redemption and after the date of redemption shall then be repaid to the City upon its written request, and the registered owners of the Prior Bonds shall thereafter be entitled to look only to the City for the repayment thereof, and liability of the Escrow Holder with respect to such money shall thereupon cease. In the event of the repayment of any such money to the City as aforesaid, the registered owners of the Prior Bonds secured hereby with respect to which such money was deposited shall thereafter be deemed to be unsecured creditors of the City, without interest. Notwithstanding the foregoing the Escrow Holder shall, upon the written request of the City repay such money to the City at any time earlier than two (2) years, if failure to repay such money to the City, within such earlier period shall give rise to the operation of any escheat statute under applicable State law. Any unclaimed funds repaid to the City shall be placed by the City in the Redemption Fund for the Refunding Bonds and used for credit on debt service on the Refunding Bonds.

Section 14. No Implied Duties; No Rights to Others. Nothing in this Agreement expressed or implied is intended or shall be construed to give to any person other than the City, the Escrow Holder, the Prior Bonds Fiscal Agent and the registered owners of the Prior Bonds, any legal or equitable right, remedy or claim under or in respect to this Agreement or any covenants, conditions or provisions therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the City, the Escrow Holder and the Owners of the Prior Bonds. The Escrow Holder shall perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Escrow Holder.

Section 15. Immunities and Liabilities of Escrow Holder.

(A) The Escrow Holder shall not have any liability hereunder except to the extent of its own negligence or willful misconduct. The Escrow Holder is not required to resolve conflicting demands to money or property in its possession under this Agreement.

(B) The Escrow Holder may consult with counsel of its own choice (which may be counsel to the City) and the opinion of such counsel shall be full and complete authorization to take or suffer in good faith any action hereunder in accordance with such opinion of counsel.

(C) The Escrow Holder shall not be responsible for any of the recitals or representations contained herein or in the Resolution of Issuance.

(D) The Escrow Holder may become the owner of, or acquire any interest in, any of the Prior Bonds with the same rights that it would have if it were not the Escrow Holder, and may engage or be interested in any financial or other transaction with the City.

(E) The Escrow Holder shall not be liable for the accuracy of any calculations provided as to the sufficiency of the moneys or Federal Securities deposited with it to pay the principal, interest or premiums, if any, on the Prior Bonds and shall not be liable for any insufficiency of such moneys and securities to affect such payment.

(F) The Escrow Holder shall not be liable for any action or omission of the City under this Agreement or the Resolution of Issuance.

(G) Whenever in the administration of this Agreement the Escrow Holder shall deem it necessary or desirable that a matter be proved or established before taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Escrow Holder, be deemed to be conclusively proved and established by a certificate of an authorized official of the City, and such certificate shall, in the absence of negligence or willful misconduct on the part of the Escrow Holder, be full warrant to the Escrow Holder for any action taken or suffered by it under the provisions of this Agreement upon the faith thereof.

(H) The Escrow Holder may at any time resign by giving written notice to the City of such resignation. The City shall promptly appoint a successor Escrow Holder by the resignation date. Resignation of the Escrow Holder will be effective only upon acceptance of appointment by a successor Escrow Holder. If the City does not appoint a successor, the Escrow Holder may petition any court of competent jurisdiction for the appointment of a successor Escrow Holder, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Escrow Holder. After receiving a notice of resignation of an Escrow Holder, the City may appoint a temporary Escrow Holder to replace the resigning Escrow Holder until the City appoints a successor Escrow Holder. Any such temporary Escrow Holder so appointed by the City, shall immediately and without further act be superseded by the successor Escrow Holder so appointed.

(I) The City agrees to indemnify the Escrow Holder, its agents and its officers or employees for and to hold the Escrow Holder, its agents, officers or employees harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements

of any kind or nature whatsoever (including, without limitation, reasonable fees and disbursements of counsel, including in-house counsel, for the Escrow Holder) which may be imposed on, incurred by, or asserted against the Escrow Holder at any time by reason of the performance of its duties as Escrow Holder hereunder and under the Resolution of Issuance, in any transaction arising out of this Agreement or the Bond Resolution or any of the transactions contemplated herein or in the Resolution of Issuance, unless due to the Escrow Holder's or its officers' or employees' or agents' negligence or willful misconduct. Such indemnity shall survive the termination of this Agreement or resignation or removal of the Escrow Holder.

(J) All notices, certificates or other communications hereunder with the Escrow Holder shall be addressed to the Escrow Holder at:

The Bank of New York Mellon Trust Company, N.A.
550 Kearny Street, Suite 600
San Francisco, California 94108
Attention: Corporate Trust Department

Section 16. Waiver of Notice. Whenever in this Agreement the giving of notice by mail or otherwise shall be required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 17. Fees. The Escrow Holder's fees, expenses and reimbursement for costs incurred, for and in carrying out the provisions of this Agreement have been fixed by separate agreement. The Escrow Holder shall also be entitled to additional fees, expenses and reimbursement for costs incurred in connection with the performance of its duties and exercise of its powers hereunder, including but not limited to legal and accounting services, in connection with any litigation which may at any time be instituted involving this Agreement. The fees incurred by the Escrow Holder shall in no event be deducted from the Escrow Fund.

Section 18. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provisions has never been contained herein.

Section 19. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and such counterparts, or as many of them as the Agency and the Escrow Holder shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 20. Business Days. Whenever any act is required by this Agreement to be done on a specified day or date, and such day or date shall be a day other than a business day, then such act may be done on the next succeeding business day.

Section 21. California Law. This Agreement shall be governed exclusively by and interpreted in accordance with, the laws of the State of California.

IN WITNESS WHEREOF, the City and the Escrow Holder have each caused this Agreement to be executed by the duly authorized officers thereof and have caused the corporate seal to be affixed hereto and attested as of the date first above written.

CITY OF TRACY

By: _____
Director of Finance and Administrative Services

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Escrow Holder

By: _____
Authorized Officer

ACKNOWLEDGEMENT OF THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS PRIOR BONDS FISCAL AGENT

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Prior Bonds Fiscal Agent, hereby acknowledges the provisions of this Agreement and, to the extent such provisions are applicable, The Bank of New York Mellon Trust Company, N.A., in its capacity as Prior Bonds Fiscal Agent, agrees to comply therewith.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,
as *Prior Bonds Fiscal Agent*

By:_____
Authorized Officer

EXHIBIT A

FUNDS TRANSFERRED BY PRIOR BONDS FISCAL AGENT

Fund	Amount
Redemption Fund	$
Reserve Fund	
Total	

EXHIBIT B

DESCRIPTION OF FEDERAL SECURITIES

Type	Maturity Date	Par Amount	Yield	Cost

EXHIBIT C

PAYMENT AND REDEMPTION SCHEDULE OF PRIOR BONDS

Payment Date	Principal	Interest	Principal Redeemed	Redemption Premium	Total Payment
3/2/12				0%	

EXHIBIT D

NOTICE OF REDEMPTION

Notice to the Holders of Outstanding

City of Tracy
Limited Obligation Improvement Bonds
Assessment District No. 2000-02
(Heartland Three)

NOTICE IS HEREBY GIVEN that the City of Tracy (the "City") has on _____, 2011, from the proceeds of sale of bonds and other sources, irrevocably set aside in an Escrow Fund created for such purpose and held by The Bank of New York Mellon Trust Company, N.A., San Francisco, California, as Escrow Agent (the "Escrow Agent") pursuant to an Escrow Deposit and Trust Agreement, dated as of December 1, 2011 (the "Escrow Agreement"), by and between the City and the Escrow Agent, moneys which, when added to the investment earnings therefrom, shall be sufficient to redeem the captioned bonds (the "Bonds") on March 2, 2012 at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the redemption date.

In accordance with the terms of the Fiscal Agent Agreement relating to the Bonds, redemption notice is required to be given by The Bank of New York Mellon Trust Company, N.A., as fiscal agent, on a date not less than 30 days prior to the redemption date.

The moneys deposited in the Escrow Fund, including the earnings derived from the investment thereof, are irrevocably pledged to the payment of principal or redemption price of and interest on the Bonds. Said moneys have been invested in federal securities (as permitted under the Fiscal Agent Agreement for the Bonds), and the City may substitute securities for those initially allocated to the Escrow Fund and withdraw moneys from the Escrow Fund subject to the terms and conditions set forth in the Escrow Agreement.

As a consequence of the foregoing actions and in accordance with the Fiscal Agent Agreement relating to the Bonds, the rights of the owners of the Bonds in the accounts pledged to the payment of the Bonds has terminated, and the Bonds are now payable solely from the moneys set aside in the Escrow Fund as described above and, if necessary, from other legally available funds of the City.

Additional information regarding the foregoing actions may be obtained from The Bank of New York Mellon Trust Company, N.A., Corporate Trust Department, 550 Kearny Street, Suite 600, San Francisco, California 94108, telephone number _____.

Dated: _____, 2011

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Escrow Agent

Exhibit D

Jones Hall Draft 10-7-11

ESCROW DEPOSIT AND TRUST AGREEMENT

Relating to the
City of Tracy Limited Obligation Improvement Bonds
Assessment District No. 2000-02 (Heartland Three)

THIS ESCROW DEPOSIT AND TRUST AGREEMENT (the "Agreement") is dated as of December 1, 2011 in connection with the issuance of the Limited Obligation Refunding Improvement Bonds, City of Tracy, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "Refunding Bonds"), and is entered into by and between the CITY OF TRACY (herein the "City"), a general law city, duly organized and existing under and by virtue of the Constitution and laws of the State of California, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Escrow Holder (the "Escrow Holder"), a national banking association having a corporate trust office in California;

W I T N E S S E T H:

WHEREAS, the City previously issued its City of Tracy Limited Obligation Improvement Bonds Assessment District No. 2000-02 (Heartland Three) (the "Prior Bonds"), pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000 (the "Prior Bonds Fiscal Agent Agreement"), by and between the City and the Escrow Holder, as successor fiscal agent (the "Prior Bonds Fiscal Agent"); and

WHEREAS, pursuant to Section 2.03(A)(i) of the Prior Bonds Fiscal Agent Agreement, the City is authorized to redeem the Prior Bonds on March 2, 2012 at a redemption price equal to the outstanding principal amount of the Prior Bonds to be redeemed plus interest accrued to the redemption date; and

WHEREAS, pursuant to Section 2.03(A)(i), the City is required to give at least 30 days' notice by first class mail or by personal service to the registered owner of the Prior Bonds at such owner's address as it appears on the registration books of the fiscal agent for the Prior Bonds; and

WHEREAS, pursuant to Section 9.03 of the Prior Bonds Fiscal Agent Agreement, the City may, by irrevocably depositing with the Prior Bonds Fiscal Agent, in trust, cash and Federal Securities (defined below) in such amount as the City shall determine, as confirmed by an independent certified public accountant, which will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in the Redemption Fund and the Reserve Fund, be fully sufficient to pay and discharge the indebtedness on all Bonds, including all principal, interest and any applicable redemption premiums, at or before their respective maturity dates, and if notice of such redemption shall have been given as

provided in the Prior Bonds Fiscal Agent Agreement or provision satisfactory to the Prior Bonds Fiscal Agent shall have been made for the giving of such notice, then, at the election of the City, and notwithstanding that any Prior Bonds shall not have been surrendered for payment, the pledge of the Assessments (defined in the Prior Bonds Fiscal Agent Agreement) and other funds provided for in the Prior Bonds Fiscal Agent Agreement and all other obligations of the City under the Prior Bonds Fiscal Agent Agreement with respect to all outstanding Prior Bonds shall cease and terminate, except only the obligation of the City to pay or cause to be paid to the owners of the Prior Bonds all sums due thereon; and

WHEREAS, the City, by its Resolution No. _____ adopted on November 1, 2011 (the "Resolution of Issuance") has authorized the issuance of the Refunding Bonds, and therein determined to use the proceeds of the Refunding Bonds to retire, in advance of their stated maturities, the Prior Bonds, all as described in the Resolution of Issuance;

WHEREAS, the City, has directed that the Director of Finance and Administrative Services of the City enter into this Agreement whereby the proceeds of sale of the Refunding Bonds, together with other funds held by the Prior Bonds Fiscal Agent, shall be deposited in an irrevocable special escrow fund (the "Escrow Fund") created and maintained with the Escrow Holder;

WHEREAS, in furtherance of the proposed redemption of the Prior Bonds, the City wishes to provide for the investment, use and disposition of, interest on the funds deposited into the Escrow Fund to accomplish the timely redemption and payment of the Prior Bonds; and

WHEREAS, the Escrow Holder has full powers to act with respect to said Escrow Fund and to perform the duties and obligations to be undertaken pursuant to this Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth and for other valuable consideration, the City and the Escrow Holder agree as follows:

Section 1. Definitions. Capitalized terms used herein are used with the meanings assigned to them in the Resolution of Issuance and in this Agreement unless the context clearly requires some other meaning.

"Federal Securities" is defined in the Prior Bonds Fiscal Agent Agreement as any of the following which are non-callable and which at the time of investment are legal investments under the laws of the State of California for funds held by the Fiscal Agent:

(i) direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the United States Department of the Treasury) and obligations, the payment of principal of and interest on which are directly or indirectly guaranteed by the United States of America, including, without limitation, such of the foregoing which are commonly referred to as stripped obligations and coupons; or

(ii) any of the following obligations of the following agencies of the United States of America: (a) direct obligations of the Export-Import Bank, (b) certificates of beneficial

ownership issued by the Farmers Home Administration, (c) participation certificates issued by the General Services Administration (d) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, (e) project notes issued by the United States Department of Housing and Urban Development, and (f) public housing notes and bonds guaranteed by the United States of America.

Section 2. Establishment of Escrow; Deposit of Funds. The Escrow Fund is hereby established by the City with the Escrow Holder as an irrevocable escrow to be maintained by the Escrow Holder in escrow for the benefit and protection of the owners of the Prior Bonds.

The Escrow Agent shall deposit in the Escrow Fund (i) on the date of issuance of the Refunding Bonds, certain proceeds of the Refunding Bonds (in the amount of $_____) transferred to it by The Bank of New York Mellon Trust Company, N.A., as fiscal agent for the Refunding Bonds (the "Refunding Bonds Fiscal Agent") and (ii) on the date of issuance of the Refunding Bonds, certain other funds related to the Prior Bonds in the amount of $_____ (all as set forth in Exhibit A hereto) transferred to it by the Prior Bonds Fiscal Agent. The Prior Bonds Fiscal Agent is hereby directed by the City to transfer such amounts held by it as set forth in such Exhibit A to the Escrow Holder for deposit as provided herein.

The Prior Bonds Fiscal Agent is further directed to transfer any balance of funds held by it with respect to the Prior Bonds together with any interest earnings received with respect thereto received on and after the date of delivery of the Refunding Bonds to the Refunding Bonds Fiscal Agent for deposit into the Redemption Fund for the Refunding Bonds.

If at any time the Escrow Holder shall receive actual knowledge that the moneys and Federal Securities in the Escrow Fund will not be sufficient to make any payment required hereunder, the Escrow Holder shall notify the City of such fact and the City shall promptly cure such deficiency. The Escrow Holder shall not be liable for any such deficiency.

Section 3. Purchase of Federal Securities. The Escrow Holder shall use such portion of the amounts deposited in the Escrow Fund pursuant to Section 2 to acquire in its own name as Escrow Holder, the Federal Securities described in "Exhibit B" attached hereto and by this reference incorporated herein, and shall hold any remaining amount of $_____ in cash uninvested.

Section 4. Payment for and Use of Federal Securities. Payment for the Federal Securities referred to in Section 3 shall be conclusively evidenced by the Escrow Holder's execution and delivery of an acknowledgment of payment. The Federal Securities and the interest thereon shall be used to satisfy the requirement of payment and discharge of the Prior Bonds in lawful money of the United States of America and shall be held by the Escrow Holder solely for redemption and payment of the Prior Bonds.

Section 5. Retention for, and Payment of, the Prior Bonds. There shall be retained in the Escrow Fund all interest accruing from and principal paid on the Federal Securities deposited therein pursuant to Section 3 hereof to the extent required for the payment of the principal of, premium and interest on the Prior Bonds, and all of the moneys and Federal Securities in the Escrow Fund, except as herein otherwise expressly provided, are hereby irrevocably pledged, in trust, to the payment of the principal of, premium and interest on the Prior Bonds.

The City hereby instructs the Prior Bonds Fiscal Agent to redeem the Prior Bonds on March 2, 2012 at the redemption price identified in the recitals of this Agreement, and, the Escrow Holder shall transfer to the Prior Bonds Fiscal Agent from the Escrow Fund such amounts as may be necessary for such purposes, as shown on Exhibit C attached hereto and by this reference incorporated therein. Any monies remaining in the Escrow Fund established under this Agreement after making all of the payments described in this Section 5 shall be transferred to the Fiscal Agent for the Refunding Bonds, for deposit into the Redemption Fund for the Refunding Bonds.

Section 6. Notice of Refunding. The Escrow Agent, in its capacity as Prior Bonds Fiscal Agent, is hereby irrevocably instructed to mail, on a timely basis, pursuant to Section 2.03(A)(i) of the Prior Bonds Fiscal Agent Agreement, and with respect to the proposed redemption of the Prior Bonds on March 2, 2012, a notice of redemption not less than 30 days prior to the redemption date, in the form attached hereto as Exhibit D.

Section 7. Substitution of Federal Securities. The City may at any time direct the Escrow Holder to substitute Federal Securities for any or all of the Federal Securities then deposited in the Escrow Fund, provided that any such direction and substitution shall be accompanied with a certification of an independent certified public accountant or firm of certified public accountant or firm of certified public accountants of favorable national reputation experienced in the refunding of obligations of political subdivisions that the Federal Securities then to be so deposited in the Escrow Fund, together with interest to be derived therefrom, shall be in an amount at all times at least sufficient to make the payments specified in Section 5 hereof and, further, to be accompanied with an opinion of nationally recognized bond counsel that the substitution will not affect, for Federal income tax purposes, the exemption from Federal income taxes of the interest on the Prior Bonds and the Refunding Bonds. In the event that, following any such substitution of Federal Securities pursuant to this Section 7, there is an amount of moneys or Federal Securities in excess of an amount sufficient to make the payments required by Section 5 hereof, such excess shall be paid to the City.

Section 8. Limited Power of Escrow Holder; Permitted Investments. Except as herein otherwise expressly provided, the Escrow Holder shall have no power or duty to make substitutions of the Federal Securities, or to sell, transfer or otherwise dispose of the Federal Securities.

Section 9. No Arbitrage. The City hereby covenants that no part of the Escrow Fund shall be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause the Prior Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code and regulations promulgated thereunder.

Section 10. Records. The Escrow Holder will keep books of record and account in which complete and correct entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Federal Securities accruing to the Escrow Holder hereunder, and such books shall be available for inspection at reasonable hours and under reasonable conditions with reasonable prior notice by the owners of the Prior Bonds and the Bonds.

Section 11. Proper Filings. The City will, at its expense, execute, acknowledge, deliver or file this Agreement and assignments, transfers, financing statements, continuation statements, and assurances required for the better assuring, conveying, pledging, assigning and confirming unto the Escrow Holder, the moneys and Federal Securities hereby pledged, or intended so to be or which the City may be or may hereafter become bound to pledge, convey or assign to the Escrow Holder or for carrying out the intention or facilitating the performance of the terms of this Agreement.

Section 12. Discharge. The covenants, liens and pledges entered into, created or imposed pursuant to this Agreement shall be fully discharged, and satisfied when all of the Prior Bonds shall have been paid in full, as to principal, premium and interest. Upon such discharge and satisfaction this Agreement shall cease, terminate and become null and void, and thereupon the Escrow Holder shall, upon the written request of the City, forthwith execute proper instruments acknowledging satisfaction and discharge of this Agreement.

Section 13. Termination; Unclaimed Funds. Notwithstanding any other provision of this Agreement any money held by the Prior Bonds Fiscal Agent for the payment of the principal of, premium and interest on the Prior Bonds and remaining unclaimed for two (2) years after the principal of all of the Prior Bonds shall have been called for redemption and after the date of redemption shall then be repaid to the City upon its written request, and the registered owners of the Prior Bonds shall thereafter be entitled to look only to the City for the repayment thereof, and liability of the Escrow Holder with respect to such money shall thereupon cease. In the event of the repayment of any such money to the City as aforesaid, the registered owners of the Prior Bonds secured hereby with respect to which such money was deposited shall thereafter be deemed to be unsecured creditors of the City, without interest. Notwithstanding the foregoing the Escrow Holder shall, upon the written request of the City repay such money to the City at any time earlier than two (2) years, if failure to repay such money to the City, within such earlier period shall give rise to the operation of any escheat statute under applicable State law. Any unclaimed funds repaid to the City shall be placed by the City in the Redemption Fund for the Refunding Bonds and used for credit on debt service on the Refunding Bonds.

Section 14. No Implied Duties; No Rights to Others. Nothing in this Agreement expressed or implied is intended or shall be construed to give to any person other than the City, the Escrow Holder, the Prior Bonds Fiscal Agent and the registered owners of the Prior Bonds, any legal or equitable right, remedy or claim under or in respect to this Agreement or any covenants, conditions or provisions therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the City, the Escrow Holder and the Owners of the Prior Bonds. The Escrow Holder shall perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Escrow Holder.

Section 15. Immunities and Liabilities of Escrow Holder.

(A) The Escrow Holder shall not have any liability hereunder except to the extent of its own negligence or willful misconduct. The Escrow Holder is not required to resolve conflicting demands to money or property in its possession under this Agreement.

(B) The Escrow Holder may consult with counsel of its own choice (which may be counsel to the City) and the opinion of such counsel shall be full and complete authorization to take or suffer in good faith any action hereunder in accordance with such opinion of counsel.

(C) The Escrow Holder shall not be responsible for any of the recitals or representations contained herein or in the Resolution of Issuance.

(D) The Escrow Holder may become the owner of, or acquire any interest in, any of the Prior Bonds with the same rights that it would have if it were not the Escrow Holder, and may engage or be interested in any financial or other transaction with the City.

(E) The Escrow Holder shall not be liable for the accuracy of any calculations provided as to the sufficiency of the moneys or Federal Securities deposited with it to pay the principal, interest or premiums, if any, on the Prior Bonds and shall not be liable for any insufficiency of such moneys and securities to affect such payment.

(F) The Escrow Holder shall not be liable for any action or omission of the City under this Agreement or the Resolution of Issuance.

(G) Whenever in the administration of this Agreement the Escrow Holder shall deem it necessary or desirable that a matter be proved or established before taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Escrow Holder, be deemed to be conclusively proved and established by a certificate of an authorized official of the City, and such certificate shall, in the absence of negligence or willful misconduct on the part of the Escrow Holder, be full warrant to the Escrow Holder for any action taken or suffered by it under the provisions of this Agreement upon the faith thereof.

(H) The Escrow Holder may at any time resign by giving written notice to the City of such resignation. The City shall promptly appoint a successor Escrow Holder by the resignation date. Resignation of the Escrow Holder will be effective only upon acceptance of appointment by a successor Escrow Holder. If the City does not appoint a successor, the Escrow Holder may petition any court of competent jurisdiction for the appointment of a successor Escrow Holder, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Escrow Holder. After receiving a notice of resignation of an Escrow Holder, the City may appoint a temporary Escrow Holder to replace the resigning Escrow Holder until the City appoints a successor Escrow Holder. Any such temporary Escrow Holder so appointed by the City, shall immediately and without further act be superseded by the successor Escrow Holder so appointed.

(I) The City agrees to indemnify the Escrow Holder, its agents and its officers or employees for and to hold the Escrow Holder, its agents, officers or employees harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements

of any kind or nature whatsoever (including, without limitation, reasonable fees and disbursements of counsel, including in-house counsel, for the Escrow Holder) which may be imposed on, incurred by, or asserted against the Escrow Holder at any time by reason of the performance of its duties as Escrow Holder hereunder and under the Resolution of Issuance, in any transaction arising out of this Agreement or the Bond Resolution or any of the transactions contemplated herein or in the Resolution of Issuance, unless due to the Escrow Holder's or its officers' or employees' or agents' negligence or willful misconduct. Such indemnity shall survive the termination of this Agreement or resignation or removal of the Escrow Holder.

(J) All notices, certificates or other communications hereunder with the Escrow Holder shall be addressed to the Escrow Holder at:

The Bank of New York Mellon Trust Company, N.A.
550 Kearny Street, Suite 600
San Francisco, California 94108
Attention: Corporate Trust Department

Section 16. Waiver of Notice. Whenever in this Agreement the giving of notice by mail or otherwise shall be required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 17. Fees. The Escrow Holder's fees, expenses and reimbursement for costs incurred, for and in carrying out the provisions of this Agreement have been fixed by separate agreement. The Escrow Holder shall also be entitled to additional fees, expenses and reimbursement for costs incurred in connection with the performance of its duties and exercise of its powers hereunder, including but not limited to legal and accounting services, in connection with any litigation which may at any time be instituted involving this Agreement. The fees incurred by the Escrow Holder shall in no event be deducted from the Escrow Fund.

Section 18. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provisions has never been contained herein.

Section 19. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and such counterparts, or as many of them as the Agency and the Escrow Holder shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 20. Business Days. Whenever any act is required by this Agreement to be done on a specified day or date, and such day or date shall be a day other than a business day, then such act may be done on the next succeeding business day.

Section 21. California Law. This Agreement shall be governed exclusively by and interpreted in accordance with, the laws of the State of California.

IN WITNESS WHEREOF, the City and the Escrow Holder have each caused this Agreement to be executed by the duly authorized officers thereof and have caused the corporate seal to be affixed hereto and attested as of the date first above written.

CITY OF TRACY

By: _____
Director of Finance and Administrative Services

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Escrow Holder

By: _____
Authorized Officer

ACKNOWLEDGEMENT OF THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS PRIOR BONDS FISCAL AGENT

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Prior Bonds Fiscal Agent, hereby acknowledges the provisions of this Agreement and, to the extent such provisions are applicable, The Bank of New York Mellon Trust Company, N.A., in its capacity as Prior Bonds Fiscal Agent, agrees to comply therewith.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,
as *Prior Bonds Fiscal Agent*

By:_____
Authorized Officer

EXHIBIT A

FUNDS TRANSFERRED BY PRIOR BONDS FISCAL AGENT

Fund	Amount
Redemption Fund	$
Reserve Fund	
Total	

EXHIBIT B

DESCRIPTION OF FEDERAL SECURITIES

Type	Maturity Date	Par Amount	Yield	Cost

EXHIBIT C

PAYMENT AND REDEMPTION SCHEDULE OF PRIOR BONDS

Payment Date	Principal	Interest	Principal Redeemed	Redemption Premium	Total Payment
3/2/12				0%	

EXHIBIT D

NOTICE OF REDEMPTION

Notice to the Holders of Outstanding

City of Tracy
Limited Obligation Improvement Bonds
Assessment District No. 2000-02
(Heartland Three)

NOTICE IS HEREBY GIVEN that the City of Tracy (the "City") has on _____, 2011, from the proceeds of sale of bonds and other sources, irrevocably set aside in an Escrow Fund created for such purpose and held by The Bank of New York Mellon Trust Company, N.A., San Francisco, California, as Escrow Agent (the "Escrow Agent") pursuant to an Escrow Deposit and Trust Agreement, dated as of December 1, 2011 (the "Escrow Agreement"), by and between the City and the Escrow Agent, moneys which, when added to the investment earnings therefrom, shall be sufficient to redeem the captioned bonds (the "Bonds") on March 2, 2012 at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the redemption date.

In accordance with the terms of the Fiscal Agent Agreement relating to the Bonds, redemption notice is required to be given by The Bank of New York Mellon Trust Company, N.A., as fiscal agent, on a date not less than 30 days prior to the redemption date.

The moneys deposited in the Escrow Fund, including the earnings derived from the investment thereof, are irrevocably pledged to the payment of principal or redemption price of and interest on the Bonds. Said moneys have been invested in federal securities (as permitted under the Fiscal Agent Agreement for the Bonds), and the City may substitute securities for those initially allocated to the Escrow Fund and withdraw moneys from the Escrow Fund subject to the terms and conditions set forth in the Escrow Agreement.

As a consequence of the foregoing actions and in accordance with the Fiscal Agent Agreement relating to the Bonds, the rights of the owners of the Bonds in the accounts pledged to the payment of the Bonds has terminated, and the Bonds are now payable solely from the moneys set aside in the Escrow Fund as described above and, if necessary, from other legally available funds of the City.

Additional information regarding the foregoing actions may be obtained from The Bank of New York Mellon Trust Company, N.A., Corporate Trust Department, 550 Kearny Street, Suite 600, San Francisco, California 94108, telephone number _____.

Dated: _____, 2011

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Escrow Agent

Exhibit D

Jones Hall Draft 10-7-11

ESCROW DEPOSIT AND TRUST AGREEMENT

Relating to the
City of Tracy Limited Obligation Improvement Bonds
Assessment District No. 98-4 (Morrison Homes)

THIS ESCROW DEPOSIT AND TRUST AGREEMENT (the "Agreement") is dated as of December 1, 2011 in connection with the issuance of the Limited Obligation Refunding Improvement Bonds, City of Tracy, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "Refunding Bonds"), and is entered into by and between the CITY OF TRACY (herein the "City"), a general law city, duly organized and existing under and by virtue of the Constitution and laws of the State of California, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Escrow Holder (the "Escrow Holder"), a national banking association having a corporate trust office in California;

W I T N E S S E T H:

WHEREAS, the City previously issued its City of Tracy Limited Obligation Improvement Bonds Assessment District No. 98-4 (Morrison Homes) (the "Prior Bonds"), pursuant to a Fiscal Agent Agreement, dated as of November 1, 1998 (the "Prior Bonds Fiscal Agent Agreement"), by and between the City and the Escrow Holder, as successor fiscal agent (the "Prior Bonds Fiscal Agent"); and

WHEREAS, pursuant to Section 4.4 of the Prior Bonds Fiscal Agent Agreement, the City is authorized to redeem the Prior Bonds on March 2, 2012 at a redemption price equal to the outstanding principal amount of the Prior Bonds to be redeemed plus interest accrued to the redemption date; and

WHEREAS, pursuant to Section 4.4, the City is required to give at least 30 days' notice by registered or certified mail or by personal service to the registered owner of the Prior Bonds at such owner's address as it appears on the registration books of the fiscal agent for the Prior Bonds; and

WHEREAS, pursuant to Section 7.1 of the Prior Bonds Fiscal Agent Agreement, if an escrow agent designated by the City holds sufficient moneys, or Escrow Investments (defined as cash, direct non-callable obligations of the United States of America, and non-callable securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged), the principal of and the interest on which when due and payable will provide sufficient moneys in the opinion of a certified public accountant to pay the principal, interest and the redemption premium, if any, upon any

outstanding Prior Bonds to the redemption date, and if, in the event any Prior Bonds are to be called for redemption, irrevocable instructions to call the Prior Bonds for redemption shall have been given by the City to the escrow agent, and sufficient funds shall also have been provided or provision made for paying all other obligations as to the Prior Bonds, then the Prior Bonds shall be deemed to be defeased and no longer outstanding; and

WHEREAS, pursuant to Section 7.1 in the event of defeasance, the Escrow Agent shall, within 30 days thereof, mail notice by first class mail to all owners of record of the Prior Bonds so defeased setting forth (a) the redemption date, (b) a description of the monies and Escrow Investments held by it and (c) that the rights of the owners of the Prior Bonds and the Escrow Agent in the accounts pledged to the payment of the Prior Bonds so defeased has terminated; and

WHEREAS, the City, by its Resolution No. _____ adopted on November 1, 2011 (the "Resolution of Issuance") has authorized the issuance of the Refunding Bonds, and therein determined to use the proceeds of the Refunding Bonds to retire, in advance of their stated maturities, the Prior Bonds, all as described in the Resolution of Issuance;

WHEREAS, the City, has directed that the Director of Finance and Administrative Services of the City enter into this Agreement whereby the proceeds of sale of the Refunding Bonds, together with other funds held by the Prior Bonds Fiscal Agent, shall be deposited in an irrevocable special escrow fund (the "Escrow Fund") created and maintained with the Escrow Holder;

WHEREAS, in furtherance of the proposed redemption of the Prior Bonds, the City wishes to provide for the investment, use and disposition of, interest on the funds deposited into the Escrow Fund to accomplish the timely redemption and payment of the Prior Bonds; and

WHEREAS, the Escrow Holder has full powers to act with respect to said Escrow Fund and to perform the duties and obligations to be undertaken pursuant to this Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth and for other valuable consideration, the City and the Escrow Holder agree as follows:

Section 1. Definitions. Capitalized terms used herein are used with the meanings assigned to them in the Resolution of Issuance and in this Agreement unless the context clearly requires some other meaning.

"Federal Securities" is hereby defined to mean Escrow Investments as defined in the Prior Bonds Fiscal Agent Agreement.

Section 2. Establishment of Escrow; Deposit of Funds. The Escrow Fund is hereby established by the City with the Escrow Holder as an irrevocable escrow to be maintained by the Escrow Holder in escrow for the benefit and protection of the owners of the Prior Bonds.

The Escrow Agent shall deposit in the Escrow Fund (i) on the date of issuance of the Refunding Bonds, certain proceeds of the Refunding Bonds (in the amount of $_____) transferred to it by The Bank of New York Mellon Trust Company, N.A., as fiscal agent for the Refunding Bonds (the "Refunding Bonds Fiscal Agent") and (ii) on the date of issuance of the Refunding Bonds, certain other funds related to the Prior Bonds in the amount of $_____ (all as set forth in Exhibit A hereto) transferred to it by the Prior Bonds Fiscal Agent. The Prior Bonds Fiscal Agent is hereby directed by the City to transfer such amounts held by it as set forth in such Exhibit A to the Escrow Holder for deposit as provided herein.

The Prior Bonds Fiscal Agent is further directed to transfer any balance of funds held by it with respect to the Prior Bonds together with any interest earnings received with respect thereto received on and after the date of delivery of the Refunding Bonds to the Refunding Bonds Fiscal Agent for deposit into the Redemption Fund for the Refunding Bonds.

If at any time the Escrow Holder shall receive actual knowledge that the moneys and Federal Securities in the Escrow Fund will not be sufficient to make any payment required hereunder, the Escrow Holder shall notify the City of such fact and the City shall promptly cure such deficiency. The Escrow Holder shall not be liable for any such deficiency.

Section 3. Purchase of Federal Securities. The Escrow Holder shall use such portion of the amounts deposited in the Escrow Fund pursuant to Section 2 to acquire in its own name as Escrow Holder, the Federal Securities described in "Exhibit B" attached hereto and by this reference incorporated herein, and shall hold any remaining amount of $_____ in cash uninvested.

Section 4. Payment for and Use of Federal Securities. Payment for the Federal Securities referred to in Section 3 shall be conclusively evidenced by the Escrow Holder's execution and delivery of an acknowledgment of payment. The Federal Securities and the interest thereon shall be used to satisfy the requirement of payment and discharge of the Prior Bonds in lawful money of the United States of America and shall be held by the Escrow Holder solely for redemption and payment of the Prior Bonds.

Section 5. Retention for, and Payment of, the Prior Bonds. There shall be retained in the Escrow Fund all interest accruing from and principal paid on the Federal Securities deposited therein pursuant to Section 3 hereof to the extent required for the payment of the principal of, premium and interest on the Prior Bonds, and all of the moneys and Federal Securities in the Escrow Fund, except as herein otherwise expressly provided, are hereby irrevocably pledged, in trust, to the payment of the principal of, premium and interest on the Prior Bonds.

The City hereby instructs the Prior Bonds Fiscal Agent to redeem the Prior Bonds on March 2, 2012 at the redemption price identified in the recitals of this Agreement, and, the Escrow Holder shall transfer to the Prior Bonds Fiscal Agent from the Escrow Fund such amounts as may be necessary for such purposes, as shown on Exhibit C attached hereto and by this reference incorporated therein. Any monies remaining in the Escrow Fund established under this Agreement after making all of the payments described in this Section 5 shall be transferred to the Fiscal Agent for the Refunding Bonds, for deposit into the Redemption Fund for the Refunding Bonds.

Section 6. Notice of Refunding. The Escrow Agent, in its capacity as Prior Bonds Fiscal Agent, is hereby irrevocably instructed to mail, on a timely basis, the following notices:

(i) Pursuant to Section 4.4 of the Prior Bonds Fiscal Agent Agreement, and with respect to the proposed redemption of the Prior Bonds on March 2, 2012, a notice of redemption not less than 30 days prior to the redemption date, in the form attached hereto as Exhibit D.

(i) Pursuant to Section 7.1 of the Prior Bonds Fiscal Agent Agreement, a notice in the form of Exhibit E by first class mail to all owners of record of the Prior Bonds setting forth (a) the redemption date, (b) a description of the monies and Escrow Investments held by it and (c) that the rights of the owners of the Prior Bonds and the Escrow Agent in the accounts pledged to the payment of the Prior Bonds so defeased has terminated.

Section 7. Substitution of Federal Securities. The City may at any time direct the Escrow Holder to substitute Federal Securities for any or all of the Federal Securities then deposited in the Escrow Fund, provided that any such direction and substitution shall be accompanied with a certification of an independent certified public accountant or firm of certified public accountant or firm of certified public accountants of favorable national reputation experienced in the refunding of obligations of political subdivisions that the Federal Securities then to be so deposited in the Escrow Fund, together with interest to be derived therefrom, shall be in an amount at all times at least sufficient to make the payments specified in Section 5 hereof and, further, to be accompanied with an opinion of nationally recognized bond counsel that the substitution will not affect, for Federal income tax purposes, the exemption from Federal income taxes of the interest on the Prior Bonds and the Refunding Bonds. In the event that, following any such substitution of Federal Securities pursuant to this Section 7, there is an amount of moneys or Federal Securities in excess of an amount sufficient to make the payments required by Section 5 hereof, such excess shall be paid to the City.

Section 8. Limited Power of Escrow Holder; Permitted Investments. Except as herein otherwise expressly provided, the Escrow Holder shall have no power or duty to make substitutions of the Federal Securities, or to sell, transfer or otherwise dispose of the Federal Securities.

Section 9. No Arbitrage. The City hereby covenants that no part of the Escrow Fund shall be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause the Prior Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code and regulations promulgated thereunder.

Section 10. Records. The Escrow Holder will keep books of record and account in which complete and correct entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Federal Securities accruing to the Escrow Holder hereunder, and such books shall be available for inspection at reasonable hours and under reasonable conditions with reasonable prior notice by the owners of the Prior Bonds and the Bonds.

Section 11. Proper Filings. The City will, at its expense, execute, acknowledge, deliver or file this Agreement and assignments, transfers, financing statements, continuation statements, and assurances required for the better assuring, conveying, pledging, assigning and confirming unto the Escrow Holder, the moneys and Federal Securities hereby pledged, or intended so to be or which the City may be or may hereafter become bound to pledge, convey or assign to the Escrow Holder or for carrying out the intention or facilitating the performance of the terms of this Agreement.

Section 12. Discharge. The covenants, liens and pledges entered into, created or imposed pursuant to this Agreement shall be fully discharged, and satisfied when all of the Prior Bonds shall have been paid in full, as to principal, premium and interest. Upon such discharge and satisfaction this Agreement shall cease, terminate and become null and void, and thereupon the Escrow Holder shall, upon the written request of the City, forthwith execute proper instruments acknowledging satisfaction and discharge of this Agreement.

Section 13. Termination; Unclaimed Funds. Notwithstanding any other provision of this Agreement any money held by the Prior Bonds Fiscal Agent for the payment of the principal of, premium and interest on the Prior Bonds and remaining unclaimed for two (2) years after the principal of all of the Prior Bonds shall have been called for redemption and after the date of redemption shall then be repaid to the City upon its written request, and the registered owners of the Prior Bonds shall thereafter be entitled to look only to the City for the repayment thereof, and liability of the Escrow Holder with respect to such money shall thereupon cease. In the event of the repayment of any such money to the City as aforesaid, the registered owners of the Prior Bonds secured hereby with respect to which such money was deposited shall thereafter be deemed to be unsecured creditors of the City, without interest. Notwithstanding the foregoing the Escrow Holder shall, upon the written request of the City repay such money to the City at any time earlier than two (2) years, if failure to repay such money to the City, within such earlier period shall give rise to the operation of any escheat statute under applicable State law. Any unclaimed funds repaid to the City shall be placed by the City in the Redemption Fund for the Refunding Bonds and used for credit on debt service on the Refunding Bonds.

Section 14. No Implied Duties; No Rights to Others. Nothing in this Agreement expressed or implied is intended or shall be construed to give to any person other than the City, the Escrow Holder, the Prior Bonds Fiscal Agent and the registered owners of the Prior Bonds, any legal or equitable right, remedy or claim under or in respect to this Agreement or any covenants, conditions or provisions therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the City, the Escrow Holder and the Owners of the Prior Bonds. The Escrow Holder shall perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Escrow Holder.

Section 15. Immunities and Liabilities of Escrow Holder.

(A) The Escrow Holder shall not have any liability hereunder except to the extent of its own negligence or willful misconduct. The Escrow Holder is not required to resolve conflicting demands to money or property in its possession under this Agreement.

(B) The Escrow Holder may consult with counsel of its own choice (which may be counsel to the City) and the opinion of such counsel shall be full and complete authorization to take or suffer in good faith any action hereunder in accordance with such opinion of counsel.

(C) The Escrow Holder shall not be responsible for any of the recitals or representations contained herein or in the Resolution of Issuance.

(D) The Escrow Holder may become the owner of, or acquire any interest in, any of the Prior Bonds with the same rights that it would have if it were not the Escrow Holder, and may engage or be interested in any financial or other transaction with the City.

(E) The Escrow Holder shall not be liable for the accuracy of any calculations provided as to the sufficiency of the moneys or Federal Securities deposited with it to pay the principal, interest or premiums, if any, on the Prior Bonds and shall not be liable for any insufficiency of such moneys and securities to affect such payment.

(F) The Escrow Holder shall not be liable for any action or omission of the City under this Agreement or the Resolution of Issuance.

(G) Whenever in the administration of this Agreement the Escrow Holder shall deem it necessary or desirable that a matter be proved or established before taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Escrow Holder, be deemed to be conclusively proved and established by a certificate of an authorized official of the City, and such certificate shall, in the absence of negligence or willful misconduct on the part of the Escrow Holder, be full warrant to the Escrow Holder for any action taken or suffered by it under the provisions of this Agreement upon the faith thereof.

(H) The Escrow Holder may at any time resign by giving written notice to the City of such resignation. The City shall promptly appoint a successor Escrow Holder by the resignation date. Resignation of the Escrow Holder will be effective only upon acceptance of appointment by a successor Escrow Holder. If the City does not appoint a successor, the Escrow Holder may petition any court of competent jurisdiction for the appointment of a successor Escrow Holder, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Escrow Holder. After receiving a notice of resignation of an Escrow Holder, the City may appoint a temporary Escrow Holder to replace the resigning Escrow Holder until the City appoints a successor Escrow Holder. Any such temporary Escrow Holder so appointed by the City, shall immediately and without further act be superseded by the successor Escrow Holder so appointed.

(I) The City agrees to indemnify the Escrow Holder, its agents and its officers or employees for and to hold the Escrow Holder, its agents, officers or employees harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements

of any kind or nature whatsoever (including, without limitation, reasonable fees and disbursements of counsel, including in-house counsel, for the Escrow Holder) which may be imposed on, incurred by, or asserted against the Escrow Holder at any time by reason of the performance of its duties as Escrow Holder hereunder and under the Resolution of Issuance, in any transaction arising out of this Agreement or the Bond Resolution or any of the transactions contemplated herein or in the Resolution of Issuance, unless due to the Escrow Holder's or its officers' or employees' or agents' negligence or willful misconduct. Such indemnity shall survive the termination of this Agreement or resignation or removal of the Escrow Holder.

(J) All notices, certificates or other communications hereunder with the Escrow Holder shall be addressed to the Escrow Holder at:

The Bank of New York Mellon Trust Company, N.A.
550 Kearny Street, Suite 600
San Francisco, California 94108
Attention: Corporate Trust Department

Section 16. Waiver of Notice. Whenever in this Agreement the giving of notice by mail or otherwise shall be required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 17. Fees. The Escrow Holder's fees, expenses and reimbursement for costs incurred, for and in carrying out the provisions of this Agreement have been fixed by separate agreement. The Escrow Holder shall also be entitled to additional fees, expenses and reimbursement for costs incurred in connection with the performance of its duties and exercise of its powers hereunder, including but not limited to legal and accounting services, in connection with any litigation which may at any time be instituted involving this Agreement. The fees incurred by the Escrow Holder shall in no event be deducted from the Escrow Fund.

Section 18. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provisions has never been contained herein.

Section 19. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and such counterparts, or as many of them as the Agency and the Escrow Holder shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 20. Business Days. Whenever any act is required by this Agreement to be done on a specified day or date, and such day or date shall be a day other than a business day, then such act may be done on the next succeeding business day.

Section 21. California Law. This Agreement shall be governed exclusively by and interpreted in accordance with, the laws of the State of California.

IN WITNESS WHEREOF, the City and the Escrow Holder have each caused this Agreement to be executed by the duly authorized officers thereof and have caused the corporate seal to be affixed hereto and attested as of the date first above written.

CITY OF TRACY

By: _____
Director of Finance and Administrative Services

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Escrow Holder

By: _____
Authorized Officer

ACKNOWLEDGEMENT OF THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS PRIOR BONDS FISCAL AGENT

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Prior Bonds Fiscal Agent, hereby acknowledges the provisions of this Agreement and, to the extent such provisions are applicable, The Bank of New York Mellon Trust Company, N.A., in its capacity as Prior Bonds Fiscal Agent, agrees to comply therewith.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,
as *Prior Bonds Fiscal Agent*

By:_____
Authorized Officer

EXHIBIT A

FUNDS TRANSFERRED BY PRIOR BONDS FISCAL AGENT

Fund	Amount
Redemption Account	$
Reserve Account	
Arbitrage Rebate Account	
Total	

EXHIBIT B

DESCRIPTION OF FEDERAL SECURITIES

Type	Maturity Date	Par Amount	Yield	Cost

EXHIBIT C

PAYMENT AND REDEMPTION SCHEDULE OF PRIOR BONDS

Payment Date	Principal	Interest	Principal Redeemed	Redemption Premium	Total Payment
3/2/12				0%	

EXHIBIT D

NOTICE OF REDEMPTION

Notice to the Holders of Outstanding

City of Tracy
Limited Obligation Improvement Bonds
Assessment District No. 98-4
(Morrison Homes)

NOTICE IS HEREBY GIVEN that the City of Tracy (the "City") has on _____, 2011, from the proceeds of sale of bonds and other sources, irrevocably set aside in an Escrow Fund created for such purpose and held by The Bank of New York Mellon Trust Company, N.A., San Francisco, California, as Escrow Agent (the "Escrow Agent") pursuant to an Escrow Deposit and Trust Agreement, dated as of December 1, 2011 (the "Escrow Agreement"), by and between the City and the Escrow Agent, moneys which, when added to the investment earnings therefrom, shall be sufficient to redeem the captioned bonds (the "Bonds") on March 2, 2012 at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the redemption date.

In accordance with the terms of the Fiscal Agent Agreement relating to the Bonds, redemption notice is required to be given by The Bank of New York Mellon Trust Company, N.A., as fiscal agent, on a date not less than 30 days prior to the redemption date.

The moneys deposited in the Escrow Fund, including the earnings derived from the investment thereof, are irrevocably pledged to the payment of principal or redemption price of and interest on the Bonds. Said moneys have been invested in federal securities (as permitted under the Fiscal Agent Agreement for the Bonds), and the City may substitute securities for those initially allocated to the Escrow Fund and withdraw moneys from the Escrow Fund subject to the terms and conditions set forth in the Escrow Agreement.

As a consequence of the foregoing actions and in accordance with the Fiscal Agent Agreement relating to the Bonds, the rights of the owners of the Bonds in the accounts pledged to the payment of the Bonds has terminated, and the Bonds are now payable solely from the moneys set aside in the Escrow Fund as described above and, if necessary, from other legally available funds of the City.

Additional information regarding the foregoing actions may be obtained from The Bank of New York Mellon Trust Company, N.A., Corporate Trust Department, 550 Kearny Street, Suite 600, San Francisco, California 94108, telephone number _____.

Dated: _____, 2011

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Escrow Agent

Exhibit D

EXHIBIT E

NOTICE OF DEFEASANCE

Notice to the Holders of Outstanding

City of Tracy
Limited Obligation Improvement Bonds
Assessment District No. 98-4
(Morrison Homes)

NOTICE IS HEREBY GIVEN that the City of Tracy (the "City") has on _____, 2011, from the proceeds of sale of bonds and other sources, irrevocably set aside in an Escrow Fund created for such purpose and held by The Bank of New York Mellon Trust Company, N.A., San Francisco, California, as Escrow Agent (the "Escrow Agent") pursuant to an Escrow Deposit and Trust Agreement, dated as of December 1, 2011 (the "Escrow Agreement"), by and between the City and the Escrow Agent, moneys which, when added to the investment earnings therefrom, shall be sufficient to redeem the captioned bonds (the "Bonds") on March 2, 2012 at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the redemption date.

In accordance with the terms of the Fiscal Agent Agreement relating to the Bonds, notice of defeasance of the captioned Bonds is required to be given by The Bank of New York Mellon Trust Company, N.A., as fiscal agent, within 30 days of the defeasance.

The moneys deposited in the Escrow Fund, including the earnings derived from the investment thereof, are irrevocably pledged to the payment of principal or redemption price of and interest on the Bonds. Said moneys have been invested in federal securities (as permitted under the Fiscal Agent Agreement for the Bonds), and the City may substitute securities for those initially allocated to the Escrow Fund and withdraw moneys from the Escrow Fund subject to the terms and conditions set forth in the Escrow Agreement.

As a consequence of the foregoing actions and in accordance with the Fiscal Agent Agreement relating to the Bonds, the rights of the owners of the Bonds in the accounts pledged to the payment of the Bonds has terminated, and the Bonds are now payable solely from the moneys set aside in the Escrow Fund as described above and, if necessary, from other legally available funds of the City.

Additional information regarding the foregoing actions may be obtained from The Bank of New York Mellon Trust Company, N.A., Corporate Trust Department, 550 Kearny Street, Suite 600, San Francisco, California 94108, telephone number _____.

Dated: _____, 2011

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Escrow Agent

Jones Hall Draft 10-7-11

ESCROW DEPOSIT AND TRUST AGREEMENT

Relating to the

City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Bonds, Series 2000	City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Bonds, Series 2002

THIS ESCROW DEPOSIT AND TRUST AGREEMENT (the "Agreement") is dated as of December 1, 2011 in connection with the issuance of the City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Bonds 2011 Series A (the "Refunding Bonds"), and is entered into by and between the CITY OF TRACY (herein the "City"), a general law city, duly organized and existing under and by virtue of the Constitution and laws of the State of California, and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Escrow Holder (the "Escrow Holder"), a national banking association having a corporate trust office in California;

W I T N E S S E T H:

WHEREAS, the City previously issued the following bonds (collectively, the "Prior Bonds"):

(i) 2000 Bonds: City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Bonds, Series 2000 pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000 (the "Original Fiscal Agent Agreement"), by and between the City and The Bank of New York Mellon Trust Company, N.A., as successor fiscal agent (the "Prior Bonds Fiscal Agent")

(ii) 2002 Bonds: City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Bonds, Series 2002 pursuant to the Original Fiscal Agent Agreement, as amended and supplemented by a First Supplemental Fiscal Agent Agreement, dated as of July 1, 2002 (the "First Supplement," and together with the Original Fiscal Agent Agreement, the "Prior Bonds Fiscal Agent"), also by and between the City and the Prior Bonds Fiscal Agent; and

WHEREAS, pursuant to Section 2.03(A)(i) of the Original Fiscal Agent Agreement, the City is authorized to redeem the 2000 Bonds on any date at a redemption price equal to the outstanding principal amount of the 2000 Bonds to be redeemed plus interest accrued to the redemption date; and

WHEREAS, pursuant to Section 2.03(D)(i) of the Original Fiscal Agent Agreement, the City is required to give at least 30 but not more than 60 days' notice of the proposed redemption; and

WHEREAS, pursuant to Section 9.03 of the Original Fiscal Agent Agreement, by irrevocably depositing with the Prior Bonds Fiscal Agent, in trust, cash and/or Federal Securities (defined below) in such amount as the City shall determine, as confirmed by Bond Counsel (as defined in the Original Fiscal Agent Agreement) or an independent certified public accountant, will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in the Bond Fund and the Reserve Fund for the 2000 Bonds (to the extent invested in Federal Securities), be fully sufficient to pay and discharge the indebtedness on all the 2000 Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates, and if such 2000 Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in the Original Fiscal Agent Agreement or provision satisfactory to the Prior Bonds Fiscal Agent shall have been made for the giving of such notice, then, at the election of the City, and notwithstanding that any 2000 Bonds shall not have been surrendered for payment, the pledge of the Special Taxes and other funds provided for in the Original Fiscal Agent Agreement and all other obligations of the City under the Original Fiscal Agent Agreement with respect to all outstanding 2000 Bonds shall cease and terminate, except certain arbitrage obligations and the obligation of the City to pay or cause to be paid to the owners of the 2000 Bonds not so surrendered and paid all sums due thereon; and

WHEREAS, pursuant to Section 2.03(A)(i) of the First Supplement, the City is authorized to redeem the 2002 Bonds on any date at a redemption price equal to the outstanding principal amount of the 2002 Bonds to be redeemed plus interest accrued to the redemption date; and

WHEREAS, pursuant to Section 2.03(D)(i) of the First Supplement, the City is required to give at least 30 but not more than 60 days' notice of the proposed redemption; and

WHEREAS, pursuant to Section 9.03 of the First Supplement, by irrevocably depositing with the Prior Bonds Fiscal Agent, in trust, cash and/or Federal Securities (defined below) in such amount as the City shall determine, as confirmed by Bond Counsel (as defined in the Original Fiscal Agent Agreement) or an independent certified public accountant, will, together with the interest to accrue thereon and moneys then on deposit in the fund and accounts provided for in the Bond Fund and the Reserve Fund for the 2002 Bonds (to the extent invested in Federal Securities), be fully sufficient to pay and discharge the indebtedness on all the 2002 Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates, and if such 2002 Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as provided in the First Supplement or provision satisfactory to the Prior Bonds Fiscal Agent shall have been made for the giving of such notice, then, at the election of the City, and notwithstanding that any 2002 Bonds shall not have been surrendered for payment, the pledge of the Special Taxes and other funds provided for in the First Supplement and all other obligations of the City under the First Supplement with respect to all outstanding 2002 Bonds shall cease and terminate, except certain arbitrage obligations and the obligation of the City to pay or cause to be paid to the owners of the 2002 Bonds not so surrendered and paid all sums due thereon; and

WHEREAS, the City, by its Resolution No. _____ adopted on November 1, 2011 (the "Resolution of Issuance") has authorized the issuance of the Refunding Bonds, and therein determined to use the proceeds of the Refunding Bonds to retire, in advance of their stated maturities, the Prior Bonds, all as described in the Resolution of Issuance;

WHEREAS, the City, has directed that the Director of Finance and Administrative Services of the City enter into this Agreement whereby the proceeds of sale of the Refunding Bonds, together with other funds held by the Prior Bonds Fiscal Agent, shall be deposited in an irrevocable special escrow fund (the "Escrow Fund") created and maintained with the Escrow Holder;

WHEREAS, in furtherance of the proposed redemption of the Prior Bonds, the City wishes to provide for the investment, use and disposition of, interest on the funds deposited into the Escrow Fund to accomplish the timely redemption and payment of the Prior Bonds; and

WHEREAS, the Escrow Holder has full powers to act with respect to said Escrow Fund and to perform the duties and obligations to be undertaken pursuant to this Agreement;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth and for other valuable consideration, the City and the Escrow Holder agree as follows:

Section 1. Definitions. Capitalized terms used herein are used with the meanings assigned to them in the Resolution of Issuance and in this Agreement unless the context clearly requires some other meaning.

"Federal Securities" is hereby defined to mean: (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), the payment of principal of and interest on which are unconditionally and fully guaranteed by the United States of America; and (b) any obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

Section 2. Establishment of Escrow; Deposit of Funds. The Escrow Fund is hereby established by the City with the Escrow Holder as an irrevocable escrow to be maintained by the Escrow Holder in escrow for the benefit and protection of the owners of the Prior Bonds.

The Escrow Agent shall deposit in the Escrow Fund (i) on the date of issuance of the Refunding Bonds, certain proceeds of the Refunding Bonds (in the amount of $_____) transferred to it by The Bank of New York Mellon Trust Company, N.A., as fiscal agent for the Refunding Bonds (the "Refunding Bonds Fiscal Agent") and (ii) on the date of issuance of the Refunding Bonds, certain other funds related to the Prior Bonds in the amount of $_____ (all as set forth in Exhibit A hereto) transferred to it by the Prior Bonds Fiscal Agent. The Prior Bonds Fiscal Agent is hereby directed by the City to transfer such amounts held by it as set forth in such Exhibit A to the Escrow Holder for deposit as provided herein.

The Prior Bonds Fiscal Agent is further directed to transfer any balance of funds held by it with respect to the Prior Bonds together with any interest earnings received with respect thereto received on and after the date of delivery of the Refunding Bonds to the Refunding Bonds Fiscal Agent for deposit into the Redemption Fund for the Refunding Bonds.

If at any time the Escrow Holder shall receive actual knowledge that the moneys and Federal Securities in the Escrow Fund will not be sufficient to make any payment required hereunder, the Escrow Holder shall notify the City of such fact and the City shall promptly cure such deficiency. The Escrow Holder shall not be liable for any such deficiency.

Section 3. Purchase of Federal Securities. The Escrow Holder shall use such portion of the amounts deposited in the Escrow Fund pursuant to Section 2 to acquire in its own name as Escrow Holder, the Federal Securities described in "Exhibit B" attached hereto and by this reference incorporated herein, and shall hold any remaining amount of $_____ in cash uninvested.

Section 4. Payment for and Use of Federal Securities. Payment for the Federal Securities referred to in Section 3 shall be conclusively evidenced by the Escrow Holder's execution and delivery of an acknowledgment of payment. The Federal Securities and the interest thereon shall be used to satisfy the requirement of payment and discharge of the Prior Bonds in lawful money of the United States of America and shall be held by the Escrow Holder solely for redemption and payment of the Prior Bonds.

Section 5. Retention for, and Payment of, the Prior Bonds. There shall be retained in the Escrow Fund all interest accruing from and principal paid on the Federal Securities deposited therein pursuant to Section 3 hereof to the extent required for the payment of the principal of, premium and interest on the Prior Bonds, and all of the moneys and Federal Securities in the Escrow Fund, except as herein otherwise expressly provided, are hereby irrevocably pledged, in trust, to the payment of the principal of, premium and interest on the Prior Bonds.

The City hereby instructs the Prior Bonds Fiscal Agent to redeem the Prior Bonds on _____, 20__ at the redemption price identified in the recitals of this Agreement, and, the Escrow Holder shall transfer to the Prior Bonds Fiscal Agent from the Escrow Fund such amounts as may be necessary for such purposes, as shown on Exhibit C attached hereto and by this reference incorporated therein. Any monies remaining in the Escrow Fund established under this Agreement after making all of the payments described in this Section 5 shall be transferred to the Fiscal Agent for the Refunding Bonds, for deposit into the Redemption Fund for the Refunding Bonds.

Section 6. Notice of Refunding. The Escrow Agent, in its capacity as Prior Bonds Fiscal Agent, is hereby irrevocably instructed to mail, on a timely basis, the following notices:

(i) Pursuant to Section 4.4 of the Prior Bonds Fiscal Agent Agreement, and with respect to the proposed redemption of the Prior Bonds on _____, 20__, a notice of redemption not less than 30 days prior to the redemption date, in the form attached hereto as Exhibit D.

(i) Pursuant to Section 7.1 of the Prior Bonds Fiscal Agent Agreement, a notice in the form of Exhibit E by first class mail to all owners of record of the Prior Bonds setting forth (a) the redemption date, (b) a description of the monies and Escrow Investments held by it and (c) that the rights of the owners of the Prior Bonds and the Escrow Agent in the accounts pledged to the payment of the Prior Bonds so defeased has terminated.

Section 7. Substitution of Federal Securities. The City may at any time direct the Escrow Holder to substitute Federal Securities for any or all of the Federal Securities then deposited in the Escrow Fund, provided that any such direction and substitution shall be accompanied with a certification of an independent certified public accountant or firm of certified public accountant or firm of certified public accountants of favorable national reputation experienced in the refunding of obligations of political subdivisions that the Federal Securities then to be so deposited in the Escrow Fund, together with interest to be derived therefrom, shall be in an amount at all times at least sufficient to make the payments specified in Section 5 hereof and, further, to be accompanied with an opinion of nationally recognized bond counsel that the substitution will not affect, for Federal income tax purposes, the exemption from Federal income taxes of the interest on the Prior Bonds and the Refunding Bonds. In the event that, following any such substitution of Federal Securities pursuant to this Section 7, there is an amount of moneys or Federal Securities in excess of an amount sufficient to make the payments required by Section 5 hereof, such excess shall be paid to the City.

Section 8. Limited Power of Escrow Holder; Permitted Investments. Except as herein otherwise expressly provided, the Escrow Holder shall have no power or duty to make substitutions of the Federal Securities, or to sell, transfer or otherwise dispose of the Federal Securities.

Section 9. No Arbitrage. The City hereby covenants that no part of the Escrow Fund shall be used directly or indirectly to acquire any securities or obligations the acquisition of which would cause the Prior Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code and regulations promulgated thereunder.

Section 10. Records. The Escrow Holder will keep books of record and account in which complete and correct entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Federal Securities accruing to the Escrow Holder hereunder, and such books shall be available for inspection at reasonable hours and under reasonable conditions with reasonable prior notice by the owners of the Prior Bonds and the Bonds.

Section 11. Proper Filings. The City will, at its expense, execute, acknowledge, deliver or file this Agreement and assignments, transfers, financing statements, continuation statements, and assurances required for the better assuring, conveying, pledging, assigning and confirming unto the Escrow Holder, the moneys and Federal Securities hereby pledged, or intended so to be or which the City may be or may hereafter become bound to pledge, convey or assign to the Escrow Holder or for carrying out the intention or facilitating the performance of the terms of this Agreement.

Section 12. Discharge. The covenants, liens and pledges entered into, created or imposed pursuant to this Agreement shall be fully discharged, and satisfied when all of the Prior Bonds shall have been paid in full, as to principal, premium and interest. Upon such discharge and satisfaction this Agreement shall cease, terminate and become null and void, and thereupon the Escrow Holder shall, upon the written request of the City, forthwith execute proper instruments acknowledging satisfaction and discharge of this Agreement.

Section 13. Termination; Unclaimed Funds. Notwithstanding any other provision of this Agreement any money held by the Prior Bonds Fiscal Agent for the payment of the principal of, premium and interest on the Prior Bonds and remaining unclaimed for two (2) years after the principal of all of the Prior Bonds shall have been called for redemption and after the date of redemption shall then be repaid to the City upon its written request, and the registered owners of the Prior Bonds shall thereafter be entitled to look only to the City for the repayment thereof, and liability of the Escrow Holder with respect to such money shall thereupon cease. In the event of the repayment of any such money to the City as aforesaid, the registered owners of the Prior Bonds secured hereby with respect to which such money was deposited shall thereafter be deemed to be unsecured creditors of the City, without interest. Notwithstanding the foregoing the Escrow Holder shall, upon the written request of the City repay such money to the City at any time earlier than two (2) years, if failure to repay such money to the City, within such earlier period shall give rise to the operation of any escheat statute under applicable State law. Any unclaimed funds repaid to the City shall be placed by the City in the Redemption Fund for the Refunding Bonds and used for credit on debt service on the Refunding Bonds.

Section 14. No Implied Duties; No Rights to Others. Nothing in this Agreement expressed or implied is intended or shall be construed to give to any person other than the City, the Escrow Holder, the Prior Bonds Fiscal Agent and the registered owners of the Prior Bonds, any legal or equitable right, remedy or claim under or in respect to this Agreement or any covenants, conditions or provisions therein or herein contained; and all such covenants, conditions and provisions are and shall be held to be for the sole and exclusive benefit of the City, the Escrow Holder and the Owners of the Prior Bonds. The Escrow Holder shall perform such duties and only such duties as are specifically set forth in this Agreement, and no implied covenants or obligations shall be read into this Agreement against the Escrow Holder.

Section 15. Immunities and Liabilities of Escrow Holder.

(A) The Escrow Holder shall not have any liability hereunder except to the extent of its own negligence or willful misconduct. The Escrow Holder is not required to resolve conflicting demands to money or property in its possession under this Agreement.

(B) The Escrow Holder may consult with counsel of its own choice (which may be counsel to the City) and the opinion of such counsel shall be full and complete authorization to take or suffer in good faith any action hereunder in accordance with such opinion of counsel.

(C) The Escrow Holder shall not be responsible for any of the recitals or representations contained herein or in the Resolution of Issuance.

(D) The Escrow Holder may become the owner of, or acquire any interest in, any of the Prior Bonds with the same rights that it would have if it were not the Escrow Holder, and may engage or be interested in any financial or other transaction with the City.

(E) The Escrow Holder shall not be liable for the accuracy of any calculations provided as to the sufficiency of the moneys or Federal Securities deposited with it to pay the principal, interest or premiums, if any, on the Prior Bonds and shall not be liable for any insufficiency of such moneys and securities to affect such payment.

(F) The Escrow Holder shall not be liable for any action or omission of the City under this Agreement or the Resolution of Issuance.

(G) Whenever in the administration of this Agreement the Escrow Holder shall deem it necessary or desirable that a matter be proved or established before taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of negligence or willful misconduct on the part of the Escrow Holder, be deemed to be conclusively proved and established by a certificate of an authorized official of the City, and such certificate shall, in the absence of negligence or willful misconduct on the part of the Escrow Holder, be full warrant to the Escrow Holder for any action taken or suffered by it under the provisions of this Agreement upon the faith thereof.

(H) The Escrow Holder may at any time resign by giving written notice to the City of such resignation. The City shall promptly appoint a successor Escrow Holder by the resignation date. Resignation of the Escrow Holder will be effective only upon acceptance of appointment by a successor Escrow Holder. If the City does not appoint a successor, the Escrow Holder may petition any court of competent jurisdiction for the appointment of a successor Escrow Holder, which court may thereupon, after such notice, if any, as it may deem proper and prescribe and as may be required by law, appoint a successor Escrow Holder. After receiving a notice of resignation of an Escrow Holder, the City may appoint a temporary Escrow Holder to replace the resigning Escrow Holder until the City appoints a successor Escrow Holder. Any such temporary Escrow Holder so appointed by the City, shall immediately and without further act be superseded by the successor Escrow Holder so appointed.

(I) The City agrees to indemnify the Escrow Holder, its agents and its officers or employees for and to hold the Escrow Holder, its agents, officers or employees harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (including, without limitation, reasonable fees and disbursements of counsel, including in-house counsel, for the Escrow Holder) which may be imposed on, incurred by, or asserted against the Escrow Holder at any time by reason of the performance of its duties as Escrow Holder hereunder and under the Resolution of Issuance, in any transaction arising out of this Agreement or the Bond Resolution or any of the transactions contemplated herein or in the Resolution of Issuance, unless due to the Escrow Holder's or its officers' or employees' or agents'

negligence or willful misconduct. Such indemnity shall survive the termination of this Agreement or resignation or removal of the Escrow Holder.

(J) All notices, certificates or other communications hereunder with the Escrow Holder shall be addressed to the Escrow Holder at:

The Bank of New York Mellon Trust Company, N.A.
550 Kearny Street, Suite 600
San Francisco, California 94108
Attention: Corporate Trust Department

Section 16. Waiver of Notice. Whenever in this Agreement the giving of notice by mail or otherwise shall be required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any such case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 17. Fees. The Escrow Holder's fees, expenses and reimbursement for costs incurred, for and in carrying out the provisions of this Agreement have been fixed by separate agreement. The Escrow Holder shall also be entitled to additional fees, expenses and reimbursement for costs incurred in connection with the performance of its duties and exercise of its powers hereunder, including but not limited to legal and accounting services, in connection with any litigation which may at any time be instituted involving this Agreement. The fees incurred by the Escrow Holder shall in no event be deducted from the Escrow Fund.

Section 18. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provisions has never been contained herein.

Section 19. Counterparts. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and such counterparts, or as many of them as the Agency and the Escrow Holder shall preserve undestroyed, shall together constitute but one and the same instrument.

Section 20. Business Days. Whenever any act is required by this Agreement to be done on a specified day or date, and such day or date shall be a day other than a business day, then such act may be done on the next succeeding business day.

Section 21. California Law. This Agreement shall be governed exclusively by and interpreted in accordance with, the laws of the State of California.

IN WITNESS WHEREOF, the City and the Escrow Holder have each caused this Agreement to be executed by the duly authorized officers thereof and have caused the corporate seal to be affixed hereto and attested as of the date first above written.

CITY OF TRACY

By: _____
Director of Finance and Administrative Services

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Escrow Holder

By: _____
Authorized Officer

ACKNOWLEDGEMENT OF THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., AS PRIOR BONDS FISCAL AGENT

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Prior Bonds Fiscal Agent, hereby acknowledges the provisions of this Agreement and, to the extent such provisions are applicable, The Bank of New York Mellon Trust Company, N.A., in its capacity as Prior Bonds Fiscal Agent, agrees to comply therewith.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, N.A.,
as *Prior Bonds Fiscal Agent*

By:_____
Authorized Officer

EXHIBIT A

FUNDS TRANSFERRED BY PRIOR BONDS FISCAL AGENT

2000 Bonds

Fund	**Amount**
Bond Fund	$
Reserve Fund	
Special Tax Fund	
Total	

2002 Bonds

Fund	**Amount**
Bond Fund	$
Reserve Fund	
Special Tax Fund	
Total	

EXHIBIT B

DESCRIPTION OF FEDERAL SECURITIES

Type	Maturity Date	Par Amount	Yield	Cost

EXHIBIT C

PAYMENT AND REDEMPTION SCHEDULE OF PRIOR BONDS

2000 Bonds

Payment Date	Principal	Interest	Principal Redeemed	Redemption Premium	Total Payment
				0%	

2002 Bonds

Payment Date	Principal	Interest	Principal Redeemed	Redemption Premium	Total Payment
				0%	

EXHIBIT D

NOTICE OF REDEMPTION

Notice to the Holders of Outstanding

City of Tracy
Community Facilities District No. 99-2
(South MacArthur Planning Area)
Special Tax Bonds, Series 2000

NOTICE IS HEREBY GIVEN that the City of Tracy (the "City") has on _____, 2011, from the proceeds of sale of bonds and other sources, irrevocably set aside in an Escrow Fund created for such purpose and held by The Bank of New York Mellon Trust Company, N.A., San Francisco, California, as Escrow Agent (the "Escrow Agent") pursuant to an Escrow Deposit and Trust Agreement, dated as of December 1, 2011 (the "Escrow Agreement"), by and between the City and the Escrow Agent, moneys which, when added to the investment earnings therefrom, shall be sufficient to redeem the captioned bonds (the "Bonds") on _____, 20__ at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the redemption date.

In accordance with the terms of the Fiscal Agent Agreement relating to the Bonds, redemption notice is required to be given by The Bank of New York Mellon Trust Company, N.A., as fiscal agent, on a date not less than 30 days prior to the redemption date.

The moneys deposited in the Escrow Fund, including the earnings derived from the investment thereof, are irrevocably pledged to the payment of principal or redemption price of and interest on the Bonds. Said moneys have been invested in federal securities (as permitted under the Fiscal Agent Agreement for the Bonds), and the City may substitute securities for those initially allocated to the Escrow Fund and withdraw moneys from the Escrow Fund subject to the terms and conditions set forth in the Escrow Agreement.

As a consequence of the foregoing actions and in accordance with the Fiscal Agent Agreement relating to the Bonds, the rights of the owners of the Bonds in the accounts pledged to the payment of the Bonds has terminated, and the Bonds are now payable solely from the moneys set aside in the Escrow Fund as described above and, if necessary, from other legally available funds of the City.

Additional information regarding the foregoing actions may be obtained from The Bank of New York Mellon Trust Company, N.A., Corporate Trust Department, 550 Kearny Street, Suite 600, San Francisco, California 94108, telephone number _____.

Dated: _____, 2011

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Escrow Agent

Exhibit D

Notice to the Holders of Outstanding

City of Tracy
Community Facilities District No. 99-2
(South MacArthur Planning Area)
Special Tax Bonds, Series 2002

NOTICE IS HEREBY GIVEN that the City of Tracy (the "City") has on _____, 2011, from the proceeds of sale of bonds and other sources, irrevocably set aside in an Escrow Fund created for such purpose and held by The Bank of New York Mellon Trust Company, N.A., San Francisco, California, as Escrow Agent (the "Escrow Agent") pursuant to an Escrow Deposit and Trust Agreement, dated as of December 1, 2011 (the "Escrow Agreement"), by and between the City and the Escrow Agent, moneys which, when added to the investment earnings therefrom, shall be sufficient to redeem the captioned bonds (the "Bonds") on _____, 20__ at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the redemption date.

In accordance with the terms of the fiscal agent agreement relating to the Bonds, redemption notice is required to be given by The Bank of New York Mellon Trust Company, N.A., as fiscal agent, on a date not less than 30 days prior to the redemption date.

The moneys deposited in the Escrow Fund, including the earnings derived from the investment thereof, are irrevocably pledged to the payment of principal or redemption price of and interest on the Bonds. Said moneys have been invested in federal securities (as permitted under the fiscal agent agreement for the Bonds), and the City may substitute securities for those initially allocated to the Escrow Fund and withdraw moneys from the Escrow Fund subject to the terms and conditions set forth in the Escrow Agreement.

As a consequence of the foregoing actions and in accordance with the fiscal agent agreement relating to the Bonds, the rights of the owners of the Bonds in the accounts pledged to the payment of the Bonds has terminated, and the Bonds are now payable solely from the moneys set aside in the Escrow Fund as described above and, if necessary, from other legally available funds of the City.

Additional information regarding the foregoing actions may be obtained from The Bank of New York Mellon Trust Company, N.A., Corporate Trust Department, 550 Kearny Street, Suite 600, San Francisco, California 94108, telephone number _____.

Dated: _____, 2011

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., as Escrow Agent

Jones Hall Draft 10-7-11

INDENTURE OF TRUST

by and between

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY

and

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee

Dated as of December 1, 2011

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
REVENUE BONDS

$_____ 2011 Series A

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Exhibit A Form of Bonds A-1
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INDENTURE OF TRUST

THIS INDENTURE OF TRUST (this "**Indenture**"), dated as of December 1, 2011, by and between the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the "**Authority**") and THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., a national banking association organized and existing under the laws of the United States of America (the "**Trustee**");

WITNESSETH:

WHEREAS, the Authority is a joint exercise of powers authority duly organized and existing under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "**Act**"), and is authorized pursuant to Article 4 of the Act (the "**Bond Law**") to (i) purchase, with the proceeds of its bonds, bonds issued by a local agency and to hold such bonds and (ii) issue bonds to pay the cost of any public capital improvement; and

WHEREAS, pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (the "**CFD Act**") the City of Tracy (the "**City**") previously issued the following bonds (collectively, the "**Prior CFD Bonds**"):

(i) $3,835,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2000 (the "**Series 2000 CFD Bonds**") pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000, between the City and The Bank of New York Mellon Trust Company, N.A., as successor fiscal agent (the "**Prior Bonds Fiscal Agent**"); and

(ii) $7,665,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2002 (the "**Series 2002 CFD Bonds**") pursuant to a First Supplemental Fiscal Agent Agreement, dated as of October 1, 2001, between the City and the Prior Bonds Fiscal Agent; and

WHEREAS, the City has also conducted special assessment proceedings for two assessment districts, (i) City of Tracy Assessment District No. 98-4 (Morrison Homes) and (ii) City of Tracy Assessment District No. 2000-02 (Heartland Three) (collectively the "**Prior Assessment Districts**"), and issued one series of improvement bonds of the City for each of the two Prior Assessment Districts (collectively, the "**Prior Assessment Bonds**"), namely:

(i) $2,485,781 City of Tracy Limited Obligation Improvement Bonds Assessment District No. 98-4 (Morrison Homes) (the "**AD 98-4 Bonds**") pursuant to a Fiscal Agent Agreement, dated as of November 1, 1998, between the City and U.S. Bank National Association; and

(i) $893,000 Limited Obligation Improvement Bonds City of Tracy Assessment District No. 2000-02 (Heartland Three) (the "**AD 2000-02 Bonds**") pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000, between the City and the Prior Bonds Fiscal Agent;

WHEREAS, the City has determined that it is in the best financial interests of the City to refinance the Prior Assessment Bonds and the Prior CFD Bonds (collectively, the "**Prior Bonds**"); and

WHEREAS, accordingly, the City has determined to issue (i) the City of Tracy Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "**Reassessment Bonds**") pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 of the Streets and Highways Code of the State of California (the "**Refunding Assessment Bond Law**") and (ii) the City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Refunding Bonds, 2011 Series A (the "**CFD Bonds**") pursuant to the CFD Act; and

WHEREAS, the Authority wishes to assist the City with the refinancing of the Prior Bonds by purchasing the Reassessment Bonds and the CFD Bonds (collectively, the "**Acquired Obligations**"); and

WHEREAS, the Authority also wishes to finance acquisition and construction of public capital improvements (the "**Project**") on behalf of the City and, as required by Section 6586.5 of the Bond Law, the City Council of the City, on November 1, 2011, after holding a public hearing, found that financing the Project will provide significant public benefit in accordance with the criteria specified in Section 6586 of the Bond Law; and

WHEREAS, for the purpose of facilitating the refinancing of the Prior Bonds and financing the Project, the Authority has determined to issue its Revenue Bonds, 2011 Series A in the aggregate principal amount of $_____ (the "**Bonds**") pursuant to and secured by this Indenture in the manner provided herein; and

WHEREAS, in order to provide additional funds to finance acquisition and construction of the Project, the City will, concurrently with issuance of the CFD Bonds, transfer moneys on deposit in the accounts and funds for the Prior CFD Bonds to the Authority for deposit into the Project Fund as set forth in Section 3.10 of this Indenture; and

WHEREAS, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and to secure the payment of the principal thereof and interest thereon, the Authority has authorized the execution and delivery of this Indenture; and

WHEREAS, the Authority hereby certifies that all acts and proceedings required by law necessary to make the Bonds, when executed by the Authority, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done and taken, and the execution and delivery of the Indenture have been in all respects duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that in order to secure the payment of the principal of and the interest and premium (if any) on all Bonds at any time issued and Outstanding under this Indenture, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare

the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the Authority does hereby covenant and agree with the Trustee, for the benefit of the respective Owners from time to time of the Bonds, as follows:

ARTICLE I

DEFINITIONS; AUTHORIZATION AND PURPOSE OF BONDS; EQUAL SECURITY

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall for all purposes of this Indenture and of any Supplemental Indenture and of the Bonds and of any certificate, opinion, request or other documents herein mentioned have the meanings herein specified.

"Acquired Obligations" means the CFD Bonds and the Reassessment Bonds.

"Act" means Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the Government Code of the State, as it may hereafter be amended from time to time.

"AD 98-4 Bonds" means the $2,485,781 City of Tracy Limited Obligation Improvement Bonds Assessment District No. 98-4 (Morrison Homes), issued pursuant to a Fiscal Agent Agreement, dated as of November 1, 1998, between the City and The Bank of New York Mellon Trust Company, N.A., as successor fiscal agent.

"AD 2000-02 Bonds" means the $893,000 Limited Obligation Improvement Bonds City of Tracy Assessment District No. 2000-02 (Heartland Three), issued pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000, between the City and The Bank of New York Mellon Trust Company, N.A., as successor fiscal agent.

"Additional Bonds" has the meaning given that term in Section 5.6 of this Indenture.

"Annual Debt Service" means, for each Bond Year, the sum of (a) the interest payable on the Outstanding Bonds of a Series in such Bond Year, and (b) the principal amount of the Outstanding Bonds of a Series scheduled to be paid in such Bond Year.

"Authority" means the Tracy Operating Partnership Joint Powers Authority, a joint exercise of powers agency established pursuant to the laws of the State and a Joint Exercise of Powers Agreement, dated as of October 15, 1995, by and between the City and the City of Tracy Community Development Agency, and any successors.

"Authority Administrative Expenses" means the fees and expenses of the Trustee, including legal fees and expenses (including fees and expenses of outside counsel and the allocated costs of internal attorneys) and the out of pocket expenses incurred by the Trustee, the City and the Authority in carrying out their duties hereunder including payment of amounts payable to the United States pursuant to Sections 5.7 and 5.8 hereof.

"Authorized Officer" means (i) with respect to the Authority, the Chairman, Executive Director, Secretary or Treasurer of the Authority or any other Person authorized by the Authority to perform an act or sign a document on behalf of the Authority for purposes of this Indenture and (ii) with respect to the City, its City Manager, Finance Director or City Clerk, or any other Person authorized by the City to perform an act or sign a document on behalf of the City for purposes of this Indenture.

"Beneficial Owners" means the actual purchasers of the Bonds whose ownership interests are recorded on the books of the DTC Participants.

"Bond Counsel" means Jones Hall, A Professional Law Corporation, and its successors; or any other attorney at law or firm of attorneys selected by the Authority, of nationally recognized standing in matters pertaining to the federal tax exemption of interest on bonds issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

"Bond Law" means the Marks Roos Local Bond Pooling Act of 1985, constituting Article 4 of the Act (commencing with Section 6584), as it may hereafter be amended from time to time.

"Bond Register" means the registration books for the Bonds maintained by the Trustee in accordance with Section 2.8 hereof.

"Bonds" means the Authority's Revenue Bonds, 2011 Series A authorized by and at any time Outstanding pursuant to the Bond Law and this Indenture, and any Additional Bonds issued hereunder.

"Bond Year" means each twelve month period extending from September 3 in one calendar year to September 2 of the succeeding calendar year, except in the case of the initial Bond Year which shall be the period from the Closing Date to September 2, 2012, both dates inclusive.

"Business Day" means a day which is not a Saturday or Sunday or a day of the year on which the New York Stock Exchange or banks in New York, New York or Los Angeles, California, or where the Trust Office is located, are not required or authorized to remain closed.

"Certificate of the Authority" means a certificate in writing signed by an Authorized Officer of the Authority.

"CFD Act" means the Mello-Roos Community Facilities Act of 1982, constituting Chapter 2.5 (commencing with Section 53311), Article 1 of Division 2 of Title 5 of the Government Code of that State of California, as amended from time to time.

"CFD Bonds" means the City's $_____ Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Refunding Bonds, 2011 Series A.

"CFD Bonds Fiscal Agent" means the fiscal agent under the CFD Fiscal Agent Agreement.

"CFD Fiscal Agent Agreement" means the Fiscal Agent Agreement pursuant to which the CFD Bonds are issued, by and between the City, for and on behalf of CFD 99-2, and the CFD Bonds Fiscal Agent.

"CFD 99-2" means City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), a community facilities district formed pursuant to the CFD Act.

"City" means the City of Tracy, a municipal corporation and general law city duly established and existing under the Constitution and laws of the State of California.

"Closing Date" means _____, 2011.

"Code" means the Internal Revenue Code of 1986 as in effect on the Closing Date or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the Closing Date, together with applicable temporary and final regulations promulgated, and applicable official guidance published, under the Code.

"Community Facilities District" or "CFD" means CFD 99-2.

"Costs of Issuance" means the costs and expenses incurred in connection with the issuance and sale of the Bonds and the Acquired Obligations, and the acquisition of the Acquired Obligations by the Authority, including the acceptance and initial annual fees and expenses (including legal fees and expenses) of the Trustee, legal fees and expenses, costs of printing the Bonds and the preliminary and final Official Statements, fees of financial consultants, and other fees and expenses set forth in a Request of the Authority.

"Costs of Issuance Fund" means the fund by that name established in Section 3.4.

"Dated Date" means the Closing Date.

"DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

"DTC Participants" means securities brokers and dealers, banks, trust companies, clearing corporations and other organizations maintaining accounts with DTC.

"Event of Default" means any of the events described in Section 8.1 hereof.

"Fair Market Value" means, with respect to any investment, the price at which a willing buyer would purchase such investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of Section 1273 of the Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as described above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Code, (iii) the investment is a United States Treasury Security - State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the Authority and related parties do not own more than a ten percent (10%) beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

"Federal Securities" means any of the following:

(a) Cash (insured at all times by the Federal Deposit Insurance Corporation).

(b) Obligations of, or obligations guaranteed as to principal and interest by, the U.S. or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the U.S. including:

- U.S. treasury obligations
- All direct or fully guaranteed obligations
- Farmers Home Administration
- General Services Administration
- Guaranteed Title XI financing
- Government National Mortgage Association (GNMA)
- State and Local Government Series

"Fiscal Year" means any twelve month period extending from July 1 in one calendar year to June 30 of the succeeding calendar year, both dates inclusive, or any other twelve month period selected and designated by the Authority as its official fiscal year period.

"Indenture" means this Indenture of Trust, as originally executed or as it may from time to time be supplemented, modified or amended by any Supplemental Indenture pursuant to the provisions hereof.

"Independent Accountant" means any accountant or firm of such accountants appointed and paid by the Authority, and who, or each of whom –

(a) is in fact independent and not under domination of the Authority or the City;

(b) does not have any substantial interest, direct or indirect, in the Authority or the City; and

(c) is not an officer or employee of the Authority, or the City, but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

"Independent Financial Consultant" means any financial consultant or firm of such consultants appointed and paid by the Authority, and who, or each of whom –

(a) is in fact independent and not under domination of the Authority or the City;

(b) does not have any substantial interest, direct or indirect, in the Authority or the City; and

(c) is not an officer or employee of the Authority or the City, but who may be regularly retained to make annual or other audits of the books of or reports to the Authority or the City.

"Interest Account" means the account by that name established and held by the Trustee pursuant to Section 4.2(a) hereof.

"Interest Payment Date" means March 2 and September 2 in each year, beginning March 2, 2012, and continuing thereafter so long as any Bonds remain Outstanding.

"Maximum Annual Debt Service" means, as of the date of any calculation, the largest Annual Debt Service on a Series during the current or any future Bond Year.

"Moody's" means Moody's Investors Service, its successors and assigns.

"Original Purchaser" means, with respect to the Bonds, Stone & Youngberg a Division of Stifel Nicolaus.

"Outstanding", when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 9.7 hereof) all Bonds theretofore executed and issued by the Authority and authenticated and delivered by the Trustee under this Indenture (including any Bonds described in the final paragraph of Section 9.3) except –

(a) Bonds theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation pursuant to Section 2.9 hereof;

(b) Bonds paid or deemed to have been paid within the meaning of Section 9.3 hereof or Bonds called for redemption for which funds have been provided as described in Section 2.2(g) hereof; and

(c) Bonds in lieu of or in substitution for which other Bonds shall have been executed, issued and delivered pursuant to this Indenture or any Supplemental Indenture.

"Owner" or "Bond Owner", when used with respect to any Bond, means the person in whose name the ownership of such Bond shall be registered on the Bond Register.

"Permitted Investments" means any of the following which at the time of investment are legal investments under the laws of the State of California for the moneys proposed to be invested therein, but only to the extent that the same are acquired at Fair Market Value:

(a) Federal Securities;

(b) any of the following direct or indirect obligations of the following agencies of the United States of America: (i) direct obligations of the Export-Import Bank; (ii) certificates of beneficial ownership issued by the Farmers Home Administration; (iii) participation certificates issued by the General Services Administration; (iv) mortgage-backed bonds or pass-through obligations issued and guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation or the Federal Housing Administration; (v) project notes issued by the United States Department of Housing and Urban Development; and (vi) public housing notes and bonds guaranteed by the United States of America;

(c) interest-bearing demand or time deposits (including certificates of deposit) or deposit accounts in federal or state chartered savings and loan associations or in federal or State of California banks (including the Trustee), provided that (i) the unsecured short-term obligations of such commercial bank or savings and loan association shall be rated in the highest short-term rating category by any Rating Agency or (ii) such demand or time deposits shall be fully insured by the Federal Deposit Insurance Corporation;

(d) commercial paper rated in the highest short-term rating category by any Rating Agency, issued by corporations which are organized and operating within the United States of America, and which matures not more than 180 days following the date of investment therein;

(e) bankers acceptances, consisting of bills of exchange or time drafts drawn on and accepted by a commercial bank whose short-term obligations are rated in the highest short-term rating category by any Rating Agency or whose long-term obligations are rated A or better by each such Rating Agency, which mature not more than 270 days following the date of investment therein;

(f) obligations the interest on which is excludable from gross income pursuant to Section 103 of the Tax Code and which are either (a) rated A or better by any Rating Agency or (b) fully secured as to the payment of principal and interest by Federal Securities;

(g) obligations issued by any corporation organized and operating within the United States of America having assets in excess of Five Hundred Million Dollars ($500,000,000), which obligations are rated A or better by any Rating Agency;

(h) money market funds (including money market funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services) which invest in Federal Securities or which are rated in the highest rating category by any Rating Agency;

(i) any investment agreement, repurchase agreement or other investment instrument which represents the general unsecured obligations of a bank, investment banking firm or other financial institution whose long-term obligations are rated A or better by any Rating Agency; and

(j) the Local Agency Investment Fund of the State, created pursuant to Section 16429.1 of the California Government Code.

"Principal Account" means the account by that name established and held by the Trustee pursuant to Section 4.2(a) hereof.

"Prior Assessment Bonds" means, collectively, (i) the AD 98-4 Bonds and (ii) the AD 2000-02 Bonds.

"Prior Bonds" means, collectively, the Prior CFD Bonds and the Prior Assessment Bonds.

"Prior CFD Bonds" means, collectively, the Series 2000 CFD Bonds and the Series 2002 CFD Bonds.

"Prior CFD Bonds Fiscal Agent" means The Bank of New York Mellon Trust Company, N.A., as fiscal agent with respect to the Prior CFD Bonds.

"Project" means the improvements, the acquisition and construction of which is financed with proceeds of the Bonds.

"Project Fund" means the fund by that name established and held by the Trustee pursuant to Section 3.10 of this Indenture.

"Purchase Fund" means the fund by that name established and held by the Trustee pursuant to Section 3.5 of this Indenture.

"Reassessment Bonds" means the City of Tracy Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three).

"Reassessment Bonds Fiscal Agent" means the fiscal agent under the Reassessment Bonds Fiscal Agent Agreement.

"Reassessment Fiscal Agent Agreement" means the Fiscal Agent Agreement pursuant to which the Reassessment Bonds are issued, by and between the City and the Reassessment Bonds Fiscal Agent.

"Reassessment District" means City of Tracy Reassessment District No. 2011-1 (Morrison Homes; Heartland Three).

"Reassessment District Resolution of Intention" means Resolution No. _____, adopted by the City Council of the City on November 1, 2011.

"Reassessments" means the unpaid reassessments levied within the Reassessment District by the City Council under the proceedings taken pursuant to the Refunding Assessment Law and the Reassessment District Resolution of Intention

"Rebate Fund" means the fund by that name established pursuant to Section 5.8 hereof.

"Record Date" means, with respect to any Interest Payment Date, the fifteenth calendar day of the month preceding the month in which such Interest Payment Date occurs, whether or not such day is a Business Day.

"Redemption Fund" means the fund by that name established with respect to any Local Obligation.

"Refunding Assessment Law" means the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 of the Streets and Highways Code of the State of California.

"Request of the Authority" means a written request executed by an Authorized Officer of the Authority.

"Request of the City" means a written certificate or request executed by an Authorized Officer of the City.

"Representation Letter" means the representation letter dated as of the Closing Date for the Bonds among the Authority, the Trustee and DTC.

"Resolution of Formation for CFD No. 99-2" means Resolution No. 2000-02 adopted by the City Council of the City on January 4, 2000 pursuant to which the City formed CFD No. 99-2.

"Responsible Officer" means any officer of the Trustee assigned to administer the Trustee's duties under this Indenture.

"Revenue Fund" means the fund by that name established and held by the Trustee pursuant to Sections 3.3 and 4.2 hereof

"Revenues" means: (a) all amounts received from the Acquired Obligations; (b) any proceeds of the Bonds originally deposited with the Trustee and all moneys deposited and held from time to time by the Trustee in the funds and accounts established hereunder with respect to the Bonds (other than the Rebate Fund, the Project Fund and the Surplus Fund); and (c) investment income with respect to any moneys held by the Trustee in the funds and accounts established hereunder with respect to the Bonds (other than investment income on moneys held in the Rebate Fund, the Project Fund and the Surplus Fund).

"Securities Depositories" means DTC; and, in accordance with then current guidelines of the Securities and Exchange Commission, such other securities depositories as the Authority designates in written notice filed with the Trustee.

"Series 2000 CFD Bonds" means the $3,835,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2000.

"Series 2002 CFD Bonds" means the $7,665,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2002.

"Special Taxes" means the taxes authorized to be levied by the CFD on parcels within the CFD which have been pledged to repay the CFD Bonds pursuant to the CFD Act.

"Standard & Poor's" and "S&P" means Standard & Poor's Ratings Group, a division of McGraw Hill, its successors and assigns.

"State" means the State of California.

"Supplemental Indenture" means any indenture, agreement or other instrument hereafter duly executed by the Authority in accordance with the provisions of Article 7 of this Indenture.

"Surplus Fund" means the fund by that name established pursuant to Section 3.8 hereof.

"Trust Office" means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date hereof is located in Los Angeles, California, or such other place as designated by the Trustee except that with respect to presentation of Bonds for payment or for registration of transfer and exchange, such term shall mean the office or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

"Trustee" means The Bank of New York Mellon Trust Company, N.A., and its successors and assigns, and any other corporation or association which may at any time be substituted in its place as provided in Article 6 hereof.

Section 1.2. Rules of Construction. All references in this Indenture to "Articles," "Sections," and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture; and the words "herein," "hereof," "hereunder," and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

Section 1.3. Authorization and Purpose of Bonds. The Authority has reviewed all proceedings heretofore taken relative to the authorization of the Bonds and has found, as a result of such review, and hereby finds and determines, that all things, conditions and acts required by law to exist, happen and/or be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now authorized under the Bond Law and each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture. Accordingly, the Authority hereby authorizes the issuance of the Bonds pursuant to the Bond Law and this Indenture for the purpose of providing funds to acquire the Acquired Obligations, finance the Project and pay Costs of Issuance for the Bonds.

Section 1.4. Equal Security. In consideration of the acceptance of the Bonds by the Owners thereof, this Indenture shall be deemed to be and shall constitute a contract between the Authority and the Owners from time to time of the Bonds; and the covenants and agreements herein set forth to be performed on behalf of the Authority shall be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over other Bonds by reason of the number or date thereof or the time of sale, execution or delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

ARTICLE II

ISSUANCE OF BONDS

Section 2.1. Terms of Bonds. The Bonds authorized to be issued by the Authority under and subject to the Bond Law and the terms of this Indenture shall be dated the Closing Date and be designated as follows the "Tracy Operating Partnership Joint Powers Authority Revenue Bonds, 2011 Series A," which shall be issued in the original aggregate principal amount of _____ Dollars ($_____).

The Bonds shall be issued in fully registered form without coupons in denominations of $5,000 or any integral multiple thereof, so long as no Bond shall have more than one maturity date. The Bonds shall mature on September 2 in each of the years and in the amounts, and shall bear interest (calculated on the basis of a 360-day year of twelve 30-day months) at the rates, as follows:

Maturity Date (September 2)	Principal Amount	Interest Rate Per Annum
2012		
2013		
2014		
2015		
2016		
2017		
2018		
2019		
2020		
2024		
2025		
2026		
2027		

Interest on the Bonds shall be payable on each Interest Payment Date to the person whose name appears on the Bond Register as the Owner thereof as of the Record Date immediately preceding each such Interest Payment Date, such interest to be paid by check of the Trustee mailed on such Interest Payment Date by first class mail, postage prepaid, to the Owner at the address of such Owner as it appears on the Bond Register or by wire transfer to an account in the United States of America made on such Interest Payment Date upon instructions of any Owner of $1,000,000 or more in aggregate principal amount of Bonds of a Series provided to the Trustee in writing at least five (5) Business Days before the Record Date for such Interest Payment Date. Principal of and premium (if any) on any Bond shall be paid upon presentation and surrender thereof, at maturity or the prior redemption thereof, at the Trust Office of the Trustee. The principal of and interest and premium (if any) on the Bonds shall be payable in lawful money of the United States of America.

Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (b) it is authenticated on or before February 15, 2012, in which event it shall bear interest from the Closing Date; provided, however, that if, as of the date of authentication of any Bond, interest thereon is in default, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon, or from the Closing Date if no interest has been paid or made available for payment.

Section 2.2. Redemption of Bonds.

(a) Optional Redemption. The Bonds maturing on or before September 2, 2021 are not subject to optional call and redemption prior to maturity. The Bonds maturing on or after September 2, 2022 may be redeemed at the option of the Authority, from any source of available funds, prior to maturity on any date on or after September 2, 2021 as a whole, or in part from maturities corresponding proportionately to the maturities of the Acquired Obligations simultaneously redeemed, if any redemption of Acquired Obligations is being accomplished in conjunction with such optional redemption, and otherwise from such maturities as are selected by the Authority, and by lot within a maturity, at a redemption price equal to principal amount of the Bonds to be redeemed, plus accrued interest thereon to the date of redemption.

The Authority shall (i) advise Standard & Poor's in writing as to which Bonds are to be optionally redeemed with the proceeds to be received with respect to such Acquired Obligations (which shall be determined in the discretion of the Authority so long as the ability to pay debt service on the Bonds will not be adversely impacted), and (ii) deliver to the Trustee a certificate of an Independent Accountant verifying that, following such optional prepayment of the Acquired Obligations and redemption of Bonds, the principal and interest generated from the remaining Acquired Obligations is adequate to make the timely payment of principal and interest due on the Bonds that will remain Outstanding hereunder following such optional redemption.

(b) Mandatory Special Redemption. The Bonds are subject to mandatory special redemption on any date from proceeds of early redemption of Acquired Obligations from prepayment of Special Taxes or Reassessments, in whole or in part, from maturities corresponding proportionately to the maturities of the Acquired Obligations simultaneously redeemed, at the principal amount thereof, plus a premium expressed below as a percentage of the principal amount so redeemed, plus accrued interest to the date of redemption thereof:

Redemption Date	Redemption Price
Closing Date through September 1, 20__	
September 2, 20__ through September 1, 20__	
September 2, 20__ and thereafter	

The Authority shall (i) advise Standard & Poor's in writing as to which Bonds are to be redeemed with the proceeds to be received with respect to such Acquired Obligations (which shall be determined in the discretion of the Authority so long as the ability to pay debt service on the Bonds will not be adversely impacted), and (ii) deliver to the Trustee a certificate of an Independent Accountant verifying that, following such optional prepayment of the Acquired

Obligations and redemption of Bonds, the principal and interest generated from the remaining Acquired Obligations is adequate to make the timely payment of principal and interest due on the Bonds that will remain Outstanding hereunder following such redemption.

(c) Mandatory Sinking Fund Redemption of Bonds.

The Bonds maturing on September 2, 20__ shall be subject to mandatory sinking fund redemption prior to maturity, in part, on September 2, 20__, and on each September 2 thereafter by lot, from sinking fund payments at a redemption price equal to the principal amount of Bonds to be redeemed, together with accrued interest to the date of redemption, without premium, as follows:

Redemption Date (September 2)	Redemption Amount

The Bonds maturing on September 2, 20__ shall be subject to mandatory sinking fund redemption prior to maturity, in part, on September 2, 20__, and on each September 2 thereafter by lot, from sinking fund payments at a redemption price equal to the principal amount of Bonds to be redeemed, together with accrued interest to the date of redemption, without premium, as follows:

Redemption Date (September 2)	Redemption Amount

In the event that the Bonds described in this Section 2.2(c) are redeemed pursuant to the optional or mandatory special redemption provisions set forth above, the sinking fund payments for the applicable Series shall be reduced as nearly as practicable on a proportionate basis in integral multiples of $5,000.

(d) Notice of Redemption. The Trustee on behalf, and at the expense, of the Authority shall mail (by first class mail, postage prepaid) notice of any redemption to the respective Owners of any Bonds designated for redemption at their respective addresses

appearing on the Bond Register, and to the Securities Depositories and to the Municipal Securities Rulemaking Board, at least thirty (30) but not more than sixty (60) days prior to the date fixed for redemption. Neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the date of the notice, the redemption date, the redemption place and the redemption price and shall designate the CUSIP numbers, the Bond numbers and the maturity or maturities (in the event of redemption of all of the Bonds of such maturity or maturities in whole) of the Bonds to be redeemed, and shall require that such Bonds be then surrendered at the Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue after the redemption date. Any such redemption notice may specify that redemption on the specified date will be subject to receipt by the Authority of moneys sufficient to cause such redemption (and shall specify the proposed source of such moneys), and neither the Authority nor the Trustee shall have any liability to the Owners or any other party as a result of its failure to redeem the Bonds as a result of insufficient moneys. The Authority shall have the right to rescind any redemption by written notice to the Trustee on or prior to the date fixed for redemption. Any notice of redemption shall be cancelled and annulled if for any reason funds are not available on the date fixed for redemption for the payment in full of the Bonds then called for redemption, and such cancellation shall not constitute an Event of Default hereunder. The Trustee shall mail notice of rescission of redemption in the same manner notice of redemption was originally provided.

In addition to the foregoing notice, further notice shall be given by the Trustee in said form by first class mail to any Bondowner whose Bond has been called for redemption but who has failed to submit his Bond for payment by the date which is sixty days after the redemption date, but no defect in said further notice nor any failure to give or receive all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption.

Upon the payment by the Trustee from the applicable account in the Revenue Fund of the redemption price of the Bond being redeemed, each check or other transfer of funds issued for such purpose shall, to the extent practicable, bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(e) Selection of Bonds of a Maturity for Redemption. Unless otherwise provided hereunder, whenever provision is made in this Indenture or in the applicable Supplemental Indenture for the redemption of fewer than all of the Bonds of a maturity of a Series of the Bonds, the Trustee shall select the Bonds to be redeemed from all Bonds of such maturity not previously called for redemption, by lot in any manner which the Trustee in its sole discretion shall deem appropriate and fair. For purposes of such selection, all Bonds shall be deemed to be comprised of separate $5,000 authorized denominations, and such separate authorized denominations shall be treated as separate Bonds which may be separately redeemed.

(f) Partial Redemption of Bonds. In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Authority, a new Bond or Bonds of the same maturity date, of authorized denominations in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

(g) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the principal of and interest (and premium, if any) on the Bonds so called for redemption shall have been duly provided, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price, and no interest shall accrue thereon from and after the redemption date specified in such notice. All Bonds redeemed pursuant to this Section 2.2 shall be cancelled and destroyed.

Section 2.3. Form of Bonds. The Bonds, the form of Trustee's certificate of authentication, and the form of assignment to appear thereon, shall be substantially in the form set forth in Exhibit A attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

Section 2.4. Execution of Bonds. All the Bonds shall, from time to time, be executed on behalf of the Authority by, or bear the manual or facsimile signature of, one of the members of the Board of Directors of the Authority and be attested by the manual or facsimile signature of the Secretary or by any deputy thereof. If any of the directors or officers who shall have signed or sealed any of the Bonds or whose facsimile signature shall be upon the Bonds shall cease to be such officer of the Authority before the Bond so signed and sealed shall have been actually authenticated by the Trustee or delivered, such Bonds nevertheless may be authenticated, issued and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or whose facsimile signature shall be upon the Bonds had not ceased to be such officer of the Authority; and any such Bond may be signed and sealed on behalf of the Authority by those persons who, at the actual date of the execution of such Bonds, shall be the proper officers of the Authority, although at the date of such Bond any such person shall not have been such officer of the Authority.

Only such of the Bonds as shall bear thereon a certificate of authentication in substantially the form set forth in Exhibit A, manually executed by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such certificate of the Trustee shall be conclusive evidence that the Bonds so authenticated have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture.

Section 2.5. Transfer of Bonds. Subject to Section 2.10, any Bond may in accordance with its terms, be transferred, upon the Bond Register, by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Trustee, duly executed. Whenever any Bond shall be surrendered for transfer, the Authority shall execute and the Trustee shall thereupon authenticate and deliver to the transferee a new Bond or Bonds of like Series, tenor, maturity and aggregate principal amount. No Bonds selected for redemption shall be subject to transfer pursuant to this Section nor shall any Bond be subject to transfer during the fifteen days prior to the selection of Bonds for redemption.

The cost of printing any Bonds and any services rendered or any expenses incurred by the Trustee in connection with any transfer or exchange shall be paid by the Authority. However, the Owners of the Bonds shall be required to pay any tax or other governmental charge required to be paid for any exchange or registration of transfer and the Owners of the Bonds shall be required to pay the reasonable fees and expenses of the Trustee and Authority in connection with the replacement of any mutilated, lost or stolen Bonds.

Section 2.6. Exchange of Bonds. Subject to Section 2.10, bonds may be exchanged at the Trust Office of the Trustee for Bonds of the same Series, tenor and maturity and of other authorized denominations. No Bonds selected for redemption shall be subject to exchange pursuant to this Section, nor shall any Bond be subject to exchange during the fifteen days prior to the selection of Bonds for redemption. The Owners of the Bonds shall be required to pay any tax or other governmental charge required to be paid for any exchange and the Owners of the Bonds shall be required to pay the reasonable fees and expenses of the Trustee and Authority in connection with the exchange of any Bonds.

Section 2.7. Temporary Bonds. The Bonds may be issued initially in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such denominations as may be determined by the Authority and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Authority and be registered and authenticated by the Trustee upon the same conditions and in substantially the same manner as the definitive Bonds. If the Authority issues temporary Bonds, it will execute and furnish definitive Bonds without delay, and thereupon the temporary Bonds may be surrendered for cancellation, in exchange therefor at the Trust Office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of authorized denominations. Until so exchanged, the temporary Bonds shall be entitled to the same benefits under this Indenture as definitive Bonds authenticated and delivered hereunder.

Section 2.8. Bond Register. The Trustee will keep or cause to be kept at its Trust sufficient records for the registration and transfer of the Bonds, which shall be the Bond Register and shall at all times during regular business hours be open to inspection by the Authority upon reasonable notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said records, Bonds as hereinbefore provided.

Section 2.9. Bonds Mutilated, Lost, Destroyed or Stolen. If any Bond shall become mutilated, the Authority, at the expense of the Owner of said Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like Series, tenor and authorized denomination in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be cancelled by it and destroyed in accordance with the retention policy of the Trustee then in effect. If any Bond issued hereunder shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to it and indemnity satisfactory to it shall be given, at the expense of the Bond Owner, the Authority shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like series and tenor in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond shall have matured or shall have been called for redemption, instead of issuing a substitute Bond the Trustee may pay the same without surrender thereof upon receipt of indemnity satisfactory to the Trustee). The Trustee may require payment of a reasonable fee for each new Bond issued under this Section and of the expenses which may be incurred by the Authority and the Trustee. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original contractual obligation on the part of the Authority whether or not the Bond alleged to be lost, destroyed or

stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds secured by this Indenture.

Section 2.10. Book-Entry System.

(a) All Bonds shall be initially issued in the form of a separate single certificated fully registered Bond for each maturity date of the Bonds. Upon initial issuance, the ownership of each Bond shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC. Except as provided in Section 2.10(d) hereof, all Outstanding Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC.

(b) With respect to Bonds registered in the Bond Register in the name of Cede & Co., as nominee of DTC, the Authority and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown in the Bond Register, of any notice with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Bond Register, of any amount with respect to principal of, premium, if any, or interest on the Bonds. The City and the Trustee may treat and consider the person in whose name each Bond is registered in the Bond Register as the holder and absolute owner of such Bond for the purpose of payment of principal, premium, if any, and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Trustee shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners, as shown in the Bond Register, as provided in Section 2.8 hereof, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the Authority's obligations with respect to payment of principal of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Bond Register, shall receive a certificated Bond evidencing the obligation of the Authority to make payments of principal, premium, if any, and interest pursuant to this Indenture. Upon delivery by DTC to the Trustee of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions herein with respect to record dates, the word "Cede & Co." in this Indenture shall refer to such new nominee of DTC.

(c) The delivery of the Representation Letter and the Trustee shall not in any way limit the provisions of Section 2.10(b) hereof or in any other way impose upon the Authority or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Owners, as shown on the Bond Register. The Trustee shall take all action necessary for all representations in the Representation Letter with respect to the Trustee to be complied with at all times.

(d) DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving written notice to the Authority and the Trustee and discharging its responsibilities with respect thereto under applicable law.

(ii) The Authority, in its sole discretion and without the consent of any other person, may terminate the services of DTC with respect to the Bonds if the Authority determines that:

(A) DTC is unable to discharge its responsibilities with respect to the Bonds, or

(B) a continuation of the requirement that all Outstanding Bonds be registered in the Bond Register in the name of Cede & Co., or any other nominee of DTC, is not in the best interest of the beneficial owners of such Bonds.

(iii) Upon the termination of the services of DTC with respect to the Bonds pursuant to subsection 2.10(d)(ii)(B) hereof, or upon the discontinuance or termination of the services of DTC with respect to the Bonds pursuant to subsection 2.10(d)(i) or subsection 2.10(d)(ii)(A) hereof after which no substitute securities depository willing to undertake the functions of DTC hereunder can be found which, in the opinion of the Authority, is willing and able to undertake such functions upon reasonable and customary terms, the Authority is obligated to deliver Bond certificates, as described in this Indenture and the Bonds shall no longer be restricted to being registered in the Bond Register in the name of Cede & Co. as nominee of DTC, but may be registered in whatever name or names DTC shall designate to the Trustee in writing, in accordance with the provisions of this Indenture.

(e) Notwithstanding any other provisions of this Indenture to the contrary, as long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal or, premium, if any, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Representation Letter.

Section 2.11. Validity of Bonds. The validity of the authorization and issuance of the Bonds shall not be affected in any way by any proceedings taken by the Authority or the City with respect to the application of the proceeds of the Bonds, and the recital contained in the Bonds that the same are issued pursuant to the Bond Law shall be conclusive evidence of their validity and of the regularity of their issuance.

ARTICLE III

DEPOSIT AND APPLICATION OF PROCEEDS

Section 3.1. Issuance of Bonds. Upon the execution and delivery of this Indenture, the Authority shall execute and deliver the Bonds of each Series in the principal amounts set forth in Section 2.1 hereof to the Trustee for authentication and delivery to the Original Purchaser thereof upon the Request of the Authority.

Section 3.2. Application of Proceeds of Sale of Bonds and Funds Received from the City. On the Closing Date, the Trustee shall apply moneys received by it as follows (the Trustee may, in its discretion, establish one or more temporary funds or accounts to account for or facilitate the following transfers and deposits):

(a) Bond Proceeds. The Trustee shall apply (A) the proceeds of the sale of the Bonds received on the Closing Date, being an amount equal to $_____ (which is equal to the initial principal amount of the Bonds ($_____.00), less an original issue discount of $_____, less an underwriter's discount of $_____, and (B) the amount transferred by the City to the Trustee as set forth in Section 3.2(b)(_____), as follows:

(i) $_____ of the proceeds of the Bonds, representing the par amount of the CFD Bonds ($_____) less the CFD Bonds' share of the original issue discount ($_____), and less the CFD Bonds' share of the underwriter's discount ($_____), shall be deposited in the Purchase Fund for the acquisition of the CFD Bonds in accordance with Section 3.5 below.

(ii) $_____ of the proceeds of the Bonds, representing the par amount of the Reassessment Bonds ($_____) less the Reassessment Bonds' share of the original issue discount ($_____), and less the Reassessment Bonds' share of the underwriter's discount ($_____), shall be deposited in the Purchase Fund for the acquisition of the Reassessment Bonds in accordance with Section 3.5 below.

(iii) $_____ of the proceeds of the Bonds shall be deposited into the Bond Proceeds Account of the Project Fund in accordance with Section 3.10 below.

(iv) $_____ of the proceeds of the Bonds shall be deposited into the Costs of Issuance Fund in accordance with Section 3.4 below.

(b) Funds Received from the City. The Trustee shall apply the funds received on behalf of or from the City on the Closing Date, as follows:

(i) $_____ of the funds received by the Trustee from the City, representing proceeds of the CFD Bonds, shall be deposited in the Costs of Issuance Fund in accordance with Section 3.4 below.

(ii) $_____ of the funds received by the Trustee from the City, representing proceeds of the Reassessment Bonds, shall be deposited in the Costs of Issuance Fund in accordance with Section 3.4 below.

(iii) $_____ of the funds received by the Trustee from the Prior Bonds Fiscal Agent, representing moneys transferred from the Reserve Fund for the Series 2000 CFD Bonds, shall be deposited in the Prior Bonds Account of the Project Fund in accordance with Section 3.10 below.

(iv) $_____ of the funds received by the Trustee from the Prior Bonds Fiscal Agent, representing moneys transferred from the Reserve Fund for the Series 2002 CFD Bonds, shall be deposited in the Prior Bonds Account of the Project Fund in accordance with Section 3.10 below.

(v) $_____ of the funds received by the Trustee from the Prior Bonds Fiscal Agent, representing moneys transferred from the Bond Fund for the Series 2000 CFD Bonds, shall be deposited in the Prior Bonds Account of the Project Fund in accordance with Section 3.10 below.

(vi) $_____ of the funds received by the Trustee from the Prior Bonds Fiscal Agent, representing moneys transferred from the Bond Fund for the Series 2002 CFD Bonds, shall be deposited in the Prior Bonds Account of the Project Fund in accordance with Section 3.10 below.

(vii) $_____ of the funds received by the Trustee from the Prior Bonds Fiscal Agent, representing moneys transferred from the Improvement Fund for the Series 2000 CFD Bonds, shall be deposited in the Prior Bonds Account of the Project Fund in accordance with Section 3.10 below.

(viii) $_____ of the funds received by the Trustee from the Prior Bonds Fiscal Agent, representing moneys transferred from the Improvement Fund for the Series 2002 CFD Bonds, shall be deposited in the Prior Bonds Account of the Project Fund in accordance with Section 3.10 below.

Section 3.3. Revenue Fund. The Trustee shall establish and maintain a separate fund to be known as the "Revenue Fund" and the following separate accounts therein: Interest Account and Principal Account. Except as otherwise provided herein, the Trustee shall deposit all Revenues received after the Closing Date to the Revenue Fund and shall apply amounts in the Revenue Fund as described in Section 4.2 below.

Section 3.4. Costs of Issuance Fund. The Trustee shall establish and maintain a fund known as the "Costs of Issuance Fund" into which shall be deposited the amounts set forth in Section 3.2 above. The moneys in the Costs of Issuance Fund shall be used to pay Costs of Issuance from time to time upon receipt by the Trustee of a Request of the Authority. On the date which is one hundred twenty (120) days following the Closing Date, or upon the earlier receipt by the Trustee of a Request of the Authority stating that all Costs of Issuance have been paid, the Trustee shall transfer all remaining amounts in the Costs of Issuance Fund to the Bond Proceeds Account of the Project Fund. Upon such transfer, the Costs of Issuance Fund shall be closed and the Trustee shall no longer be obligated to make payments for Costs of Issuance. The Authority may at any time file a Request of the Authority requesting that the Trustee retain a specified amount in the Costs of Issuance Fund and transfer to the Bond Proceeds Account of

the Project Fund all remaining amounts, and upon receipt of such request by the Trustee, the Trustee shall comply with such request.

Section 3.5. Purchase Fund. The Trustee shall establish and maintain a separate fund to be known as the "Purchase Fund" into which shall be deposited a portion of the proceeds of sale of the Bonds of each Series pursuant to Section 3.2 hereof. The Trustee shall use the proceeds of the Bonds to purchase Acquired Obligations on the Closing Date; provided, however, that such Acquired Obligations may be purchased only if the Trustee has received a certificate of the Original Purchaser of the Bonds or an Independent Financial Consultant stating that the Revenues to be available to the Trustee, assuming timely payment of the Acquired Obligations, will be sufficient to permit the timely payment of the principal of and interest on all Outstanding Bonds.

Section 3.6. Reserved .

Section 3.7. Rebate Fund. The Trustee shall establish and maintain a separate fund to be known as the "Rebate Fund". The Rebate Fund shall be administered as described in Section 5.8 hereof.

Section 3.8. Surplus Fund. The Trustee shall establish and maintain a separate fund to be known as the "Surplus Fund" which shall be administered as described in Section 4.4 hereof.

Section 3.9. Administrative Expense Fund. The Trustee shall establish and maintain a separate fund to be held by the Trustee and known as the "Administrative Expense Fund" into which shall be deposited (i) amounts transferred to the Trustee pursuant to the Fiscal Agent Agreements relating to the Acquired Obligations to fund Authority Administrative Expenses and (ii) amounts transferred from the Surplus Fund pursuant to Section 4.4 hereof. The moneys in the Administrative Expense Fund shall be used to pay Authority Administrative Expenses upon receipt of a Request of the Authority for the payment thereof.

Section 3.10. Project Fund. The Trustee shall establish and maintain a separate fund to be known as the "Project Fund," and within the Project Fund, a "Bond Proceeds Account" and a "Prior Bonds Account" into which shall be deposited the proceeds of sale of the Bonds and the funds transferred from the Prior Bonds Fiscal Agent pursuant to Section 3.2 hereof and Section 3.4 hereof. The Authority shall act as the agent of CFD No. 99-2 with respect to application of amounts on deposit in the "Prior Bonds Account".

(a) Bond Proceeds Account. The moneys in the Bond Proceeds Account shall be used in the manner provided by the Bond Law solely for the purpose of financing the Project. The Authority covenants that no funds on deposit in the Bond Proceeds Account shall be applied for any purpose not authorized by the Bond Law. The Trustee shall disburse amounts on deposit in the Bond Proceeds Account promptly after receipt of, and in accordance with a Request of the Authority in the form attached hereto as Exhibit B. The Bond Proceeds Account shall be maintained by the Trustee until payment by the Trustee of all Requests of the Authority delivered to it by the Authority and receipt by the Trustee of a Certificate of the Authority to the effect that the Authority will not submit any further Requests of the Authority requesting disbursement therefrom, at which time the Trustee shall close the Bond Proceeds Account and transfer any remaining moneys into the Revenue Fund.

(b) Prior Bonds Account. The moneys in the Prior Bonds Account shall be used in the manner provided by the CFD Act solely for the purpose of aiding in financing the Project; *provided, however,* that any such portion of the Project financed with moneys on deposit in the Prior Bonds Account shall constitute all or a portion of the "Project" as defined in the Prior CFD Bonds Fiscal Agent Agreement. The Authority covenants that no funds on deposit in the Prior Bonds Account shall be applied for any purpose not authorized by the CFD Act or not constituting all or a portion of the "Project" as defined in the Prior CFD Bonds Fiscal Agent Agreement. The Trustee shall disburse amounts on deposit in the Prior Bonds Account promptly after receipt of, and in accordance with a Request of the Authority in the form attached hereto as Exhibit B. The Prior Bonds Account shall be maintained by the Trustee until payment by the Trustee of all Requests of the Authority delivered to it by the Authority and receipt by the Trustee of a Certificate of the Authority to the effect that the Authority will not submit any further Requests of the Authority requesting disbursement therefrom, at which time the Trustee shall close the Prior Bonds Account and transfer any remaining moneys into the Revenue Fund. To the extent permitted by law, moneys in the Prior Bonds Account will be expended prior to moneys in the Bond Proceeds Account.

ARTICLE IV

REVENUES; FLOW OF FUNDS

Section 4.1. Pledge of Revenues; Assignment of Rights. Subject to the provisions of Sections 6.3 and 9.3 hereof, the Bonds shall be secured by a first lien on and pledge (which shall be effected in the manner and to the extent hereinafter provided) of all of the Revenues. The Bonds shall be equally secured by a pledge, charge and lien upon the Revenues without priority for any Bond over any other Bond; and the payment of the interest on and principal of the Bonds and any premiums upon the redemption of any Bonds shall be and are secured by an exclusive pledge, charge and lien upon the Revenues. So long as any of the Bonds are Outstanding, the Revenues shall not be used for any purpose except as is expressly permitted by this Indenture.

The Authority hereby transfers in trust, grants a security interest in and assigns to the Trustee, for the benefit of the Owners from time to time of the Bonds all of the Revenues and all of the right, title and interest of the Authority in the Acquired Obligations, subject to the terms of this Indenture. The Trustee shall be entitled to and shall collect and receive all of the Revenues, and any Revenues collected or received by the Authority shall be deemed to be held, and to have been collected or received, by the Authority as the agent of the Trustee and shall forthwith be paid by the Authority to the Trustee. Subject to the provisions of Section 8.2, the Trustee also shall be entitled to and shall take all steps, actions and proceedings reasonably necessary in its judgment to enforce, either jointly with the Authority or separately, all of the rights of the Authority and all of the obligations of the City under the Acquired Obligations.

Upon the deposit with the Trustee of moneys sufficient to pay all principal of, premium, if any, and interest on the Bonds and upon satisfaction of all claims against the Authority hereunder with respect to the Bonds, including all fees, charges and expenses of the Trustee and the Authority which are properly payable hereunder, or upon the making of adequate provisions for the payment of such amounts as permitted hereby, all moneys remaining in all funds and accounts pertaining to such Bonds, (except any amounts on deposit in the Rebate Fund, the Project Fund and the Surplus Fund and except moneys necessary to pay principal of, premium, if any, and interest on such series of Bonds, which moneys shall be held by the Trustee pursuant to Section 9.3), shall no longer be considered Revenues and are not pledged to repay the Bonds. Such amounts shall be transferred to the fiscal agent for the then outstanding Acquired Obligations. In the event that the Acquired Obligations have been paid or defeased, then any such amounts shall be paid by the Trustee to the Authority to be used by the Authority for any lawful purpose.

Section 4.2. Receipt, Deposit and Application of Revenues; Revenue Fund.

(a) All Revenues described in clause (a) of the definition thereof in Section 1.1 shall be promptly deposited by the Trustee upon receipt thereof in the Revenue Fund.

On each Interest Payment Date and date for redemption of the Bonds, the Trustee shall transfer from the Revenue Fund, and deposit into the following respective accounts for the Bonds, the following amounts in the following order of priority, the requirements of each such account (including the making up of any deficiencies in any such account resulting from lack of

Revenues sufficient to make any earlier required deposit) at the time of deposit to be satisfied before any transfer is made to any account subsequent in priority:

(i) Interest Account. On each Interest Payment Date and redemption date, the Trustee shall deposit in the Interest Account an amount required to cause the aggregate amount on deposit in the Interest Account to equal the amount of interest becoming due and payable on such Interest Payment Date on all Outstanding Bonds or to be paid on the Bonds being redeemed on such date. No deposit need be made into the Interest Account if the amount contained therein is at least equal to the interest becoming due and payable upon all Outstanding Bonds on the next succeeding Interest Payment Date or redemption date, as applicable. All moneys in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds redeemed prior to maturity). In the event that the amounts on deposit in the Interest Account on any Interest Payment Date or redemption date are insufficient for any reason to pay the aggregate amount of interest then coming due and payable on the Outstanding Bonds, the Trustee shall apply such amounts to the payment of interest on each of the Outstanding Bonds on a pro rata basis.

(ii) Principal Account. On each Interest Payment Date and redemption date on which the principal of the Bonds shall be payable, the Trustee shall deposit in the Principal Account an amount required to cause the aggregate amount on deposit in the Principal Account to equal the principal amount of, and premium (if any) on, the Bonds coming due and payable on such Interest Payment Date, or required to be redeemed on such date pursuant to Section 2.2 hereof; provided, however, that no amount shall be deposited to effect a redemption pursuant to Section 2.2(a) hereof unless the Trustee has first received a certificate of an Independent Accountant certifying that such deposit to effect an optional redemption of the Bonds will not impair the ability of the Authority to make timely payment of the principal of and interest on the Bonds, assuming for such purposes that the City continues to make timely payments on all Acquired Obligations not then in default. All moneys in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of (i) paying the principal of the Bonds at the maturity thereof or (ii) paying the principal of and premium (if any) on any Bonds upon the redemption thereof pursuant to Section 2.2.

(b) If on any Interest Payment Date or date for redemption the amount on deposit in the Revenue Fund is inadequate to make the transfers described in subsections (a) above as a result of a payment default on an issue of Acquired Obligations, the Trustee shall immediately notify the City of the amount needed to make the required deposits under subsection (a) above. In the event that within 5 Business Days of delivering such notice the Trustee receives additional payments from the City to cure such shortfall, the Trustee shall deposit such amounts to the account designated in writing by the City.

(c) On each Interest Payment Date after making the transfers required under subsections (a) and (b) above, upon receipt of a Request of the Authority to do so, the Trustee shall transfer from the Revenue Fund to the Rebate Fund for deposit in the accounts therein the amounts specified in such Request.

(d) On September 2 of each year, after making the deposits required under subsections (a), (b) and (c) above, the Trustee shall transfer all amounts remaining on deposit in the Revenue Fund to the Surplus Fund.

Section 4.3. Reserved .

Section 4.4. Surplus Fund.

(a) Any amounts transferred to the Surplus Fund pursuant to Section 4.2 hereof shall no longer be considered Revenues and are not pledged to repay the Bonds.

(b) So long as Acquired Obligations are outstanding, on September 3 of each year, after setting aside any amount specified in a Request of the Authority as necessary to pay Administrative Expenses, any moneys remaining in the Surplus Fund shall be transferred to the City for any lawful purpose.

Section 4.5. Investments. All moneys in any of the funds or accounts established with the Trustee pursuant to this Indenture shall be invested by the Trustee solely in Permitted Investments, as directed pursuant to the Request of the Authority filed with the Trustee at least two (2) Business Days in advance of the making of such investments. The Trustee shall be entitled to conclusively rely on any such Request of the Authority and shall be fully protected in relying thereon. In the absence of any such Request of the Authority the Trustee shall invest any such moneys in Permitted Investments described in clause (f) of the definition thereof. Permitted Investments purchased as an investment of moneys in any fund or account established pursuant to this Indenture shall be deemed to be part of such fund or account.

All interest or gain derived from the investment of amounts in any of the funds or accounts established hereunder shall be deposited in the fund or account from which such investment was made.

For purposes of acquiring any investments hereunder, the Trustee may commingle moneys held by it in any of the funds and accounts held by it hereunder. The Trustee and its affiliates may act as advisor, sponsor, principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee and its affiliates may make any and all investments permitted herein through its own investment department. The Trustee shall incur no liability for losses arising from any investments made pursuant to this Section 4.5.

Section 4.6. Valuation and Disposition of Investments.

(a) Except as otherwise provided in subsection (b) of this Section, the Authority covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Indenture, or otherwise containing gross proceeds of the Bonds (within the meaning of section 148 of the Code) shall be acquired, disposed of, and valued by the Authority (as of the date that valuation is required by this Indenture or the Code) at Fair Market Value.

(b) Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Code shall be valued by the Authority at their present value (within the meaning of section 148 of the Code).

ARTICLE V

COVENANTS OF THE AUTHORITY

Section 5.1. Punctual Payment. The Authority shall punctually pay or cause to be paid the principal and interest and premium (if any) to become due in respect of all the Bonds, in strict conformity with the terms of the Bonds and of this Indenture, according to the true intent and meaning thereof, but only out of Revenues and other assets pledged for such payment as provided in this Indenture.

Section 5.2. Extension of Payment of Bonds. The Authority shall not directly or indirectly extend or assent to the extension of the maturity of any of the Bonds or the time of payment of any claims for interest by the purchase of such Bonds or by any other arrangement, and in case the maturity of any of the Bonds or the time of payment of any such claims for interest shall be extended, such Bonds or claims for interest shall not be entitled, in case of any default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest thereon which shall have been so extended. Nothing in this Section shall be deemed to limit the right of the Authority to issue Bonds for the purpose of refunding any Outstanding Bonds, and such issuance shall not be deemed to constitute an extension of maturity of the Bonds.

Section 5.3. Against Encumbrances. The Authority shall not create, or permit the creation of, any pledge, lien, charge or other encumbrance upon the Revenues and other assets pledged or assigned under this Indenture while any of the Bonds are Outstanding, except the pledge and assignment created by this Indenture and except as otherwise permitted by Section 5.6 of this Indenture. Subject to this limitation, the Authority expressly reserves the right to enter into one or more other indentures for any of its corporate purposes, including other programs under the Bond Law, and reserves the right to issue other obligations for such purposes.

Section 5.4. Power to Issue Bonds and Make Pledge and Assignment. The Authority is duly authorized pursuant to law to issue the Bonds and to enter into this Indenture and to pledge and assign the Revenues, the Acquired Obligations and other assets purported to be pledged and assigned, respectively, under this Indenture. The Bonds and the provisions of this Indenture are and will be the legal, valid and binding limited, special obligations of the Authority in accordance with their terms, and the Authority and the Trustee shall at all times, subject to the provisions of Article 6 hereof and to the extent permitted by law, defend, preserve and protect said pledge and assignment of the Revenues, the Acquired Obligations and other assets and all the rights of the Bond Owners under this Indenture against all claims and demands of all persons whomsoever.

Section 5.5. Accounting Records and Financial Statements. The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards in which complete and accurate entries shall be made of transactions made by it relating to the proceeds of Bonds, the Revenues, the Acquired Obligations and all funds and accounts established pursuant to this Indenture. Such books of record and account shall be available for inspection by the Authority and the City upon reasonable prior notice during regular business hours and under reasonable circumstances, in each case as agreed to by the Trustee.

Not later than 45 days following each Interest Payment Date, the Trustee shall prepare and file with the Authority a report setting forth: (i) amounts withdrawn from and deposited into each fund and account maintained by the Trustee under this Indenture; (ii) the balance on deposit in each fund and account as of the date for which such report is prepared; and (iii) a brief description of all obligations held as investments in each fund and account. Copies of such reports may be mailed to any Owner upon the Owner's written request to the Trustee at the expense of such Owner at a cost not to exceed the Trustee's actual costs of duplication and mailing.

Section 5.6. Conditions to Issuance of Additional Obligations. Except as set forth in this Section 5.6, the Authority covenants that no additional bonds, notes or other indebtedness shall be issued or incurred which are payable out of Revenues in whole or in part.

The Authority may issue Additional Bonds secured on a parity with the Bonds ("**Additional Bonds**"), in such principal amount as shall be determined by the Authority, pursuant to a Supplemental Indenture adopted or entered into by the Authority. Such Additional Bonds may be issued subject to the following conditions precedent:

(a) The Authority shall be in compliance with all covenants set forth in this Indenture and all Supplemental Indentures;

(b) The proceeds of such Additional Bonds shall be applied to accomplish a refunding of all or a portion of the Bonds or any Additional Bonds Outstanding and there shall have been delivered to the Trustee a certificate of an Independent Financial Consultant stating that the annual payments due on the Acquired Obligations will be adequate to pay the principal of and interest on all Bonds and Additional Bonds when due.

(c) The Supplemental Indenture providing for the issuance of such Additional Bonds shall provide that interest thereon shall be payable on September 2 and March 2, and principal thereof shall be payable on September 2 in any year in which principal is payable.

(d) The Supplemental Indenture providing for the issuance of such Additional Bonds may provide for the establishment of separate funds and accounts.

(e) No Event of Default shall have occurred and be continuing with respect to the Bonds or any of the Acquired Obligations.

(f) The Authority shall deliver to the Trustee a written Certificate of the Authority certifying that the conditions precedent to the issuance of such Additional Bonds set forth in subsections (a), (b), (c) and (e) of this Section 5.6 above have been satisfied.

Section 5.7. Tax Covenants.

(a) Private Activity Bond Limitation. The Authority shall assure that the proceeds of the Bonds are not used so as to cause the Bonds to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(b) Federal Guarantee Prohibition. The Authority shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

(c) No Arbitrage. The Authority shall not take, or permit or suffer to be taken by the Trustee or otherwise, any action with respect to the Bond proceeds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date, would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(d) Rebate of Excess Investment Earnings to United States. The Authority shall calculate or cause to be calculated excess investment earnings with respect to the Bonds which are required to be rebated to the United States of America pursuant to Section 148(f) of the Code, and shall pay the full amount of such excess investment earnings to the United States of America in such amounts, at such times and in such manner as may be required pursuant to the Code. Such payments shall be made by the Authority from any source of legally available funds of the Authority, including amounts deposited into the Rebate Fund, if any. The Authority shall keep or cause to be kept, and retain or cause to be retained for a period of six (6) years following the final payment of the Bonds, records of the determinations made pursuant to this subsection (d). In order to provide for the administration of this subsection (d), the Authority may provide for the employment of independent attorneys, accountants and consultants compensated on such reasonable basis as the Authority may deem appropriate.

(e) Maintenance of Tax Exemption. The Authority shall take all actions necessary to assure the exclusion of interest on the Bonds from the gross income of the Owners thereof to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the Bonds.

Section 5.8. Rebate Fund.

(a) Establishment. The Trustee shall establish a Rebate Fund. For purposes of calculating rebate under this Section 5.8 only, the Bonds shall be treated as a single series. Absent an opinion of Bond Counsel that the exclusion from gross income for federal income tax purposes of interest on the Bonds will not be adversely affected, the Authority shall cause to be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to this Section, Section 5.7(d) and the Code. All money at any time deposited in the Rebate Fund shall be held by the Trustee in trust for payment to the United States Treasury.

(b) Disposition of Unexpended Funds. Any funds remaining in the Rebate Fund after redemption and payment of the Bonds and after payment of all the amounts payable to the United States Treasury from the Rebate Fund, including accrued interest and payment of all applicable fees to the Trustee, may be withdrawn by the Trustee and remitted to the Authority and utilized in any manner by the Authority.

Section 5.9. Acquired Obligations. Subject to the provisions of this Indenture (including Article 6), the Authority and the Trustee shall use reasonable efforts to collect all amounts due from the City pursuant to the Acquired Obligations and shall diligently enforce, and take all steps, actions and proceedings which the Authority and Trustee determine to be reasonably necessary for the enforcement of all of the rights of the Authority thereunder and for the

enforcement of all of the obligations and covenants of the City. The Authority shall instruct the City to authenticate and deliver to the Trustee the Acquired Obligations registered in the name of the Trustee.

The Authority, the Trustee, and the City may, with prior written notice to Standard & Poor's, at any time consent to, amend or modify any of the Acquired Obligations pursuant to the terms thereof, (a) with the prior consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, or (b) without the consent of any of the Owners, if such amendment or modification is for any one or more of the following purposes

(a) to add to the covenants and agreements of the City contained in such Acquired Obligations, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or power therein reserved to or conferred upon the City; or

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in such Acquired Obligations, or in any other respect whatsoever as the City may deem necessary or desirable, provided under any circumstances that such modifications or amendments shall not materially adversely affect the interests of the Owners of the Bonds in the opinion of nationally- recognized bond counsel filed with the Trustee; or

(c) to amend any provision thereof to the extent necessary to comply with the Code, but only if and to the extent such amendment will not, in and of itself, adversely affect the exclusion from gross income of the interest on any of the Bonds under the Code, in the opinion of Bond Counsel filed with the Trustee.

Section 5.10. Sale of Acquired Obligations. Notwithstanding anything in this Indenture to the contrary, following prior written notice to Standard & Poor's, the Authority may cause the Trustee to sell, from time to time, all or a portion of an issue of Acquired Obligations, provided that the Authority shall deliver to the Trustee:

(a) a certificate of an Independent Accountant certifying that, following the sale of such Acquired Obligations, the Revenues to be paid to the Authority (assuming the timely payment of amounts due thereon with respect to any Acquired Obligations not then in default), together with interest and principal due on any noncallable Federal Securities pledged to the repayment of the Bonds and the Revenues then on deposit in the funds and accounts established hereunder (valuing any Permitted Investments held hereunder at the then Fair Market Value thereof), will be sufficient to pay the principal of and interest on the Bonds when due;

(b) if any Bonds are then rated by Moody's and Standard &, a notification from Moody's, if Moody's then rates such Bonds, and Standard & Poor's, if Standard & Poor's then rates such Bonds, to the effect that such rating will not be withdrawn or reduced as a result of such sale of Acquired Obligations; and

(c) an opinion of Bond Counsel that such sale of Acquired Obligations is authorized under the provisions of this Indenture and will not adversely affect the exclusion of interest on the Bonds from gross income for purposes of federal income taxation.

Upon compliance with the foregoing conditions by the Authority, the Trustee shall sell such Acquired Obligations in accordance with the Request of the Authority and disburse the proceeds of the sale of such Acquired Obligations to the Authority or upon the receipt of a Request of the Authority shall deposit such proceeds in the Revenue Fund.

Section 5.11. Further Assurances. The Authority will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in this Indenture.

Section 5.12. Continuing Disclosure. The Authority hereby covenants and agrees that it will cause the City to comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Indenture, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, any Participating Underwriter or any holder or beneficial owner of the Bonds may, take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

Section 5.13. Compliance with Reporting Requirements of Bond Law. The Authority hereby covenants and agrees that it will comply with and carry out all of the reporting requirements of the Bond Law, including, but not limited to, Section 6599.1 thereof.

ARTICLE VI

THE TRUSTEE

Section 6.1. Appointment of Trustee. The Bank of New York Mellon Trust Company, N.A., with its corporate trust office presently located in San Francisco, California, a national banking association organized and existing under and by virtue of the laws of the United States of America, is hereby appointed Trustee by the Authority for the purpose of receiving all moneys required to be deposited with the Trustee hereunder and to allocate, use and apply the same as provided in this Indenture. The Authority agrees that it will maintain a Trustee which is a trust company or bank of good standing located in or incorporated under the laws of the State, duly authorized to exercise trust powers, with a combined capital and surplus of at least Seventy-five Million Dollars ($75,000,000), subject to supervision or examination by federal or state authority. If such bank or trust company publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this Section 6.1, the combined capital and surplus shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

The Trustee is hereby authorized to pay the principal of and interest and redemption premium (if any) on the Bonds when duly presented for payment at maturity, or on redemption or purchase prior to maturity, to make regularly scheduled interest payments, and to cancel any Bond upon payment thereof.

Section 6.2. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts, but only upon and subject to the following express terms and conditions:

(a) The Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default hereunder has occurred (which has not been cured or waived), the Trustee may exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill and diligence in their exercise, as a reasonable person would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, but shall not be responsible for the acts of any agents, attorneys or receivers appointed by it with the consent of the Authority unless such appointment was the result of negligence or willful misconduct. The Trustee may consult with and act upon the advice of counsel (which may be counsel to the Authority) concerning all matters of trust and its duty hereunder and shall be wholly protected in reliance upon the advice or opinion of such counsel in respect of any action taken or omitted by it in good faith and in accordance herewith.

(c) The Trustee shall not be responsible for any recital herein, or for any of the supplements thereto or instruments of further assurance, or for the validity, effectiveness or the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby and the Trustee shall not be bound to ascertain or inquire as to the observance or performance of any covenants, conditions or agreements on the part of the Authority hereunder. The Trustee

shall have no responsibility, opinion, or liability with respect to any information, statement, or recital in any offering memorandum, official statement, or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

(d) Except as provided in Section 3.2 hereof, the Trustee shall not be accountable for the use of any proceeds of sale of the Bonds delivered hereunder. The Trustee may become the Owner of Bonds secured hereby with the same rights which it would have if not the Trustee; may acquire and dispose of other bonds or evidences of indebtedness of the Authority with the same rights it would have if it were not the Trustee; and may act as a depositary for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Bonds, whether or not such committee shall represent the Owners of the majority in aggregate principal amount of the Bonds then Outstanding.

(e) The Trustee shall be protected and shall incur no liability in acting, or refraining from acting in good faith and without negligence, in reliance upon any notice, request, consent, certificate, order, affidavit, letter, telegram, facsimile transmission, electronic mail, or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken or omitted to be taken by the Trustee in good faith and without negligence pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the Owner of any Bond, shall be conclusive and binding upon all future Owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof. The Trustee shall not be bound to recognize any person as an Owner of any Bond or to take any action at such person's request unless the ownership of such Bond by such person shall be reflected on the Bond Register.

(f) As to the existence or non existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a Certificate of the Authority as sufficient evidence of the facts therein contained and prior to the occurrence of an Event of Default hereunder of which the Trustee has been given notice or is deemed to have notice, as provided in Section 6.2(h) hereof, shall also be at liberty to accept a Certificate of the Authority to the effect that any particular dealing, transaction or action is necessary or expedient, and shall be fully protected in relying thereon, but may at its discretion secure such further evidence deemed by it to be necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty and notwithstanding any other provision of this Indenture, the Trustee shall not be answerable for other than its negligence or willful misconduct. The immunities and exceptions from liability of the Trustee shall extend to its officers, directors, employees and agents.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any Event of Default hereunder except where a Responsible Officer has actual knowledge of such Event of Default and except for the failure by the Authority to make any of the payments to the Trustee required to be made by the Authority pursuant hereto, including payments on the Acquired Obligations, or failure by the Authority to file with the Trustee any document required by this Indenture to be so filed subsequent to the issuance of the Bonds, unless a Responsible

Officer shall be specifically notified in writing of such default by the Authority or by the Owners of at least twenty five percent (25%) in aggregate principal amount of the Bonds then Outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered to a Responsible Officer at the Trust Office of the Trustee, and in the absence of such notice so delivered the Trustee may conclusively assume there is no Event of Default hereunder except as aforesaid. Delivery of a notice to the officer and address for the Trustee set forth in Section 9.12 hereof, as updated by the Trustee from time to time, shall be deemed notice to a Responsible Officer.

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, accountants and representatives, shall have the right fully to inspect all books, papers and records of the Authority pertaining to the Bonds, and to make copies of any of such books, papers and records such as may be desired but which is not privileged by statute or by law.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the performance of its duties hereunder.

(k) Notwithstanding anything elsewhere in this Indenture with respect to the execution of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, the Trustee shall have the right, but shall not be required, to demand any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, as may be deemed desirable by the Trustee in its sole discretion for the purpose of establishing the right of the Authority to the execution of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Before taking the action referred to in Sections 6.5, 8.2 or 9.2, the Trustee may require that an indemnity bond satisfactory to it be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any such action.

(m) All moneys received by the Trustee shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds.

(n) Whether or not expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Article 6.

(o) The Trustee shall not be considered in breach of or in default in its obligations hereunder or progress in respect thereto in the event of enforced delay ("unavoidable delay") in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, Acts of God or of the public enemy or terrorists, acts of a government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, earthquakes, explosion, mob violence, riot, inability to procure or general sabotage or rationing of labor, equipment, facilities, sources or energy, material or supplies in the open market, litigation or arbitration involving a party or others

relating to zoning or other governmental action or inaction pertaining to the project, malicious mischief, condemnation, and unusually severe weather or delays of suppliers or subcontractors due to such causes or any similar event and/or occurrences beyond the control of the Trustee.

(p) The Trustee agrees to accept and act upon facsimile transmission of written instructions and/or directions pursuant to this Indenture provided, however, that: (i) subsequent to such facsimile transmission of written instructions and/or directions the Trustee shall forthwith receive the originally executed instructions and/or directions, (ii) such originally executed instructions and/or directions shall be signed by a person as may be designated and authorized to sign for the party signing such instructions and/or directions, and (iii) the Trustee shall have received a current incumbency certificate containing the specimen signature of such designated person."

Section 6.3. Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment and reimbursement by the Authority for reasonable fees for its services rendered hereunder and all advances (including any interest on advances), counsel fees and expenses (including fees and expenses of outside counsel and the allocated costs of internal attorneys) and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services. Upon the occurrence of an Event of Default hereunder, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment of any Bond upon the amounts held in Funds and accounts hereunder for the foregoing fees, charges and expenses incurred by it respectively. The Trustee's right to payment of its fees and expenses shall survive the discharge and payment or defeasance of the Bonds and termination of this Indenture, and the resignation or removal of the Trustee.

Section 6.4. Notice to Bond Owners of Default. If an Event of Default hereunder occurs with respect to any Bonds of which the Trustee has been given, or is deemed to have notice, as provided in Section 6.2(h) hereof, then the Trustee shall promptly give written notice thereof by first class mail to the Owner of each such Bond, unless such Event of Default shall have been cured before the giving of such notice.

Section 6.5. Intervention by Trustee. In any judicial proceeding to which the Authority is a party which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of any of the Bonds, the Trustee may intervene on behalf of such Bond Owners, and subject to Section 6.2(1) hereof, shall do so if requested in writing by the Owners of at least twenty five percent (25%) in aggregate principal amount of such Bonds then Outstanding.

Section 6.6. Removal of Trustee. The Owners of a majority in aggregate principal amount of the Outstanding Bonds may and the Authority may, so long as no Event of Default then exists, upon 30 days' prior written notice to the Trustee, remove the Trustee initially appointed, and any successor thereto, by an instrument or concurrent instruments in writing delivered to the Trustee. Upon any such removal, the Authority shall appoint a successor or successors thereto; provided that any such successor shall be a bank or trust company meeting the requirements set forth in Section 6.1 hereof. Notwithstanding any other provision of this Indenture, no removal of the Trustee shall be effective until a successor is appointed.

Section 6.7. Resignation by Trustee. The Trustee and any successor Trustee may at any time give prior written notice of its intention to resign as Trustee hereunder, such notice to

be given to the Authority and the City by registered or certified mail. Upon receiving such notice of resignation, the Authority shall promptly appoint a successor Trustee. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon acceptance of appointment by the successor Trustee. Upon such acceptance, the Authority shall cause notice thereof to be given by first class mail, postage prepaid, to the Bond Owners at their respective addresses set forth on the Bond Register.

Section 6.8. Appointment of Successor Trustee. In the event of the removal or resignation of the Trustee pursuant to Sections 6.6 or 6.7, respectively, the Authority shall promptly appoint a successor Trustee. In the event the Authority shall for any reason whatsoever fail to appoint a successor Trustee within thirty (30) days following the delivery to the Trustee of the instrument described in Section 6.6 or within thirty (30) days following the receipt of notice by the Authority and the City pursuant to Section 6.7, the Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee meeting the requirements of Section 6.1 hereof. Any such successor Trustee appointed by such court shall become the successor Trustee hereunder notwithstanding any action by the Authority purporting to appoint a successor Trustee following the expiration of such thirty day period.

Section 6.9. Merger or Consolidation. Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such company shall meet the requirements set forth in Section 6.1 hereof, shall be the successor to the Trustee and vested with all of the title to the trust estate and all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding. The Trustee may assign its rights, duties and obligations hereunder in whole or in part, to an affiliate or subsidiary thereof, provided such Corporation, affiliate or subsidiary shall meet the requirements set forth in Section 6.1 hereof.

Section 6.10. Concerning any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Authority an instrument in writing accepting such appointment hereunder and to the predecessor Trustee an instrument indemnifying the predecessor Trustee for any costs or claims arising during the time the successor Trustee serves as Trustee hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the Request of the Authority, or of the Trustee's successor, execute and deliver an instrument transferring to such successor all the estates, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as the Trustee hereunder to its successor. Should any instrument in writing from the Authority be required by any successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor Trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority.

Section 6.11. Appointment of Co Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the law of the State) denying or restricting the right of banking corporations or associations to transact business as a

trustee in such jurisdiction. It is recognized that in the case of litigation under this Indenture, and in particular in case of the enforcement of the rights of the Trustee on default, or in the case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or take any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate co-trustee. The following provisions of this Section 6.11 are adopted to these ends.

In the event that the Trustee or the Authority appoints an additional individual or institution as a separate or co-trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate or co-trustee but only to the extent necessary to enable such separate or co-trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or co-trustee shall run to and be enforceable by either of the Trustee or separate or co-Trustee.

Should any instrument in writing from the Authority be required by the separate trustee or co-trustee so appointed by the Trustee or the Authority for more fully and certainly vesting in and confirming to it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority. In case any separate trustee or co-trustee, or a successor to either, shall become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate trustee or co-trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new trustee or successor to such separate trustee or co-trustee.

Section 6.12. Indemnification; Limited Liability of Trustee. The Authority further covenants and agrees to indemnify and save the Trustee and its officers, officials, directors, agents and employees, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability, but excluding any and all losses, expenses and liabilities which are due to the negligence or intentional misconduct of the Trustee, its officers, directors, agents or employees. No provision in this Indenture shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability hereunder unless indemnity reasonably satisfactory to it against such liability or risk is provided to it. The Trustee shall not be liable for any action taken or omitted to be taken by it in accordance with the direction of a majority (or any lesser amount that may direct the Trustee in accordance with the provisions of the Indenture) of the Owners of the principal amount of Bonds Outstanding relating to the time, method and place of conducting any proceeding or remedy available to the Trustee under this Indenture. The rights of the Trustee and the obligations of the Authority under this Section 6.12 shall survive termination of this Indenture, discharge of the Bonds and resignation or removal of the Trustee.

ARTICLE VII

MODIFICATION AND AMENDMENT OF THE INDENTURE

Section 7.1. Amendment Hereof. This Indenture and the rights and obligations of the Authority and of the Owners of the Bonds may, with prior written notice to Standard & Poor's, be modified or amended at any time by a Supplemental Indenture which shall become binding when the prior written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding are filed with the Trustee. No such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal, interest or redemption premiums at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the Owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without written consent of the Trustee, modify any of the rights or obligations of the Trustee.

This Indenture and the rights and obligations of the Authority and of the Owners of the Bonds may, with prior written notice to Standard & Poor's, also be modified or amended at any time by a Supplemental Indenture which shall become binding upon adoption, without consent of any Bond Owners, to the extent permitted by law but only for any one or more of the following purposes

(a) to add to the covenants and agreements of the Authority contained in this Indenture, other covenants and agreements thereafter to be observed, or to limit or surrender any rights or powers herein reserved to or conferred upon the Authority so long as such addition, limitation or surrender of such rights or powers shall not materially adversely affect the Owners of the Bonds; or

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in any other respect whatsoever as the Authority may deem necessary or desirable, provided under any circumstances that such modifications or amendments shall not materially adversely affect the interests of the Owners of the Bonds; or

(c) to amend any provision hereof relating to the Code as may be necessary or appropriate to assure compliance with the Code and the exclusion from gross income of interest on the Bonds; or

(d) to amend any provision hereof to place any Additional Bonds on a parity with the Bonds for all purposes of this Indenture, including, but not limited to, for the purpose of exercising all rights and remedies hereunder; or

(e) to amend the provisions of Section 4.4 hereof.

At least 15 days in advance of the execution of any amendment to this Indenture, the Trustee shall mail notice of such amendment and a copy of the proposed text of such amendment to Standard & Poor's.

The Trustee may, as it deems appropriate in its sole discretion, obtain an opinion of Bond Counsel that any such Supplemental Indenture entered into by the Authority and the Trustee complies with the provisions of this Article 7 and the Trustee may conclusively rely upon such opinion and shall be fully protected in relying thereon.

Section 7.2. Effect of Supplemental Indenture. From and after the time any Supplemental Indenture becomes effective pursuant to this Article 7, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners of Outstanding Bonds, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of this Indenture for any and all purposes.

Section 7.3. Endorsement or Replacement of Bonds After Amendment. After the effective date of any action taken as hereinabove provided, the Authority may determine that any affected Bonds shall bear a notation, by endorsement in form approved by the Authority, as to such action, and in that case upon demand of the Owner of any Bond Outstanding at such effective date and presentation of its Bond for that purpose at the Trust Office of the Trustee, a suitable notation as to such action shall be made on such Bond. If the Authority shall so determine, new Bonds so modified as, in the opinion of the Authority, shall be necessary to conform to such Bond Owners' action shall be prepared and executed, and in that case upon demand of the Owner of any Bond Outstanding at such effective date such new Bonds shall be exchanged at the Trust Office of the Trustee, without cost to each Bond Owner, for Bonds then Outstanding, upon surrender of such Outstanding Bonds.

Section 7.4. Amendment by Mutual Consent. The provisions of this Article 7 shall not prevent any Bond Owner from accepting any amendment as to the particular Bond held by such Owner, provided that due notation thereof is made on such Bond.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1. Events of Default. The following events shall be Events of Default hereunder.

(a) Default in the due and punctual payment of the principal of any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by proceedings for redemption, by declaration or otherwise.

(b) Default in the due and punctual payment of any installment of interest on any Bond when and as such interest installment shall become due and payable.

(c) Default by the Authority in the observance of any of the other covenants, agreements or conditions on its part in this Indenture or in the Bonds contained, if such default shall have continued for a period of sixty (60) days after written notice thereof, specifying such default and requiring the same to be remedied, shall have been given to the Authority by the Trustee, or to the Authority and the Trustee by the Owners of not less than twenty five percent (25%) in aggregate principal amount of the Bonds at the time Outstanding; provided that such default (other than a default arising from nonpayment of the Trustee's fees and expenses, which must be cured within such 60 day period unless waived by the Trustee) shall not constitute a Event of Default hereunder if the Authority shall commence to cure such default within said sixty (60) day period and thereafter diligently and in good faith shall cure such default within a reasonable period of time; or

(d) The filing by the Authority of a petition or answer seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction shall approve a petition, filed with or without the consent of the Authority, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or if, under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of its property.

Section 8.2. Remedies; Rights of Bond Owners. Upon the occurrence of a Event of Default, the Trustee may pursue any available remedy at law or in equity to enforce the payment of the principal of, premium, if any, and interest on the Outstanding Bonds, and to enforce any rights of the Trustee under or with respect to this Indenture. In the event of a Event of Default arising out of a nonpayment of Trustee's fees and expenses, the Trustee may sue the Authority to seek recovery of its fees and expenses; provided, however, that such recovery may be made only from Revenues.

If an Event of Default shall have occurred and be continuing and if requested so to do by the Owners of at least twenty five percent (25%) in aggregate principal amount of Outstanding Bonds, and, in each case, if indemnified as provided in Section 6.2(l), the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article 8 and, as applicable, under the Acquired Obligations, as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Bond Owners.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Bond Owners) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Bond Owners hereunder or now or hereafter existing at law or in equity.

No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or acquiescence therein; such right or power may be exercised from time to time as often as may be deemed expedient.

Section 8.3. Application of Revenues and Other Funds After Event of Default. All amounts received by the Trustee with respect to the Bonds pursuant to any right given or action taken by the Trustee under the provisions of this Indenture relating to the Bonds shall be applied by the Trustee in the following order upon presentation of the several Bonds, and the stamping thereon of the amount of the payment if only partially paid, or upon the surrender thereof if fully paid –

First, to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default and in carrying out the provisions of this Article 8, including reasonable compensation to its agents, attorneys and counsel (including outside counsel and the allocated costs of internal attorneys), and to the payment of all other outstanding fees and expenses of the Trustee; and

Second, to the payment of the whole amount of interest on and principal of the Bonds then due and unpaid, with interest on overdue installments of principal and interest to the extent permitted by law at the net effective rate of interest then borne by the Outstanding Bonds; provided, however, that in the event such amounts shall be insufficient to pay in full the full amount of such interest and principal, then such amounts shall be applied in the following order of priority.

(a) first to the payment of all installments of interest on the Bonds then due and unpaid,

(b) second, to the payment of all installments of principal of the Bonds then due and unpaid, and

(c) third, to the payment of interest on overdue installments of principal and interest on Bonds.

Section 8.4. Power of Trustee to Control Proceedings. In the event that the Trustee, upon the happening of a Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, it may, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not, unless there no longer continues a Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if there has been filed with it a written

request signed by the Owners of a majority in aggregate principal amount of the Outstanding Bonds hereunder opposing such discontinuance, withdrawal, compromise, settlement or other such litigation and provided further that the Trustee shall have the right to decline to comply with such written request unless indemnification satisfactory to it has been provided. Any suit, action or proceeding which any Owner of Bonds shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners of Bonds similarly situated and the Trustee is hereby appointed (and the successive respective Owners of the Bonds issued hereunder, by taking and holding the same, shall be conclusively deemed so to have appointed it) the true and lawful attorney in fact of the respective Owners of the Bonds for the purposes of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners of the Bonds as a class or classes, as may be necessary or advisable in the opinion of the Trustee as such attorney in fact.

Section 8.5. Appointment of Receivers. Upon the occurrence of a Event of Default hereunder, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bond Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Revenues and other amounts pledged hereunder, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 8.6. Non Waiver. Nothing in this Article 8 or in any other provision of this Indenture, or in the Bonds, shall affect or impair the obligation of the Authority, which is absolute and unconditional, to pay the interest on and principal of the Bonds to the respective Owners of the Bonds at the respective dates of maturity, as herein provided, out of the Revenues and other moneys herein pledged for such payment.

A waiver of any default or breach of duty or contract by the Trustee or any Bond Owners shall not affect any subsequent default or breach of duty or contract, or impair any rights or remedies on any such subsequent default or breach. No delay or omission of the Trustee or any Owner of any of the Bonds to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy conferred upon the Trustee or Bond Owners by the Bond Law or by this Article 8 may be enforced and exercised from time to time and as often as shall be deemed expedient by the Trustee or the Bond Owners, as the case may be.

Section 8.7. Rights and Remedies of Bond Owners. No Owner of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of a Event of Default; (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of Bonds of any remedy hereunder; it being understood and intended that no one or more Owners of Bonds shall have any right in any manner whatever by his or their action to enforce any right under this Indenture, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of this Indenture shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding.

The right of any Owner of any Bond to receive payment of the principal of and interest and premium (if any) on such Bond as herein provided or to institute suit for the enforcement of any such payment, shall not be impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

Section 8.8. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case, the Authority, the Trustee and the Bond Owners shall be restored to their former positions and rights hereunder, respectively, with regard to the property subject to this Indenture, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

ARTICLE IX

[RESERVED]

ARTICLE X

MISCELLANEOUS

Section 9.1. Limited Liability of Authority. Notwithstanding anything in this Indenture contained, the Authority shall not be required to advance any moneys derived from any source of income other than the Revenues for the payment of the principal of or interest on the Bonds, or any premiums upon the redemption thereof, or for the performance of any covenants herein contained (except to the extent any such covenants are expressly payable hereunder from the Revenues). The Authority may, however, advance funds for any such purpose, provided that such funds are derived from a source legally available for such purpose and may be used by the Authority for such purpose without incurring indebtedness.

The Bonds shall be revenue bonds, payable exclusively from the Revenues and other funds as in this Indenture provided. The general fund of the Authority is not liable, and the credit of the Authority is not pledged, for the payment of the interest and premium (if any) on or principal of the Bonds. The Owners of the Bonds shall never have the right to compel the forfeiture of any property of the Authority. The principal of and interest on the Bonds, respectively, and any premiums upon the redemption of any thereof, shall not be a legal or equitable pledge, charge, lien or encumbrance upon any property of the Authority or upon any of its income, receipts or revenues except the Revenues and other funds pledged to the payment thereof as in this Indenture provided.

Section 9.2. Benefits of Indenture Limited to Parties. Nothing in this Indenture, expressed or implied, is intended to give to any person other than the Authority, the Trustee and the Owners of the Bonds, any right, remedy or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Trustee and the Owners of the Bonds.

Section 9.3. Discharge of Indenture. If the Authority shall pay and discharge any or all of the Outstanding Bonds in any one or more of the following ways:

(a) by well and truly paying or causing to be paid the principal of and interest and premium (if any) on such Bonds, as and when the same become due and payable;

(b) by irrevocably depositing with the Trustee, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established with the Trustee pursuant to this Indenture and available for such purpose, is fully sufficient to pay such Bonds, including all principal, interest and redemption premiums; or

(c) by irrevocably depositing with the Trustee or any other fiduciary, in trust, Federal Securities in such amount as an Independent Accountant shall determine will, together with the interest to accrue thereon and available moneys then on deposit in the funds and accounts established with the Trustee pursuant to this Indenture and available for such purpose, be fully sufficient to pay and discharge the indebtedness on such

Bonds (including all principal, interest and redemption premiums) at or before their respective maturity dates;

then any such Outstanding Bond or Bonds shall be deemed to have been paid and discharged; provided, however, that any such Outstanding Bond or Bonds shall be deemed to have been paid under paragraph (c) above only if (i) in the case of Bonds to be redeemed prior to the maturity thereof, notice of such redemption shall have been mailed pursuant to Section 2.2(c) hereof or provision satisfactory to the Trustee shall have been made for the mailing of such notice, (ii) a verification report of an Independent Accountant shall be delivered to the Trustee, and (iii) an opinion of Bond Counsel shall be delivered to the Trustee in the case of a defeasance of Bonds, to the effect that the requirements of this Indenture have been satisfied with respect to such discharge of Bonds. Upon a discharge of one or more Bonds as described above, and notwithstanding that any of such Bonds shall not have been surrendered for payment, the pledge of the Revenues, and other funds provided for in this Indenture with respect to such Bonds, and all other pecuniary obligations of the Authority under this Indenture with respect to such Bonds, as applicable, shall cease and terminate, except only the obligation of the Authority to comply with the covenants contained in Sections 5.7 and 6.12 hereof, to pay or cause to be paid to the Owners of such Bonds not so surrendered and paid all sums due thereon from amounts set aside for such purpose, to pay all expenses and costs of the Trustee and to comply with the covenants contained in Section 5.7 hereof. Any funds thereafter held by the Trustee, which are not required for said purposes, shall be paid over to the Authority or upon a Request of the Authority to the City.

Defeasance shall be accomplished only with an irrevocable deposit in escrow of certain investments referred to in this section. Further substitutions of securities in the escrow are not permitted. The deposit in the escrow must be sufficient, without reinvestment, to pay all principal and interest as schedule on the Bonds to and including the date of redemption. Any security used for defeasance must provide for the timely payment of principal and interest and cannot be callable or prepayable prior to maturity or earlier redemption of the rated debt (excluding securities that do not have a fixed par value and/or whose terms do not promise a fixed dollar amount at maturity or call date).

Section 9.4. Successor is Deemed Included in All References to Predecessor. Whenever in this Indenture or any Supplemental Indenture either the Authority is named or referred to, such reference shall be deemed to include the successor to the powers, duties and functions, with respect to the management, administration and control of the affairs of the Authority, that are presently vested in the Authority, and all the covenants, agreements and provisions contained in this Indenture by or on behalf of the Authority shall bind and inure to the benefit of its successors whether so expressed or not.

Section 9.5. Content of Certificates. Every certificate by or on behalf of the Authority with respect to compliance with a condition or covenant provided for in this Indenture shall include (a) a statement that the person or persons making or giving such certificate have read such covenant or condition and the definitions herein relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate are based; (c) a statement that, in the opinion of the signers, they have made or caused to be made such examination or investigation as is necessary to enable them to express an informed opinion as to whether or not such covenant or condition has been

complied with; and (d) a statement as to whether, in the opinion of the signers, such condition or covenant has been complied with.

Any such certificate made or given by an officer of the Authority may be based, insofar as it relates to legal matters, upon a certificate or opinion of or representations by counsel, unless such officer knows that the certificate or opinion or representations with respect to the matters upon which his certificate may be based, as aforesaid, are erroneous, or in the exercise of reasonable care should have known that the same were erroneous. Any such certificate or opinion or representation made or given by counsel may be based, insofar as it relates to factual matters, on information with respect to which is in the possession of the Authority, or upon the certificate or opinion of or representations by an officer or officers of the Authority, unless such counsel knows that the certificate or opinion or representations with respect to the matters upon which his certificate, opinion or representation may be based, as aforesaid, are erroneous, or in the exercise of reasonable care should have known that the same were erroneous.

Section 9.6. Execution of Documents by Bond Owners. Any request, consent or other instrument required by this Indenture to be signed and executed by Bond Owners may be in any number of concurrent writings of substantially similar tenor and may be signed or executed by such Bond Owners in person or by agent or agents duly appointed in writing. Proof of the execution of any such request, consent or other instrument or of a writing appointing any such agent, shall be sufficient for any purpose of this Indenture and shall be conclusive in favor of the Trustee and of the Authority if made in the manner provided in this Section 9.6.

The fact and date of the execution by any person of any such request, consent or other instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer of any jurisdiction, authorized by the laws thereof to take acknowledgements of deeds, certifying that the person signing such request, consent or other instrument or writing acknowledged to him the execution thereof.

The ownership of Bonds shall be conclusively proved by the Bond Register. Any request, consent or vote of the Owner of any Bond shall bind every future Owner of the same Bond and the Owner of any Bond issued in exchange therefor or in lieu thereof, in respect of anything done or suffered to be done by the Trustee or the Authority in pursuance of such request, consent or vote. In lieu of obtaining any demand, request, direction, consent or waiver in writing, the Trustee may call and hold a meeting of the Bond Owners upon such notice and in accordance with such rules and obligation as the Trustee considers fair and reasonable for the purpose of obtaining any such action.

Section 9.7. Disqualified Bonds. In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the Authority or the City (but excluding Bonds held in any employees' or retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination, provided, however, that for the purpose of determining whether the Trustee shall be protected in relying on any such demand, request, direction, consent or waiver, only Bonds which the Trustee knows to be so owned or held shall be disregarded. Upon request, the Authority shall specify to the Trustee those Bonds disqualified pursuant to this Section 9.7.

Section 9.8. Waiver of Personal Liability. No officer, agent or employee of the Authority shall be individually or personally liable for the payment of the interest on or principal of the Bonds; but nothing herein contained shall relieve any such officer, agent or employee from the performance of any official duty provided by law.

Section 9.9. Partial Invalidity. If any one or more of the covenants or agreements, or portions thereof, provided in this Indenture on the part of the Authority (or of the Trustee) to be performed should be contrary to law, then such covenant or covenants, such agreement or agreements, or such portions thereof, shall be null and void and shall be deemed separable from the remaining covenants and agreements or portions thereof and shall in no way affect the validity of this Indenture or of the Bonds; but the Bond Owners shall retain all rights and benefits accorded to them under the Bond Law or any other applicable provisions of law. The Authority hereby declares that it would have entered into this Indenture and each and every other section, paragraph, subdivision, sentence, clause and phrase hereof and would have authorized the issuance of the Bonds pursuant hereto irrespective of the fact that any or more sections, paragraphs, subdivisions, sentences, clauses or phrases of this Indenture or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 9.10. Destruction of Cancelled Bonds. Whenever in this Indenture provision is made for the surrender to the Authority or the Trustee of any Bonds which have been paid or cancelled pursuant to the provisions of this Indenture, the Trustee shall destroy such Bonds in accordance with the retention policy of the Trustee then in effect.

Section 9.11. Funds and Accounts. Any fund or account required by this Indenture to be established and maintained by the Authority or the Trustee may be established and maintained in the accounting records of the Authority or the Trustee, as the case may be, either as a fund or an account, and may, for the purpose of such records, any audits thereof and any reports or statements with respect thereto, be treated either as a fund or as an account. All such records with respect to all such funds and accounts held by the Authority shall at all times be maintained in accordance with generally accepted accounting principles and all such records with respect to all such funds and accounts held by the Trustee shall be at all times maintained in accordance with corporate trust industry practices; in each case with due regard for the protection of the security of the Bonds and the rights of every Owner thereof.

Section 9.12. Notices. Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, or sent by telegram, addressed as follows:

If to the Authority:

Tracy OPJPA
c/o City of Tracy
333 Civic Center Plaza
Tracy, California, 95376
Attention: Executive Director

If to the Trustee: The Bank of New York Mellon Trust Company, N.A.
550 Kearny Street, Suite 600
San Francisco, California 94108
Attention: Corporate Trust Department

If to Standard & Poor's: Standard & Poor's Corporation
55 Water Street
New York, New York 10041
Attention: Municipal Finance Department

If to Moody's: Moody's Investors Service
99 Church Street
New York, New York 10007
Attention: Public Finance Department/Structured Finance

The Authority, the City and the Trustee may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 9.13. Unclaimed Moneys. Anything in this Indenture to the contrary notwithstanding, any moneys held by the Trustee in trust for the payment and discharge of any of the Bonds which remain unclaimed for two (2) years after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, if such moneys were held by the Trustee at such date, or for two (2) years after the date of deposit of such moneys if deposited with the Trustee after said date when such Bonds become due and payable, shall be repaid by the Trustee to the Authority, as its absolute property and free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Bond Owners shall look only to the Authority for the payment of such Bonds; provided, however, that before being required to make such payment to the Authority, the Trustee shall, at the expense of Authority, cause to be mailed to the Owners of all such Bonds, at their respective addresses appearing on the Bond Register, a notice that said moneys remain unclaimed and that, after a date in said notice, which date shall not be fewer than thirty (30) days after the date of mailing such notice, the balance of such moneys then unclaimed will be returned to the Authority.

Section 9.14. Payment Due on Other than a Business Day. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in the Indenture, is not a Business Day, such payment, with no interest accruing for the period after such nominal date, may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Indenture.

Section 9.15. Parties Interested in this Indenture. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the Authority, the City, the Trustee and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by

and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the City, the Trustee and the registered owners of the Bonds.

IN WITNESS WHEREOF, the Authority has caused this Indenture to be executed by the Treasurer of the Authority, attested by its Secretary, and the Trustee has caused this Indenture to be executed by one of its corporate trust officers, all as of the day and year first above written.

TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY

By:_____
Treasurer

Attest:

By:_____
Secretary

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee

By:_____
Authorized Officer

JH:CKL:30055-10

EXHIBIT A

FORM OF BOND

No. _____ $_____

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
REVENUE BOND, 2011 SERIES A

INTEREST RATE:	MATURITY DATE:	DATED DATE:	CUSIP:
%	September 2, _____	_____, 2011	892397___

REGISTERED OWNER:

PRINCIPAL AMOUNT: AND NO/100 DOLLARS

The TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY, a joint powers authority organized and existing under the laws of the State of California (the "Authority"), for value received, hereby promises to pay (but only out of the Revenues and other funds hereinafter referred to) to the Registered Owner identified above or registered assigns (the "Registered Owner"), on the Maturity Date identified above (subject to any right of prior redemption hereinafter mentioned), the Principal Amount identified above in lawful money of the United States of America; and to pay interest thereon at the Interest Rate identified above in like money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond (unless this Bond is authenticated on or before an Interest Payment Date and after the fifteenth calendar day of the month preceding the month in which such Interest Payment Date occurs, in which event it shall bear interest from such Interest Payment Date, or unless this Bond is authenticated on or prior to February 15, 2012, in which event it shall bear interest from the Dated Date identified above; provided, however, that if, at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from the Interest Payment Date to which interest hereon has previously been paid or made available for payment), payable semiannually on March 2 and September 2 in each year, commencing March 2, 2012 (each, an "Interest Payment Date") until the Maturity Date stated above or date of redemption of this Bond. The Principal Amount hereof is payable upon presentation and surrender hereof at the Trust Office (as defined in the Indenture) of The Bank of New York Mellon Trust Company, N.A. (the "Trustee"). Interest hereon is payable by check of the Trustee mailed by first class mail, postage prepaid, on each Interest Payment Date to the Registered Owner hereof at the address of the Registered Owner as it appears on the registration books of the Trustee as of the fifteenth calendar day of the month preceding the month in which such Interest Payment Date occurs; provided, however, that payment of interest may be made by wire transfer to an account in the United States of America to any registered owner of Bonds in the aggregate principal amount of $1,000,000 or more upon written instructions of any such registered owner filed with the Trustee for that purpose as of the close of business on the fifteenth calendar day of the month preceding the month in which such Interest Payment Date occurs.

This Bond is a limited obligation of the Authority, payable solely from the Revenues and funds pledged under the Indenture (as defined herein). This Bond is not a debt of the City of Tracy (the "City") or the State of California or any of its political subdivisions (except the Authority and only to the extent set forth in the Indenture), and none of said City, said State or any of its political subdivisions is liable hereon. The Authority has no taxing power.

This Bond is one of a duly authorized series of bonds of the Authority designated the "Tracy Operating Partnership Joint Powers Authority Revenue Bonds, 2011 Series A " (the "Bonds"), limited in principal amount to $_____, secured by an Indenture of Trust dated as of December 1, 2011 (the "Indenture"), by and between the Authority and the Trustee. Reference is hereby made to the Indenture and all indentures supplemental thereto for a description of the rights thereunder of the owners of the Bonds, of the nature and extent of the Revenues (as that term is defined in the Indenture), of the rights, duties and immunities of the Trustee and of the rights and obligations of the Authority thereunder; and all of the terms of the Indenture are hereby incorporated herein and constitute a contract between the Authority and the Registered Owner hereof, and to all of the provisions of which Indenture the Registered Owner hereof, by acceptance hereof, assents and agrees.

The Bonds are authorized to be issued pursuant to the provisions of the Marks Roos Local Bond Pooling Act of 1985, as amended, constituting Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Act"). The Bonds are limited obligations of the Authority and, as and to the extent set forth in the Indenture, are payable solely from and secured by a first lien on and pledge of the Revenues and certain other funds held by the Trustee as provided in the Indenture. The Revenues and such other funds constitute a trust fund for the security and payment of the principal of and interest on the Bonds, except to the extent otherwise provided in the Indenture. The full faith and credit of the Authority is not pledged to the payment of the principal of or interest or redemption premiums (if any) on the Bonds. The Bonds are not secured by a legal or equitable pledge of, or charge, lien or encumbrance upon, any of the property of the Authority or any of its income or receipts, except the Revenues and such other funds as provided in the Indenture.

The Bonds have been issued (i) to provide funds to purchase certain obligations of the City (the "Acquired Obligations") and (ii) to finance certain public capital improvements on behalf of the City. The City will take the proceeds that it receives from the sale of the Acquired Obligations to the Authority to refund certain outstanding indebtedness of the City, all as more particularly described in the Indenture. The obligations of the City to make payments of principal and interest on the Acquired Obligations are limited obligations secured only as set forth therein.

Optional Redemption. The Bonds maturing on or before September 2, 2021 are not subject to optional call and redemption prior to maturity. The Bonds maturing on or after September 2, 2022 may be redeemed at the option of the Authority, from any source of available funds, prior to maturity on any date on or after September 2, 2021 as a whole, or in part from maturities corresponding proportionately to the maturities of the Acquired Obligations simultaneously redeemed, if any redemption of Acquired Obligations is being accomplished in conjunction with such optional redemption, and otherwise from such maturities as are selected

by the Authority, by lot within a maturity, at a redemption price equal to the principal amount of the Bonds to be redeemed, plus accrued interest thereon to the date of redemption.

Mandatory Special Redemption. The Bonds are subject to mandatory special redemption on any date from proceeds of early redemption of Acquired Obligations from prepayment of Special Taxes or Reassessments, in whole or in part, from maturities corresponding proportionately to the maturities of the Acquired Obligations simultaneously redeemed, at the principal amount thereof, plus a premium expressed below as a percentage of the principal amount so redeemed, plus accrued interest to the date of redemption thereof:

Redemption Date	Redemption Price
Closing Date through September 1, 20__	
September 2, 20__ through September 1, 20__	
September 2, 20__ and thereafter	

Mandatory Sinking Fund Redemption.

The Bonds maturing on September 2, 20__ shall be subject to mandatory sinking fund redemption prior to maturity, in part, on September 2, 20__, and on each September 2 thereafter by lot, from sinking fund payments at a redemption price equal to the principal amount of Bonds to be redeemed, together with accrued interest to the date of redemption, without premium, as follows:

Redemption Date (September 2)	Redemption Amount

The Bonds maturing on September 2, 20__ shall be subject to mandatory sinking fund redemption prior to maturity, in part, on September 2, 20__, and on each September 2 thereafter by lot, from sinking fund payments at a redemption price equal to the principal amount of Bonds to be redeemed, together with accrued interest to the date of redemption, without premium, as follows:

Redemption Date (September 2)	Redemption Amount

In the event that the Bonds described in this Section 2.2(c) are redeemed pursuant to the optional or mandatory special redemption provisions set forth above, the sinking fund payments for the applicable Series shall be reduced as nearly as practicable on a proportionate basis in integral multiples of $5,000.

The Trustee on behalf and at the expense of the Authority shall mail by first class mail, postage prepaid, notice of any redemption to the respective owners of any Bonds designated for redemption, at their respective addresses appearing on the registration books maintained by the Trustee and to the Securities Depositories and to the Municipal Securities Rulemaking Board (as such terms are defined in the Indenture), at least thirty (30) but not more than sixty (60) days prior to the redemption date; provided, however, that neither failure to receive any such notice so mailed nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

The Bonds are issuable as fully registered Bonds without coupons in denominations of $5,000 or any integral multiple thereof. Subject to the limitations and upon payment of the charges, if any, provided in the Indenture, fully registered Bonds may be exchanged at the Trust Office of the Trustee for a like aggregate principal amount and maturity of fully registered Bonds of other authorized denominations.

This Bond is transferable by the Registered Owner hereof, in person or by its attorney duly authorized in writing, at the Trust Office of the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Indenture, and upon surrender

and cancellation of this Bond. Upon such transfer a new fully registered Bond or Bonds, of authorized denomination or denominations, for the same aggregate principal amount will be issued to the transferee in exchange herefor. The Trustee shall not be required to register the transfer or exchange of any Bond (i) during 15 days prior to selection of Bonds for redemption, or (ii) selected for redemption.

The Authority and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Authority and the Trustee shall not be affected by any notice to the contrary. The Indenture and the rights and obligations of the Authority and of the owners of the Bonds and of the Trustee may be modified or amended from time to time and at any time in the manner, to the extent, and upon the terms provided in the Indenture; provided that no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal, interest or redemption premiums at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification, or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee, all as more fully set forth in the Indenture.

It is hereby certified by the Authority that all things, conditions and acts required to exist, to have happened and to have been performed precedent to and in the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and statutes of the State of California and by the Act, and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Constitution or statutes of the State of California or by the Act.

This Bond shall not be entitled to any benefit under the Indenture, or become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY has caused this Bond to be executed in its name and on its behalf by the facsimile signature of its Chairman and attested by the facsimile signature of its Secretary, all as of the date set forth above.

TRACY OPERATING PARTNERSHIP
JOINT POWERS AUTHORITY

By:_____
Chairman

Attest:

_____
Secretary

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds described in the within-mentioned Indenture.

Date: _____

THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.,
as Trustee

By:_____
Authorized Signatory

ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto

_____

whose tax identification number is _____,
the within mentioned registered Bond and hereby irrevocably constitute(s) and appoint(s)

_____

attorney to transfer the same on the books of the Trustee with full power of substitution in the premises.

Dated: _____

Signature guaranteed:

_____

NOTE: Signature(s) must be guaranteed by an eligible guarantor institution

_____

NOTE: The signatures(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever

EXHIBIT B

FORM OF REQUEST OF AUTHORITY
TO REQUISITION MONEYS FROM THE PROJECT FUND

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY
REVENUE BONDS
2011 SERIES A

DISBURSEMENT REQUEST NO.: _____

The Bank of New York Mellon Trust Company, N.A.
San Francisco, California

Ladies and Gentlemen:

In accordance with the terms of an Indenture of Trust, by and between the Tracy Operating Partnership Joint Powers Authority and you, as trustee, dated as of December 1, 2011 (the "Indenture"), you are hereby authorized and requested to make immediate disbursement of funds held by you in the specified Account of the Project Fund for costs of the Project pursuant to Section 3.10 of the Indenture. Capitalized terms used herein but not defined have the meaning given them in the Indenture.

You are hereby requested to pay from the specified account of the Project Fund established by the Indenture, to the person(s), corporation(s) or other entity(ies) designated on Schedule A attached hereto as Payee(s), the sum set forth on said Schedule, in payment of all or a portion of the costs of the Project described on said Schedule.

The undersigned hereby certifies that he/she is an Authorized Officer of the Authority, and as follows: that

(i) no part of the amount requested herein has been included in any other request previously filed with you;

(ii) the labor, services and/or materials covered hereby have been performed and the payment requested herein is due and payable under a purchase order, contract or other authorization; and

(iii) [*Bond Proceeds Account*: the amount requested will be applied for a purpose authorized by the Bond Law (as defined in the Indenture)] ***or*** *Prior Bonds Account*: the amount requested will be applied for a purpose authorized by the CFD Act and for all or a portion of the "Project" as defined in the Prior CFD Bonds Fiscal Agent Agreement].

Dated**:** _____, 20__

TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY

By:_____

Schedule A

Payee (include address)	Description Of Costs	Amount

RESOLUTION _____

A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
SPECIAL TAX BONDS, APPROVING FINANCING OF PUBLIC CAPITAL FACILITIES, AND
APPROVING AND AUTHORIZING
RELATED DOCUMENTS AND ACTIONS

WHEREAS, the City Council of the City has conducted proceedings under and pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code (the "Mello-Roos Act"), to form Community Facilities District No. 99-2 (South MacArthur Planning Area) (the "CFD"), to authorize the levy of special taxes upon the land within the CFD, and to issue bonds secured by said special taxes the proceeds of which special taxes and which bonds were to be used to finance certain public improvements (the "Prior Facilities"), all as described in those proceedings; and

WHEREAS, under the provisions of the Mello-Roos Act, on behalf of the CFD, the City has previously issued the following bonds (collectively, the "Prior CFD Bonds"):

(i) $3,835,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2000 (the "Series 2000 Bonds") pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000, between the City and The Bank of New York Mellon Trust Company, N.A., as successor fiscal agent (the "Prior Bonds Fiscal Agent"); and

(ii) $7,665,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2002 (the "Series 2002 Bonds") pursuant to a First Supplemental Fiscal Agent Agreement, dated as of October 1, 2001, between the City and the Prior Bonds Fiscal Agent; and

WHEREAS, the City has also conducted special assessment proceedings for two assessment districts, (i) City of Tracy Assessment District No. 98-4 (Morrison Homes) and (ii) City of Tracy Assessment District No. 2000-02 (Heartland Three) (collectively the "Prior Assessment Districts"), and issued one series of improvement bonds of the City for each of the two Prior Assessment Districts (collectively, the "Prior Assessment Bonds"); and

WHEREAS, the City has determined that it is in the best financial interests of the City to refinance the Prior Assessment Bonds and the Prior CFD Bonds; and

WHEREAS, accordingly, the City has determined to issue (i) the City of Tracy Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "Refunding Assessment Bonds") pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 of the Streets and Highways Code of the State of California (the "Refunding Assessment Bond Law") and (ii) the City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Refunding Bonds, 2011 Series A (the "CFD Refunding Bonds") pursuant to the Mello-Roos Act; and

WHEREAS, in connection with refinancing of the Prior CFD Bonds, this Council further wishes to apply funds on deposit in the funds and accounts for the Prior CFD Bonds for the purpose of financing additional Prior Facilities; and

WHEREAS, this Council wishes to sell the Refunding Assessment Bonds and the CFD Refunding Bonds to the Tracy Operating Partnership Joint Powers Authority (the "Authority"); and

WHEREAS, in addition to purchasing the CFD Refunding Bonds and the Refunding Assessment Bonds, the Authority wishes to finance acquisition and construction of certain public capital improvements on behalf of the City, including but not limited to Police Range facilities, a new fire station, an animal shelter, a Police CAD/RMS system, remodeling of the City's maintenance service yard including building renovation, way finding signage, park improvements and HVAC system upgrades (the "New Capital Facilities"); and

WHEREAS, the Authority wishes to issue revenue bonds (the "Authority Bonds") pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Authority Bond Law") for the purpose of financing acquisition of the CFD Refunding Bonds and the Refunding Assessment Bonds from the City and acquisition and construction of the New Capital Facilities; and

WHEREAS**,** as required by Section 6586.5 of the Authority Bond Law, the City has caused publication of a notice of a public hearing on the financing of the New Capital Facilities once at least five (5) days prior to the hearing in a newspaper of general circulation in the county; and

WHEREAS, this Council held a public hearing at which all interested persons were provided the opportunity to speak on the subject of financing the New Capital Facilities; and

WHEREAS**,** there have been submitted to this Council certain documents described below providing for the issuance of the CFD Refunding Bonds, the use of the proceeds of the CFD Refunding Bonds, issuance of the Authority Bonds, and the financing of the New Capital Facilities, and this Council with the aid of its staff, has reviewed the documents and found them to be in proper order; and

WHEREAS, there has also been submitted to this Council a form of preliminary Official Statement in connection with the marketing of the Authority Bonds, and the Council, with the aid of its staff, has reviewed the preliminary Official Statement to assure proper disclosure of all material facts relating to such Authority Bonds that are in the personal knowledge of the members of this Council and the City staff; and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of the CFD Refunding Bonds and the Authority Bonds and the levy of the special taxes as contemplated by this resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Mello-Roos Act and the Authority Bond Law;

NOW, THEREFORE, BE IT RESOLVED, as follows:

Section 1. Bonds Authorized. Pursuant to the Mello-Roos Act, this Resolution and the Fiscal Agent Agreement (as defined in Section 3 hereof), this Council authorizes the issuance of the CFD Refunding Bonds.

The City hereby finds that the CFD Refunding Bonds constitute "refunding bonds" within the meaning of the Mello-Roos Act because the proceeds thereof will be used to refund the Prior CFD Bonds. For the purposes of these proceedings for the issuance of the CFD Refunding Bonds, the City hereby determines that (i) the total net interest cost to maturity of the CFD Refunding Bonds plus the principal amount of the CFD Refunding Bonds is less than (ii) the total net interest cost to maturity of the Prior CFD Bonds plus the principal amount of the Prior CFD Bonds to be refunded. The City further finds and determines that it would be prudent in the management of its fiscal affairs to issue the CFD Refunding Bonds to refund the Prior CFD Bonds.

Section 2. Authorities Granted. The City Manager, Director of Finance and Administrative Services, or such other official of the City as may be designated by such officer pursuant to Section 9 hereof (each, an "Authorized Officer") is hereby authorized and directed to execute and deliver the documents approved herein in substantially the form on file with the City Clerk, together with such additions or changes as are approved by such Authorized Officer upon consultation with the City Attorney and the City's underwriter and bond counsel, including such additions or changes as are necessary or advisable to permit the timely issuance, sale and delivery of the CFD Refunding Bonds. The approval of such additions or changes shall be conclusively evidenced by the execution and delivery by an Authorized Officer of the documents herein specified.

Section 3. Fiscal Agent Agreement. The Council hereby approves the form of the Fiscal Agent Agreement by and between the City and The Bank of New York Mellon Trust Company, N.A., as fiscal agent (the "Fiscal Agent Agreement") with respect to the CFD Refunding Bonds, in substantially the form on file with the City Clerk. The date, manner of payment, principal amount, interest rate or rates, interest payment dates, denominations, form, registration privileges, manner of execution, place of payment, terms of redemption, costs of issuing and other terms of the CFD Refunding Bonds shall be as provided in the Fiscal Agent Agreement as finally executed and delivered. The terms and provisions of the Fiscal Agent Agreement, as executed, are incorporated herein by this reference as if fully set forth herein. An Authorized Officer is hereby authorized and directed to execute the Fiscal Agent Agreement on behalf of the City and the City Clerk is hereby authorized and directed to attest thereto.

Section 4. Escrow Agreement. The form of Escrow Deposit and Trust Agreement by and between the City and The Bank of New York Mellon Trust Company, N.A., as escrow holder, in the form presented to this Council at this meeting is hereby approved. An Authorized Officer is hereby authorized and directed to execute the Escrow Deposit and Trust Agreement on behalf of the City and the City Clerk is hereby authorized and directed to attest thereto. For the purposes hereof, the "Escrow Fund" established under the Escrow Deposit and Trust Agreement shall constitute the "refunding fund" under the Mello-Roos Act and the "designated costs of issuing the refunding bonds" under the Mello-Roos Act shall include the Costs of Issuance as defined in the Fiscal Agent Agreement. The Prior CFD Bonds will be redeemed on the date specified in the Escrow Deposit and Trust Agreement, which date is expected to be approximately 30 days after the issuance of the CFD Refunding Bonds.

Section 5. Official Statement. The Council hereby approves the preliminary Official Statement prepared in connection with the Authority Bonds, the Refunding Assessment Bonds and the CFD Refunding Bonds in substantially the form submitted to the Council, together with any changes therein or additions thereto deemed advisable by an Authorized Officer. The Council hereby approves and authorizes the distribution by Stifel, Nicolaus & Company, Incorporated dba Stone & Youngberg a Division of Stifel Nicolaus, as underwriter of the

Authority Bonds, of the preliminary Official Statement to prospective purchasers of the Authority Bonds, and authorizes and directs an Authorized Officer on behalf of the City to deem the preliminary Official Statement "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") prior to its distribution to prospective purchasers of the Authority Bonds. The execution of the final Official Statement, which shall include then current financial information regarding the City and such other changes and additions thereto deemed advisable by an Authorized Officer and such information permitted to be excluded from the preliminary version of the Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Official Statement by the City.

Section 6. Continuing Disclosure. The Council hereby approves the form of the Continuing Disclosure Certificate with respect to the Authority Bonds, the CFD Refunding Bonds and the Refunding Assessment Bonds in substantially the form thereof attached to the Official Statement on file with the City Clerk. An Authorized Officer is hereby authorized and directed to complete and execute the Continuing Disclosure Certificate on behalf of the City with such changes, additions or deletions as may be approved by the Authorized Officer in consultation with the City's bond counsel.

Section 7. Sale of Bonds; CFD Bonds Purchase Agreement. The form of the CFD Bonds Purchase Agreement, providing for the sale of the CFD Refunding Bonds by the City to the Authority presented at this meeting is hereby approved and each of the Authorized Officers is hereby authorized to execute the CFD Bonds Purchase Agreement in the form so approved, with such additions thereto and changes therein as are necessary to conform the CFD Bonds Purchase Agreement to the dates, amounts and interest rates applicable to the CFD Refunding Bonds as of the sale date or to cure any defect or ambiguity therein. Approval of such additions and changes shall be conclusively evidenced by the execution and delivery of the CFD Bonds Purchase Agreement by one or more of such officers. The City Council hereby finds that sale of the CFD Refunding Bonds to the Authority at a private sale pursuant to the CFD Bonds Purchase Agreement will result in a lower overall cost than would be achieved by selling the CFD Refunding Bonds at a public sale utilizing competitive bidding.

Section 8. Findings Relating to Financing of New Capital Facilities. The City Council hereby finds that issuance of the Authority Bonds for the purpose of financing the New Capital Facilities and acquiring the CFD Refunding Bonds will result in significant public benefits of the type described in Section 6586 of the Bond Law, including, but not limited to, a more efficient delivery of City services to residential and commercial development and demonstrable savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs. The City Council hereby approves the issuance of the Authority Bonds.

Section 9. Actions Authorized. All actions heretofore taken by the officers and agents of the City with respect to the establishment of the CFD and the sale and issuance of the CFD Refunding Bonds and the Authority Bonds are hereby approved, confirmed and ratified, and the appropriate officers of the City are hereby authorized and directed to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the CFD Refunding Bonds and the Authority Bonds in accordance with this resolution, and any certificate, agreement, and other document described in the documents herein approved. All actions to be taken by an Authorized Officer, as defined herein, may be taken by such Authorized Officer or any designee, with the same force and effect as if taken by the Authorized Officer.

Section 10. Effectiveness. This resolution shall take effect from and after its adoption. The provisions of any previous resolutions relating to issuance of the CFD Refunding Bonds and the Authority Bonds as herein described in any way inconsistent with the provisions hereof are hereby repealed.

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The foregoing Resolution was adopted by the City Council of the City of Tracy on the 1st day of November, 2011, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

RESOLUTION _____

A RESOLUTION OF INTENTION TO LEVY REASSESSMENTS AND TO ISSUE REFUNDING BONDS UPON THE SECURITY THEREOF

City of Tracy
Reassessment District No. 2011-1 (Morrison Homes; Heartland Three)

WHEREAS, the City Council of the City of Tracy (the "City") has conducted special assessment proceedings for certain assessment districts (collectively, the "Assessment Districts") and issued two series of improvement bonds (collectively, the "Prior Bonds") of the City, all as described in Exhibit A attached hereto and hereby made a part hereof, and reference is hereby expressly made to Exhibit A for further particulars, including the numbers and dates of authorizing resolutions, dates and amounts of the Prior Bonds; and

WHEREAS, the public interest requires the refunding of the Prior Bonds and this Council intends to accomplish the refunding through the levy of reassessments and the issuance of refunding bonds upon the security thereof, the proceeds of which refunding bonds shall be used to refund the Prior Bonds; and

WHEREAS, this Council intends that the unpaid assessments securing the payment of the Prior Bonds be superseded and supplanted by the reassessment;

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. Proceedings Authorized. This Council hereby declares its intention to refund the Prior Bonds and to levy reassessments as security for refunding bonds as hereinafter provided. The proceedings for the levy and collection of reassessments as security for the issuance and payment of refunding bonds shall be conducted pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 (commencing with Section 9500) of the Streets and Highways Code of California (the "Act").

2. Boundary Map. The contemplated reassessments and refunding, in the opinion of this Council, are of more than local or ordinary public benefit, and the costs and expenses thereof are made chargeable upon the District, the exterior boundaries of which are shown on a map thereof heretofore filed in the office of the City Clerk, and in the office of the County Recorder of the County of San Joaquin, to which map reference is hereby made for further particulars. Said map indicates by a boundary line the extent of the territory included in the District and shall govern for all details as to the extent thereof.

3. Reassessment Consultant; Report. The reassessment and refunding are hereby referred to Willdan (the "Reassessment Consultant"), and the Reassessment Consultant is hereby directed to make and file with said Clerk a report in writing, presenting the following:

(a) A schedule setting forth the unpaid principal and interest on the Prior Bonds to be refunded and the total amounts thereof and the unpaid assessment being continued;

(b) The total estimated principal amount of the reassessment and of the refunding bonds and the maximum interest thereon, together with an estimate of cost of the reassessment and of issuing the refunding bonds,

including all costs of issuing the refunding bonds, as defined by subdivision (a) of Section 9600 of the Act;

(c) The auditor's record kept pursuant to Section 8682 of the Streets and Highways Code of California showing the schedule of principal installments and interest on all unpaid original assessments and the total amounts thereof;

(d) The estimated amount of each reassessment, identified by reassessment number corresponding to the reassessment number of the reassessment diagram, together with a proposed auditor's record for the reassessment prepared in the manner described in said Section 8682; and

(e) A reassessment diagram showing the District and the boundaries and dimensions of the subdivisions of land within the District. Each subdivision, including each separate condominium interest as defined in Section 783 of the Civil Code, shall be given a separate number upon the diagram.

When any portion or percentage of the costs and expenses of said refunding and reassessment is to be paid from sources other than reassessments, the amount of such portion or percentage shall first be deducted from the total estimated cost and expenses of said refunding and reassessment, and said reassessments shall include only the remainder of the estimated cost and expenses. If any excess shall be realized from the reassessment it shall be used, in such amounts as this Council may determine, in accordance with the provisions of law, in a manner or manners to be provided in these proceedings.

4. Refunding Bonds. Notice is hereby given that serial or term bonds, or both, to represent said reassessments, and bear interest at the rate of not to exceed ten percent (10%) per annum, or such higher rate of interest as may be authorized by applicable law at the time of sale of such bonds, will be issued hereunder in the manner provided by the Act, the last installment of which bonds shall mature not to exceed thirty (30) years from the second day of September next succeeding twelve (12) months from their date. It is the intention of the City that the City will not obligate itself to advance available funds from the treasury of the City to cure any deficiency in the redemption fund to be created with respect to said bonds; provided, however, that a determination not to obligate itself shall not prevent the City from, in its sole discretion, so advancing the funds.

5. Bond Call Procedures. The provisions of Part 11.1 of Division 10 of the Streets and Highways Code of California, providing for an alternative procedure for the advance payment of reassessments and the calling of bonds, shall apply to refunding bonds issued pursuant to proceedings under this resolution.

6. Division 4. Reference is hereby made to proceedings heretofore had pursuant to Division 4 of the Streets and Highways Code of California with respect to the Prior Bonds which are on file in the office of the Clerk.

7. Effective Date. This Resolution shall take effect upon the date of its adoption.

****

The foregoing Resolution _____ was adopted by the Tracy City Council on the 1st day of November, 2011, on the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

EXHIBIT A

LIMITED OBLIGATION REFUNDING IMPROVEMENT BONDS
CITY OF TRACY
REASSESSMENT DISTRICT NO. 2011-1 (MORRISON HOMES; HEARTLAND THREE)

PRIOR DISTRICTS AND PRIOR BONDS

Assessment District Bonds	Resolution of Issuance Number	Date of Resolution of Issuance	Original Principal Amount
City of Tracy Limited Obligation Improvement Bonds Assessment District No. 98-4 (Morrison Homes)	98-337	October 20, 1998	$2,485,781
Limited Obligation Improvement Bonds City of Tracy Assessment District No. 2000-02 (Heartland Three)	2000-106	April 4, 2000	$893,000

RESOLUTION _____

A RESOLUTION ADOPTING REASSESSMENT REPORT, CONFIRMING AND ORDERING THE REASSESSMENT PURSUANT TO SUMMARY PROCEEDINGS AND DIRECTING ACTIONS WITH RESPECT THERETO

City of Tracy
Reassessment District No. 2011-1 (Morrison Homes; Heartland Three)

WHEREAS, on November 1, 2011, this City Council of the City of Tracy (the "City") adopted the Resolution of Intention to Levy Reassessments and to Issue Refunding Bonds Upon the Security Thereof (the "Resolution of Intention"), in and for the City's Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "District"), and therein directed the making and filing of a reassessment report (the "Report") in writing in accordance with and pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 of the Streets and Highways Code of California (the "Act"); and

WHEREAS, the Report was duly made and filed, and duly considered by this City Council and found to be sufficient in every particular, and the Report shall stand for all subsequent proceedings under and pursuant to the aforesaid Resolution of Intention;

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. Conditions Satisfied. Pursuant to Section 9525 of the Act, and based upon the Report this City Council finds that all of the following conditions are satisfied that:

(a) Each of the estimated annual installments of principal and interest on the reassessment as set forth in the Report is less than the corresponding annual installment of principal and interest on the original assessment as also set forth in the Report, by the same percentage for all subdivisions of land with the District;

(b) The number of years to maturity of all refunding bonds proposed to be issued under the Resolution of Intention is not more than the number of years to the last maturity of the bonds proposed to be refunded (the "Prior Bonds"); and

(c) The principal amount of the reassessment on each subdivision of land within the District is less than the unpaid principal amount of the original assessment by the same percentage for each subdivision of land in the District.

2. Public Interest. The public interest, convenience and necessity require that said reassessment be made.

3. Boundaries Approved. The District benefited by the reassessment and to be reassessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by the reassessment diagram thereof on file in the office of the City Clerk, which diagram is made a part hereof by reference thereto.

4. Report Approved. Pursuant to the findings hereinabove expressed with respect to Section 9525 of the Act, said conditions, and all of them are deemed satisfied and that the following elements of the Report are hereby finally approved and confirmed without further proceedings, including the conduct of a public hearing under the Act, to wit:

(a) a schedule setting forth the unpaid principal and interest on the Prior Bonds proposed to be refunded and the total amounts thereof;

(b) an estimate of the total principal amount of the reassessment and of the refunding bonds and the maximum interest thereon, together with an estimate of cost of the reassessment and of issuing the refunding bonds, including expenses incidental thereto;

(c) the auditor's record kept pursuant to Section 8682 of the Streets and Highways Code of California showing the schedule of principal installments and interest on all unpaid original assessments and the total amounts thereof;

(d) the estimated amount of each reassessment, identified by reassessment number corresponding to the reassessment number of the reassessment diagram, together with a proposed auditor's record for the reassessment prepared in the manner described in said Section 8682; and

(e) a reassessment diagram showing the District and the boundaries and dimensions of the subdivisions of land and the zones therein.

Final adoption and approval of the Report as a whole, estimate of the costs and expenses, the reassessment diagram and the reassessment, as contained in the Report, as hereinabove determined and ordered, is intended to and shall refer and apply to the Report, or any portion thereof, as amended, modified, revised or corrected by, or pursuant to and in accordance with, any resolution or order, if any, heretofore duly adopted or made by this City Council.

5. Findings and Determinations. Based on the oral and documentary evidence, including the Report, offered and received by the City Council, this City Council expressly finds and determines:

(a) that each of said several subdivisions of land within the District will be specially benefited by said reassessment at least in the amount, if not more than the amount, of the reassessment apportioned against said subdivisions of land, respectively, and

(b) that there is substantial evidence to support, and the weight of said evidence preponderates in favor of, the aforesaid finding and determination as to special benefits.

6. Reassessment Levy. Said reassessment, including all costs and expenses thereof, is hereby levied. Pursuant to the provisions of the Act, reference is hereby made to said Resolution of Intention for further particulars.

7. Recordings Directed. The City Clerk shall forthwith cause:

(a) the reassessment to be delivered to the Superintendent of Streets of the City, together with said reassessment diagram, as approved and confirmed by this City Council, with a certificate of such confirmation and of the date thereof, executed by the Clerk, attached thereto. The Superintendent of Streets shall record said reassessment and reassessment diagram in a suitable book to be kept for that purpose, and append thereto a certificate of the date of such recording, and such recordation shall be and constitute the reassessment roll herein;

(b) a copy of the reassessment diagram and a notice of reassessment, substantially in the form specified in Section 3114 of the Streets and Highways Code of California and executed by the Clerk, to be filed and recorded, respectively, in the office of the County Recorder of the County of San Joaquin; and

(c) a copy of this resolution to be provided to the Auditor of the County of San Joaquin.

From the date of recording of said notice of reassessment, all persons shall be deemed to have notice of the contents of such reassessment, and each of such reassessments shall thereupon be a lien upon the property against which it is made, and unless sooner discharged such liens shall so continue for the period of ten (10) years from the date of said recordation, or in the event bonds are issued to represent said reassessments, then such liens shall continue until the expiration of four (4) years after the due date of the last installment upon said bonds or of the last installment of principal of said bonds.

The appropriate officer or officers of the City are hereby authorized to pay any and all fees required by law in connection with the above.

8. Effective Date. This resolution shall take effect upon the date of its adoption.

****

The foregoing Resolution _____ was adopted by the Tracy City Council on the 1st day of November, 2011, on the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

RESOLUTION _____

A RESOLUTION AUTHORIZING THE ISSUANCE OF REFUNDING BONDS, APPROVING AND DIRECTING THE EXECUTION OF A FISCAL AGENT AGREEMENT AND AN ESCROW DEPOSIT AND TRUST AGREEMENT, AUTHORIZING SALE OF BONDS, AND OTHER RELATED DOCUMENTS AND ACTIONS WITH RESPECT THERETO

Reassessment District No. 2011-1 (Morrison Homes; Heartland Three)

WHEREAS, this City Council of the City of Tracy (the "City") has conducted proceedings under and pursuant to a Resolution of Intention to Levy Reassessments and to Issue Refunding Bonds Upon the Security Thereof, adopted on November 1, 2011 (the "Resolution of Intention"), to authorize the levy of reassessments upon the land within its Reassessment District No. 2011-1 (Morrison Homes; Heartland Three) (the "District"), and to issue bonds secured by said reassessments, the proceeds of which are to be used to refund certain existing obligations (the "Prior Bonds"), all as described therein; and

WHEREAS, pursuant to the Resolution of Intention, this City Council has provided for the issuance of limited obligation refunding improvement bonds pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 of the Streets and Highways Code of the State of California (the "Bond Law"); and

WHEREAS, this Council wishes to sell the Bonds to the Tracy Operating Partnership Joint Powers Authority (the "Authority"); and

WHEREAS, the Authority wishes to issue revenue bonds (the "Authority Bonds") pursuant to Article 4 of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the "Authority Bond Law") for the purpose of financing acquisition of the Bonds; and

WHEREAS, there is on file with the Director of Finance and Administrative Services of the City a list of all of the reassessments within the District which remain unpaid (the "List of Unpaid Reassessments"); and

WHEREAS, there have been submitted to this City Council certain documents providing for the issuance of the bonds by the City for the District, and the use of the proceeds of those bonds to refund certain existing bonds, including the forms of Fiscal Agent Agreement, Escrow Deposit and Trust Agreement, preliminary Official Statement and Refunding Assessment Bonds Purchase Agreement, and this City Council, with the aid of its staff, has reviewed said documents and found them to be in proper order; and

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of said bonds and the levy of said special reassessments as contemplated by this Resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Bond Law;

NOW, THEREFORE, BE IT RESOLVED, as follows:

Section 1. Unpaid Reassessments. The reassessments that remain unpaid are as shown on the List of Unpaid Reassessments, which is hereby approved and incorporated herein by this reference. The total amount of the unpaid reassessments is not-to-exceed $2,230,000.

For a particular description of the lots, pieces and parcels of land bearing the respective reassessment numbers set forth in the List of Unpaid Reassessments, reference is hereby made to the reassessment and to the diagram, and any amendments thereto approved by this City Council, all as recorded in the office of the Superintendent of Streets of the City.

Section 2. Bonds Authorized. Pursuant to the Bond Law, this Resolution and the Fiscal Agent Agreement (hereafter defined), refunding improvement bonds of the City for the District designated as "City of Tracy Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes; Heartland Three)" (the "Bonds") in an aggregate principal amount not-to-exceed $2,230,000 are hereby authorized to be issued.

Section 3. Fiscal Agent Agreement. The proposed form of Fiscal Agent Agreement (the "Fiscal Agent Agreement") with respect to the Bonds in the form presented to this City Council at this meeting, is hereby approved. The City Manager or the Director of Finance and Administrative Services or such other official of the City as may be designated by such officer (the "Authorized Official") is hereby authorized and directed to execute and deliver the Fiscal Agent Agreement in substantially said form, with such additions thereto or changes therein as are approved by the Authorized Official upon consultation with Jones Hall, A Professional Law Corporation, the City's bond counsel ("Bond Counsel"), including such additions or changes as are necessary or advisable, provided that no additions or changes shall authorize an aggregate principal amount of Bonds in excess of $2,230,000, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Fiscal Agent Agreement by the Authorized Official. The date, manner of payment, interest rate or rates, interest payment dates, denominations, form, registration privileges, manner of execution, place of payment, terms of redemption and other terms of the Bonds shall be as provided in the Fiscal Agent Agreement as finally executed.

Section 4. Escrow Agreement. The form of Escrow Deposit and Trust Agreement by and between the City and a corporate trustee, as escrow holder, in the form presented to this City Council at this meeting is hereby approved. The City is hereby authorized to execute a separate Escrow Deposit and Trust Agreement for each series of the Prior Bonds if determined to be appropriate by Bond Counsel. The Authorized Official is hereby authorized and directed to cause the same to be completed and executed on behalf of the City in substantially said form, with such additions thereto or changes therein as are approved by the Authorized Official upon consultation with Bond Counsel.

Section 5. Sale of Bonds. The sale of the Bonds to the Authority is hereby approved. The form of the Reassessment Bonds Purchase Agreement (the "Purchase Contract"), providing for the sale of the Bonds by the City to the Authority presented at this meeting is hereby approved and each of the Authorized Officials is hereby authorized to execute the Purchase Contract in the form so approved, with such additions thereto and changes therein as are necessary to conform the Purchase Contract to the dates, amounts and interest rates applicable to the Bonds as of the sale date or to cure any defect or ambiguity therein. Approval of such additions and changes shall be conclusively evidenced by the execution and delivery of the Purchase Contract by one or more of such officers.

Section 6. Official Statement. This City Council hereby approves the preliminary Official Statement prepared in connection with the Authority Bonds and the Bonds in substantially the form submitted to this City Council, together with any changes therein or additions thereto deemed advisable by an Authorized Official. This City Council hereby approves and authorizes the distribution by Stifel, Nicolaus & Company, Incorporated dba Stone & Youngberg a Division of Stifel Nicolaus, as underwriter of the Authority Bonds, of the preliminary Official Statement to

prospective purchasers of the Authority Bonds, and authorizes and directs an Authorized Official on behalf of the City to deem the Official Statement "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") prior to its distribution to prospective purchasers of the Authority Bonds. The execution of the final Official Statement, which shall include then current financial information regarding the City and such other changes and additions thereto deemed advisable by an Authorized Official and such information permitted to be excluded from the preliminary version of the Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Official Statement by the City.

Section 7**.** Bonds Printed and Delivered. Upon the execution of the Bond Purchase Contract, the Bonds shall be printed, authenticated and delivered, all in accordance with the applicable terms of the Fiscal Agent Agreement and the Authorized Official and other responsible City officials are hereby authorized and directed to take such actions as are required under the Bond Purchase Contract and the Fiscal Agent Agreement to complete all actions required to evidence the delivery of the Bonds upon the receipt of the purchase price thereof from the purchaser.

Section 8. Actions. All actions heretofore taken by the officers and agents of the City with respect to the establishment of the District and the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and the appropriate officers of the City are hereby authorized and directed to do any and all things and take any and all actions and execute any and all certificates, agreements and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this resolution, and any certificate, agreement, and other document described in the documents herein approved. All actions to be taken by an Authorized Official, as defined herein, may be taken by such Authorized Official or any designee, with the same force and effect as if taken by the Authorized Official.

Section 9. Effective Date**.** This resolution shall take effect from and after its adoption.

*** * * * * * * * * * * ***

The foregoing Resolution was adopted by the City Council of the City of Tracy on the 1st day of November, 2011, by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

RESOLUTION _____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF ITS LOCAL AGENCY REVENUE BONDS IN ONE OR MORE SERIES, AND APPROVING RELATED AGREEMENTS AND ACTIONS

WHEREAS, the Tracy Operating Partnership Joint Powers Authority (the “Authority”) is a joint exercise of powers authority duly organized and existing under the provisions of Articles 1 through 4 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (the “Act”), and is authorized pursuant to Article 4 of the Act (the “Bond Law”) to borrow money for the purpose of financing the acquisition of bonds, notes and other obligations and for financing and refinancing public capital improvements of member entities of the Authority and other local agencies; and

WHEREAS, the City Council of the City has conducted proceedings under and pursuant to the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 (commencing with Section 53311) of the California Government Code (the “Mello-Roos Act”), to form Community Facilities District No. 99-2 (South MacArthur Planning Area) (the "CFD"), to authorize the levy of special taxes upon the land within the CFD, and to issue bonds secured by said special taxes, the proceeds of which special taxes and which bonds were to be used to finance certain public improvements (the “Prior Facilities”), all as described in those proceedings; and

WHEREAS, under the provisions of the Mello-Roos Act, on behalf of the CFD, the City has previously issued the following bonds (collectively, the “Prior CFD Bonds”):

(i) $3,835,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2000 (the “Series 2000 Bonds”) pursuant to a Fiscal Agent Agreement, dated as of April 1, 2000, between the City and The Bank of New York Mellon Trust Company, N.A., as successor fiscal agent (the "Prior Bonds Fiscal Agent"); and

(ii) $7,665,000 City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area), Special Tax Bonds, Series 2002 (the “Series 2002 Bonds”) pursuant to a First Supplemental Fiscal Agent Agreement, dated as of October 1, 2001, between the City and the Prior Bonds Fiscal Agent; and

WHEREAS, the City has also conducted special assessment proceedings for two assessment districts, (i) City of Tracy Assessment District No. 98-4 (Morrison Homes) and (ii) City of Tracy Assessment District No. 2000-02 (Heartland Three) (collectively the “Prior Assessment Districts”), and issued one series of improvement bonds of the City for each of the two Prior Assessment Districts (collectively, the “Prior Assessment Bonds”); and

WHEREAS, the City has determined that it is in the best financial interests of the City to refinance the Prior Assessment Bonds and the Prior CFD Bonds; and

WHEREAS, accordingly, the City has determined to issue (i) the City of Tracy Limited Obligation Refunding Improvement Bonds, Reassessment District No. 2011-1 (Morrison Homes;

Heartland Three) (the “Refunding Assessment Bonds”) pursuant to the Refunding Act of 1984 for 1915 Improvement Act Bonds, Division 11.5 of the Streets and Highways Code of the State of California (the “Refunding Assessment Bond Law”) and (ii) the City of Tracy Community Facilities District No. 99-2 (South MacArthur Planning Area) Special Tax Refunding Bonds, 2011 Series A (the “CFD Refunding Bonds”) pursuant to the Mello-Roos Act; and

WHEREAS, the City wishes to sell the Refunding Assessment Bonds and the CFD Refunding Bonds to the Authority; and

WHEREAS, in addition to purchasing the CFD Refunding Bonds and the Refunding Assessment Bonds, the Authority wishes to finance acquisition and construction of certain public capital improvements on behalf of the City, including but not limited to Police Range facilities, a new fire station, an animal shelter, a Police CAD/RMS system, remodeling of the City’s maintenance service yard including building renovation, way finding signage, park improvements and HVAC system upgrades (the "New Capital Facilities," and together with the Prior Facilities, the "Project"); and

WHEREAS, for the purpose of facilitating the refinancing of the Prior Assessment Bonds and the Prior CFD Bonds and the financing of the New Capital Facilities, the Authority has determined to issue its Revenue Bonds, 2011 Series A (the “Bonds”) pursuant to the Bond Law; and

WHEREAS**,** as required by Section 6586.5 of the Bond Law, the City has caused publication of a notice of a public hearing on the financing of the New Capital Facilities once at least five (5) days prior to the hearing in a newspaper of general circulation in the county; and

WHEREAS, the City Council held a public hearing at which all interested persons were provided the opportunity to speak on the subject of financing the New Capital Facilities, and, following the hearing, found that issuance of the Bonds for the purpose of financing the New Capital Facilities will result in significant public benefits of the type described in Section 6586 of the Bond Law, including, but not limited to, a more efficient delivery of City services to residential and commercial development and demonstrable savings in effective interest rate, bond preparation, bond underwriting and bond issuance costs; and

WHEREAS, for the proposed financing and refinancing, there has been filed with the Secretary of the Board of Directors of the Authority the forms of the following documents to be executed by the Authority with respect to the issuance of the Bonds, which the Board desires to approve for execution as described herein:

(1) The Indenture of Trust, dated as of December 1, 2011 (the “Indenture”), by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee");

(2) The Preliminary Official Statement for the Bonds (the “Preliminary Official Statement”);

(3) The CFD Bonds Purchase Agreement relating to the sale of the CFD Bonds by the City to the Authority, to be dated the date of sale, by and between the City and the Authority (the “CFD Refunding Bonds Purchase Agreemen

(4) The Reassessment Bonds Purchase Agreement relating to the sale of the Refunding Assessment Bonds by the City to the Authority, to be dated the date of sale, by and between the City and the Authority (the "Refunding Assessment Bonds Purchase Agreement"); and

(5) The Bond Purchase Agreement relating to the sale of the Bonds to Stifel, Nicolaus & Company, Incorporated dba Stone & Youngberg a Division of Stifel Nicolaus (the "Underwriter") to be dated the date of sale, by and between the Authority and the Underwriter (the "Bond Purchase Agreement"); and

WHEREAS, the Authority has determined and hereby finds that the issuance of the Bonds and the acquisition of the CFD Refunding Bonds and the Refunding Assessment Bonds will result in significant public benefits of the type described in Section 6586 of the Bond Law;

NOW, THEREFORE, BE IT RESOLVED By the Board of Directors of the Tracy Operating Partnership Joint Powers Authority as follows:

Section 1. Recitals. Each of the above recitals is true and correct and is adopted by the Board of Directors.

Section 2. The Bonds; the Indenture. The Bonds shall be issued in an aggregate principal amount not to exceed $14,500,000 with the number of series, the exact principal amount of each series, the interest rates and the maturity to be determined by the sale of the Bonds as described in Section 4 below. The Bonds shall be executed on behalf of the Authority by the manual or facsimile signature of the Chairman, and the seal of the Authority, or a facsimile thereof, shall be impressed or imprinted thereon and attested with the manual or facsimile signature of the Secretary of the Authority.

The Bonds shall be issued under the terms of the Indenture, the form of which is on file with the Secretary of the Board of Directors. The Board of Directors hereby approves the Indenture in substantially the form on file with the Secretary, together with any changes therein or additions thereto approved by the Chairman, the Executive Director or the Treasurer (each an "Authorized Officer"), and the execution thereof by an Authorized Officer shall be conclusive evidence of such approval of any such changes or additions. The Board of Directors hereby authorizes and directs an Authorized Officer to execute, and the Secretary to attest and affix the seal of the Authority to, the final form of the Indenture for and in the name of the Authority. The Board of Directors hereby authorizes the delivery and performance of the Indenture.

Section 3. Trustee. The Bank of New York Mellon Trust Company, N.A., is hereby appointed to act as the trustee for the Bonds under the Indenture. If an Authorized Officer determines at any time while the Bonds are outstanding that another bank should be selected to act as trustee for the Bonds, in order to ensure the efficient administration of the Bonds, then such Authorized Officer, or a designee, is hereby authorized and directed to select and engage a bank or trust company meeting the requirements set forth in the Indenture to act as the trustee for the Bonds under the terms of the Indenture.

Section 4. Sale of the Bonds; Bond Purchase Agreement. The Board hereby approves the sale of the Bonds by negotiation with the Underwriter pursuant to the Bond Purchase Agreement in the form on file with the Secretary, together with any changes therein or additions

thereto approved by an Authorized Officer, whose execution thereof shall be conclusive evidence of the Authority's approval of any such additions and changes. The Bond Purchase Agreement shall be executed in the name and on behalf of the Authority by an Authorized Officer upon submission of a proposal by the Underwriter to purchase the Bonds, which offer is consistent with the following requirements: the amount of Underwriter's discount for each series of Bonds shall be not more than 1.55% of the par amount thereof (not taking into account any original issue discount on the sale thereof), the net interest cost of each series of Bonds shall not be in excess of 5.50% and the aggregate principal amount of the Bonds shall not be in excess of $14,500,000.

Section 5. CFD Refunding Bonds Purchase Agreement; Refunding Assessment Bonds Purchase Agreement. The form of the CFD Refunding Bonds Purchase Agreement presented at this meeting is hereby approved and each of the Authorized Officers is hereby authorized to execute the CFD Refunding Bonds Purchase Agreement in the form so approved, with such additions thereto and changes therein as are necessary to conform the CFD Refunding Bonds Purchase Agreement to the dates, amounts and interest rates applicable to the CFD Refunding Bonds as of the sale date or to cure any defect or ambiguity therein. Approval of such additions and changes shall be conclusively evidenced by the execution and delivery of the CFD Refunding Bonds Purchase Agreement by one or more of such officers.

The form of the Refunding Assessment Bonds Purchase Agreement presented at this meeting is hereby approved and each of the Authorized Officers is hereby authorized to execute the Refunding Assessment Bonds Purchase Agreement in the form so approved, with such additions thereto and changes therein as are necessary to conform the Refunding Assessment Bonds Purchase Agreement to the dates, amounts and interest rates applicable to the Refunding Assessment Bonds as of the sale date or to cure any defect or ambiguity therein. Approval of such additions and changes shall be conclusively evidenced by the execution and delivery of the Refunding Assessment Bonds Purchase Agreement by one or more of such officers.

Section 6. Official Statement. The form of the Preliminary Official Statement presented at this meeting is hereby approved and the Underwriter is hereby authorized to distribute the Preliminary Official Statement to prospective purchasers of the Bonds in the form hereby approved, together with such additions thereto and changes therein as are determined necessary by the Treasurer of the Authority, or his written designee, to make such Preliminary Official Statement final as of its date for purposes of Rule 15c2-12 of the Securities and Exchange Commission, including, but not limited to, such additions and changes as are necessary to incorporate the terms of any municipal bond insurance for the Bonds and make the information therein accurate and not misleading. Each of the Authorized Officers is hereby authorized to execute a final Official Statement in the form of the Preliminary Official Statement, together with such changes as are determined necessary by the Treasurer of the Authority, or his written designee, to make such Official Statement complete and accurate as of its date. The Underwriter is further authorized to distribute the final Official Statement for the Bonds and any supplement thereto to the purchasers thereof upon its execution on behalf of the Authority as described above.

Section 7. Approval of Bond Counsel/Disclosure Counsel. Jones Hall, A Professional Law Corporation is hereby appointed as bond counsel and disclosure counsel with respect to the issuance of the Bonds and the CFD Refunding Bonds and the Refunding Assessment

Bonds to be issued simultaneously with the issuance of the Bonds. Each of the Authorized Officers is authorized to execute an agreement with Jones Hall to act as bond counsel and disclosure counsel to pay for the cost of such services.

Section 8. Official Actions. The Chairman, the Executive Director, the Treasurer, the Secretary and any and all other officers of the Authority are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the issuance and sale of the Bonds and any of the other transactions contemplated by the documents approved pursuant to this Resolution. Whenever in this Resolution any officer of the Authority is authorized to execute or countersign any document or take any action, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer shall be absent or unavailable.

Section 9. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

* * * * * * * * * *

I hereby certify that the foregoing Resolution was regularly introduced and adopted by the Board of Directors of the City of Tracy Operating Partnership Joint Powers Authority at a regular meeting held on the 1st day of November, 2011, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Chair

November 1, 2011

AGENDA ITEM 4

REQUEST

THAT CITY COUNCIL CONDUCT A PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL AT 1690 WEST DUNCAN DRIVE A PUBLIC NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND APPROVE A CONTRACTOR TO ABATE SAID NUISANCES

EXECUTIVE SUMMARY

The Code Enforcement Division performs inspections upon receipt of complaints regarding the existence of weeds, rubbish, refuse, rodents, vermin, and flammable material on residential and commercial parcels. An abatement notice has been sent to Olga Mullens (property owner) pursuant to Section 4.12.280 of the Tracy Municipal Code, ordering the property owner to abate the nuisance within 20 days of receipt of the abatement order.

Said notice outlines the time and date of the Public Hearing to be conducted by the City Council to address any and all objections to the proposed abatement and, as necessary, authorize Code Enforcement staff to direct the City's contractor to abate parcels determined to be a nuisance.

DISCUSSION

On April 7, 2011, Code Enforcement staff arrived at the home of the property owner of 1690 Duncan Drive, in response to a complaint regarding the issue of unsanitary conditions associated with her property. These nuisances included an excessive amount of garbage, debris, overgrown vegetation, rodents, vermin, and an overall accumulation of items both inside and outside the structure. On April 7, 2011, the property owner was issued her first criminal citation for violation of Tracy Municipal Code Section 5.20.050.

A second follow-up inspection was performed at the property on April 14, 2011. No progress was noted and an administrative citation was issued on April 20, 2011 for continuing violation of TMC Section 5.20.050.

A third follow-up inspection was done on May 27, 2011 and no progress was observed. A second Administrative Citation was issued. To date, the property has accrued $400 in administrative citations, all of which are past due.

On June 29, 2011 an Order to Abate or Show Cause listing the above mentioned violations was served and posted at the property with a copy mailed to the property owner (Attachment A).

Subsequent inspections on August 10, 2011 and September 9, 2011, revealed that violations still exist on the property. The property owner was issued a second criminal citation for violation of TMC Section 5.20.050. The property owner was also

provided with copies of Administrative Citations issued on May 27, 2010 and June 29, 2010 for violation of the same Municipal Code section listed above which she claims she never received.

On September 21, 2011, pursuant to Tracy Municipal Code, Section 4.12.280, the Code Enforcement Division sent a notice to the property owner, requiring the abatement of weeds, rubbish, refuse and flammable material on the parcel within twenty days of receipt of the notice and further advised the owner of the City's intent to abate the nuisance following Council's consideration of the matter during a public hearing. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate the nuisance within twenty days from the date of notice, the City will perform the necessary work by private contractor and the cost of such work will be made a personal obligation of the owner, or become a tax lien against the property. All unpaid assessments will be filed with the San Joaquin County Auditor Controller's office to establish a lien on the property.

As of the date of writing this report, the property owner was diligently working on abating the weeds, rubbish and refuse in the front yard area, however, staff was denied access to the rear yard and the inside of the structure by the property owner. Therefore, in order to verify the continued existence of the nuisances described herein, staff is moving forward with an inspection warrant for judicial review and consideration to allow staff to gain entry into the rear yard and the inside of the structure to substantiate the existence of a fire hazard.

Tumbleweeds, weeds, rubbish, refuse, and/or flammable materials have the potential of becoming a fire hazard and constitute a public nuisance under Tracy Municipal Code section 4.08.260. After issuance of violation notices, administrative and criminal citations, the City has no option other than to move forward with forced compliance remedies.

Upon City Council's direction, abatement proceedings will begin and upon conclusion, the property owner billed for all costs associated with the abatement, including contractor's charges plus a 25% administrative fee. Abatement fees are calculated based on the labor involved and the amount of weeds, rubbish, refuse, and/or flammable materials removed from the property.

STRATEGIC PLAN

This item relates to the City Council's Public Safety Strategy. More specifically, the goal to eliminate blighted and dangerous building conditions throughout the community.

FISCAL IMPACT

Staff estimates the cost to abate this property to be approximately $10,000 to $11,000. The property owner will be billed for all costs associated with the abatement, including contractor's charges plus a 25% administrative fee. The City will be reimbursed the cost of the abatement once the property is sold, transfers ownership, or is refinanced.

RECOMMENDATION

That City Council conduct a Public Hearing to hear and consider any and all objections to the proposed abatement, and by resolution, declare the weeds, rubbish, refuse, and flammable material located at 1690 West Duncan Drive to be a nuisance, authorize the Code Enforcement Division to direct a contractor to abate such nuisances with the total cost for abatement to be placed with the San Joaquin County Auditor Controller's Office as a tax lien against the property.

Prepared by: Laura Serrano, Administrative Assistant II

Reviewed by: Ana Contreras, Community Preservation Manager

Approved by: Andrew Malik, Director of Development and Engineering Services
Leon Churchill Jr., City Manager

Attachments:

Attachment "A" - Notices of Intent to Abate

ATTACHMENT A

City of Tracy
Development & Engineering Services Department
Code Enforcement Division
333 Civic Center Plaza
Tracy, CA 95376

Notice To Remove Weeds, Rubbish, Refuse, and/or Flammable Materials (Fire Hazard)

Date of Abatement Order: September 22, 2011
Case Number: 08CD-00165
Property Owner: Olga E. Mullins
Assessor Parcel No.: 232-090-07
Address of Property in Violation: 1690 West Duncan Drive, Tracy, California 95376
Property Owner's Mailing Address: 1700 W. Duncan Drive, Tracy, CA 95376
MAILED VIA CERTIFIED MAIL 7010 1060 0000 4336 6861

OLGA E. MULLINS,
AS OWNER OF THE ABOVE REFERENCED PROPERTY,
YOU ARE HEREBY SERVED THIS NOTICE TO REMOVE WEEDS, RUBBISH, REFUSE, AND/OR FLAMMABLE MATERIALS

On April 14, 2011, May 2, 2011, June 29, 2011, August 10, 2011 and September 9, 2011, the City of Tracy Code Enforcement staff inspected the residence located at 1690 West Duncan Drive, Tracy, California, hereinafter referred to as the "referenced property" and determined the referenced property is being maintained as a public nuisance per the 2010 California Fire Code (CFC) and the Tracy Municipal Code (TMC) Chapter 1.32. The referenced property is a public nuisance because of violations of the California Fire Code and the Tracy Municipal Code which are set forth in more detail in the table below.

It was determined that if the tumbleweeds, weeds, rubbish, refuse, and/or flammable materials located inside and outside the property are not removed, they have the potential of becoming a fire hazard and constitute a public nuisance under Tracy Municipal Code section 4.08.260. For the safety of your property and those around you, the potential fire hazard must be removed. Please see attached Order to Abate for correction requirements.

Article 6 of Tracy Municipal code 4.12 (sections 4.12.250 et seq.) provides that you, as the property owner, have twenty (20) days to remove any such thing declared by the provisions of that article to be a public nuisance. Any property owner may abate the nuisance at his own expense prior to abatement by the City.

Weeds shall not exceed 4 inches in height and the preferred method of removing them is by discing, rototilling, or flail cutting (closely cut to the ground). Weeds shall be removed from around all fence lines. Handwork may be required to clear the borders around structures or fences. All cuttings must be removed from the property to reduce the fire hazard.

Chapter 10 of the Uniform Housing Code as replaced by Health and Safety Code Section 17920.3 (h), (i), (j) (k) states that any building or portion thereof, including any dwelling unit, guestroom or suite of rooms, or the

premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building;

(h) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the chief of fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread of intensity of fire or explosion arising from any cause.

(i) All material of construction, except those which are specifically allowed or approved by the code, and which have been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health or safety hazards.

(k) Any building or portion thereof which is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

The Code Enforcement Division will be conducting a re-inspection of your property on October 17, 2011. If your property is still out of compliance, abatement procedures will begin and you may be billed for all costs associated with abating the property (which includes the contractor's charges plus a 25% administrative fee). Abatement fees are calculated based on the labor involved and can be very expensive regardless of the size of the lot or the amount of weeds, rubbish, refuse, and/or flammable materials removed from the property.

At its regular City Council meeting on October 18, 2011 at 7:00 p.m., a public hearing conducted at 333 Civic Center Plaza, Tracy, to hear and consider any and all objections to the proposed abatement. By motion or resolution, the Council shall allow or overrule any objections. At that time, City Council shall acquire jurisdiction to proceed and perform the abatement of the nuisance. The decision of the Council shall be final. After having disposed of any objections, the Council shall, by motion or resolution action. order the abatement of the nuisance.

If you've removed the potential fire hazard(s) from your property or if you have questions about this notice, please call (209) 831-6410 and be prepared to leave your name, telephone number, situs address and parcel number.

Sincerely,

JIM DECKER
Code Enforcement Officer / Building Inspector II

Attachment: Order to Abate dated June 29, 2011

W:\Code Enforcement\CERTIFIED NOTICES TO ABATE\1690 W Duncan Dr - Certified Notice to Abate (final-revised) 09 22 2011.doc

City of Tracy
Development & Engineering Services Department
Code Enforcement Division
333 Civic Center Plaza
Tracy, CA 95376

ORDER TO ABATE PUBLIC NUISANCE OR SHOW CAUSE

Date of Abatement Order: June 29, 2011
Case Number: 08CD-00165
Property Owner: Olga E. Mullins, Et al
Assessor Parcel No.: 232-090-07
Address of Property in Violation: 1690 West Duncan Drive, Tracy, California 95376
Property Owner's Mailing Address: 1700 West Duncan Drive, Tracy, California 95376

OLGA E. MULLINS, ET AL, AS OWNERS OF THE ABOVE REFERENCED PROPERTY, YOU ARE HEREBY SERVED THIS ORDER TO ABATE PUBLIC NUISANCE OR SHOW CAUSE

On April 7, 2011 the City of Tracy Code Enforcement staff inspected the residence located at 1690 West Duncan Drive, Tracy, California, hereinafter referred to as the "referenced property" and determined the referenced property is being maintained as a public nuisance per the 2010 California Fire Code (CFC) and the Tracy Municipal Code (TMC) Chapter 1.32. The referenced property is a public nuisance because of violations of the California Fire Code and the Tracy Municipal Code which are set forth in more detail in the table below.

NARRATIVE

A single family residence with an attached garage is located on the property. The front, side and back yards have overgrown vegetation and weeds. The public sidewalk in front of the residence is partially blocked with this vegetation. The back, side yards and the residence contain trash, garbage and refuse including but not limited to; paper, cardboard, broken appliances, tires, glass, plastic storage containers, tin cans, clothing, kitchen utensils, lumber, ceramic tile, processed food items, broken furniture, and dead tree branches. This property was previously inspected on October 21, 2010, a violation notice was left at the property and a copy mailed to the property owner. Follow-up inspections were done on November 10, 2010, December 14, 2010, and April 7, 2011. No evidence of any effort to correct the violations was noted. Olga E. Mullins, who is in control of the property, was contacted at her residence on April 7, 2011 and issued a criminal citation for the accumulation of garbage and refuse. Follow up inspections were done on April 14, 2011 and May 2, 2011. All of the violations continued to exist.

VIOLATION DEFINITIONS

The following table shows definitions for some of the specific violations currently present at the referenced property. These violations must be promptly corrected as they constitute a public nuisance.

Code Section	Violation
TMC § 4.12.260 Weeds, rubbish, refuse, and flammable materials public nuisances.	It is hereby found and expressly declared that the existence of weeds, rubbish, refuse, and flammable material in, upon, or in front of any vacant lot or other property on any street, parkway, sidewalk, or alley in the City is a public nuisance and dangerous to the public health and safety of the inhabitants of the City. (Prior code § 4-3.702)
TMC § 4.12.265 Accumulation of rubbish and refuse prohibited.	(a) The accumulation of rubbish and refuse which creates filth shall be prohibited. No owner, lessee, agent, or occupant of any lot or parcel of land upon which a building of any kind may exist or any vacant lot or parcel of land shall allow any accumulation of refuse or solid waste matter of any kind or description to remain on a lot or parcel of land for longer than seven (7) days.
TMC § 5.20.050 Accumulation of garbage and refuse is prohibited.	The accumulation of refuse and solid waste, which creates filth, shall be prohibited. No owner, lessee, agent, or occupant of any lot or parcel of land upon which a building of any kind may exist or any vacant lot or parcel of land shall allow any accumulation of refuse or solid waste matter of any kind or description to remain on a lot or parcel of land for longer than seven (7) days. (Ord. 1058 § 1 (part), 2003)
CFC § 304.1.1 Waste Material.	Accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste or rubbish of any type shall not be permitted to remain on a roof or in any court, yard, vacant lot, alley, parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle or other similar structure.

Copies of all Codes cited herein are available for review in the City Clerk's Office.

Corrections Required

(1) Remove all rubbish, refuse, garbage and overgrown weeds and dead vegetation from the premises as described above no later than ten (10) days from the date of this Order (July 10, 2011).

(2) Obtain a Board up permit, secure the structure no later than ten (10) days from the date of this Order; by July 10, 2011.

Please be advised that TMC Section 1.32.050 provides as follows:

> If the nuisance is not completely abated within the time prescribed by the notice to abate or show cause, or by date set forth in the hearing officer's notice of decision if a hearing is held, the enforcement officer may proceed to abate the nuisance by City personnel or private contractor. The City personnel and private contractor are expressly authorized to enter upon the property for this purpose. The enforcement officer shall obtain a warrant from the court to enter the property when required to do so by law. If you do not abate the above-described nuisance on or before the dates set forth above, or if you do not provide the City of Tracy Code Enforcement Division with a written request for an administrative hearing on this matter and an administrative hearing officer does not specify otherwise at any hearing that may be held, the City will enter the property and abate the nuisance. Pursuant to TMC Sections 1.32.060, 1.32.070, 1.32.080 and 1.32.090, the cost of abatement may become a charge against you personally and a lien or special assessment against the referenced property. Be advised that, due to administrative overhead and other costs related with being a public entity, the City's cost will likely be ***much higher*** than the cost of abating the nuisance by you or your contractor.

Failure to respond to this order may result in further action, up to and including Administrative and/or Criminal Citations issued for each day the violations continue to exist until all work set forth above is completed. Pursuant to Tracy Municipal Code Section 1.28, this Notice and Order serves as notification that the Tracy Municipal Code provides the legal authority to issue Administrative Citations for TMC violations. The fines are $100.00 for the first citation, $200.00 for the second, $500.00 for the third **and subsequent citations for violations of the same code section within one year.** These fines are cumulative and new citations may be issued for *each day the violation continues to exist.* A person who receives an Administrative Citation may contest the citation in the form of an appeal. Details regarding the appeal process are set forth in Chapter 1.28, attached.

Please be further advised that California law authorizes the Court to appoint a receiver to take possession of your property for the purposes of abating all nuisances. Pursuant to that receivership process, the receiver may have the ability to sell the property to recover all costs of abating the nuisance, including attorney fees, with the receiver's lien taking priority over any liens on the property that may be in effect at the time of the sale.

Any person having record title or legal interest in the referenced property may request an administrative hearing on this Order to Abate Public Nuisance or Show Cause provided the appeal is made pursuant to TMC Section 1.32.040(a) which specifies that a "written request for hearing must be received by the enforcement officer within the time specified in the notice to abate or show cause." Pursuant to TMC Section 1.32.040(a), failure to provide the City of Tracy with a written request for a hearing on this Order by July 28, 2011 shall constitute a waiver of all rights to an administrative hearing as to the validity of the Order to Abate.

If you have any questions regarding this Order to Abate or Show Cause and the provisions contained herein, please contact me at (209) 831-6408, Monday – Thursday, 8:00 a.m. to 6:00 p.m. and every other Friday, 8:00 a.m. to 5:00 p.m.

Sincerely,

JIM DECKER
Code Enforcement Officer / Building Inspector II

Attachments:

- Tracy Municipal Code Chapter 1.28 – Administrative Citations and Penalties

RESOLUTION 2011- _____

DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL AT 1690 WEST DUNCAN DRIVE A PUBLIC NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND APPROVING A CONTRACTOR TO ABATE SAID NUISANCES

WHEREAS, On April 7, 2011, Code Enforcement staff arrived at 1690 Duncan Drive, in response to a complaint regarding the issue of unsanitary conditions associated with the property, and

WHEREAS, A second follow-up inspection was performed at the property on April 14, 2011; no progress was noted and an administrative citation was issued on April 20, 2011 for continuing violation of TMC Section 5.20.050, and

WHEREAS, A third follow-up inspection was done on May 27, 2011 and no progress was observed, and a second Administrative Citation was issued, and

WHEREAS, On June 29, 2011 an Order to Abate or Show Cause listing the violations was served and posted at the property with a copy mailed to the property owner, and

WHEREAS, Subsequent inspections on August 10, 2011 and September 9, 2011, revealed that violations still exist on the property and he property owner was issued a second criminal citation for violation of TMC Section 5.20.050, and

WHEREAS, On September 21, 2011, pursuant to Tracy Municipal Code, Section 4.12.280, the Code Enforcement Division sent a notice to the property owner, requiring the abatement of weeds, rubbish, refuse and flammable material on the parcel within twenty days of receipt of the notice and further advised the owner of the City's intent to abate the nuisance following Council's consideration of the matter during a public hearing, and

WHEREAS, Abatement proceedings will begin and the property owner billed for all costs associated with the abatement, including contractor's charges plus a 25% administrative fee, and

WHEREAS, The cost to abate this property is estimate to be between $10,000 and $11,000; the property owner will be billed for all costs associated with the abatement, including contractor's charges plus a 25% administrative fee. The City will be reimbursed the cost of the abatement once the property is sold, transfers ownership, or is refinanced;

NOW, THEREFORE, BE IT RESOLVED That City Council declares the weeds, rubbish, refuse, and flammable material located at 1690 West Duncan Drive to be a nuisance, authorizes the Code Enforcement Division to direct a contractor to abate such nuisances with the total cost for abatement to be placed with the San Joaquin County Auditor Controller's Office as a tax lien against the property.

****

The foregoing Resolution _____ was adopted by the Tracy City Council on the 1st day of November, 2011 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST

_____
CITY CLERK

November 1, 2011

AGENDA ITEM 5

REQUEST

PUBLIC HEARING TO CONSIDER THE FILIOS/DOBLER ANNEXATION AND DEVELOPMENT PROJECT WHICH INCLUDES A GENERAL PLAN AMENDMENT (GPA09-0002) TO RE-DESIGNATE THE SITE FROM URBAN RESERVE 2 TO COMMERCIAL; I-205 CORRIDOR SPECIFIC PLAN AMENDMENT (SPA10-0002) TO ADD THE SITE TO THE SPECIFIC PLAN AREA, DESIGNATE THE SITE GENERAL COMMERCIAL, AND ADD DEVELOPMENT STANDARDS REQUIRED BY EIR MITIGATION MEASURES; ANNEXATION OF THE 43-ACRE PROJECT SITE TO THE CITY OF TRACY AND PREZONE THE SITE PLANNED UNIT DEVELOPMENT (A/P09-0002); AND CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT FOR THE PROJECT – THE APPLICANTS ARE BILL FILIOS FOR GRANT LINE APARTMENTS, LLC AND GARY DOBLER FOR DOBLER FAMILY TRUST

EXECUTIVE SUMMARY

The request is to annex 43 acres to the City limits in the Grant Line Road/I-205 area for future commercial development. No specific tenants or building improvements are yet proposed. Staff and the Planning Commission recommend approval of the Project.

DISCUSSION

Project Description

The proposal is to annex approximately 43 acres of unincorporated land to the City for future commercial development. The Project site is located on the south side of Grant Line Road, north of Byron Road and the Union Pacific rail lines, and west of the Tracy Marketplace Shopping Center (Attachment A).

The Project includes a General Plan Amendment to re-designate the site from Urban Reserve 2 to Commercial; an amendment to the I-205 Corridor Specific Plan to add the site to the Specific Plan area and designate the site General Commercial within the Specific Plan; Annexation of the Project site to the City limits and Prezone the site Planned Unit Development (PUD); and certification of an Environmental Impact Report (EIR) for the Project. The Project also includes the addition of a new section to the Specific Plan (Attachment 1 to the Specific Plan Amendment Resolution, Attachment H) containing standards that would apply only to this Project site. These proposed standards are required by EIR Mitigation Measures that were not otherwise included in existing City standards.

The proposed General Commercial designation of the Project is the same Specific Plan designation and zoning as the nearby Tracy Pavilion center (containing Home Depot) and the adjacent Tracy Marketplace Shopping Center.

No specific land uses, buildings, site, or other improvements are proposed at this time. Instead, the property owners are seeking annexation with commercial zoning to attract future commercial tenants to the site. Yet, the EIR analysis assumes the construction of

466,000 square feet of retail and office development in order to form the basis of analysis and identification of potential environmental impacts. If a project is proposed that exceeds 466,000 square feet of floor area or otherwise exceeds the impacts analyzed in the EIR, additional CEQA review may be required at that time.

The Project area is currently used for non-irrigated farming. Three residences are located on the Project site and would eventually be removed as the site experiences commercial development.

City utilities (sewer, water, and storm drainage) will serve the Project. Utility lines will be extended to the site and the developer will pay development impact fees for their proportionate share of system-wide improvements to serve the Project. The developer will also be responsible for widening the portion of Grant Line Road fronting the Project, installation of traffic signals adjacent to the Project, and for the payment of traffic impact fees to help mitigate impacts on the City's roadway system.

Commercial Development Opportunities

As indicated above, no tenants or specific improvements have been proposed for the site. When buildings are proposed, their design (including the site plan, landscaping, and other details of the project) will be submitted to the Planning Commission and City Council for review through the PUD Preliminary and Final Development Plan process, which is the same process for all of the I-205 Specific Plan area buildings and sites.

This annexation request will set the stage for expansion of the I-205 regional commercial corridor in the future. Although the market demand for commercial space at this time is relatively low, the large size of this site provides an opportunity for one or more commercial anchor tenants who would seek direct freeway exposure to locate in Tracy. Construction of new or expanded retail stores, consumer services, or business offices would contribute to shopping opportunities for residents, employment opportunities, sales tax to support City services, and other benefits.

Attachments B and C contain excerpts from the existing City Zoning and General Plan maps in the vicinity of the Project area. These maps are attached to help depict the context of the proposed Project area and its relationship to the nearby zoning and land use designations.

Planning Commission Review

On September 28, 2011, the Planning Commission conducted a public hearing to review the Project, including the Final EIR. Project owner representatives, who spoke in favor of the Project, were the only ones to address the Planning Commission. After closing the public hearing, the Planning Commission recommended that the City Council certify the EIR and approve the Project.

CEQA Analysis

In accordance with the California Environmental Quality Act (CEQA) an EIR was prepared to analyze the potential environmental impacts of the Project and to evaluate and recommend mitigation measures to reduce the effects from potentially significant impacts. Exhibit K is the proposed Resolution to certify the EIR. The Resolution contains findings related to significant impacts of the Project, findings related to Project alternatives, findings related to a statement of overriding considerations for impacts that are not fully mitigated, and a mitigation monitoring and reporting program. All of these items are required by State law.

After the close of the Draft EIR public comment period and during the week preceding the September 28, 2011 Planning Commission hearing, three comment letters were submitted, Attachment F. The Planning Commission received the letters and copies were available to the public on the night of the Planning Commission hearing. The letters do not change any of the mitigation measures or recommendations from staff or the Planning Commission for the Project. Following is a response to each of the three letters contained in Attachment F.

September 22, 2011 Letter from Regional Water Quality Control Board: This letter identifies storm water runoff control measures and other existing standards and requirements. The Control Board submitted the same comments on the Draft EIR (Comment Letter Number 3, dated July 13, 2011) and the comments have been addressed in the Final EIR.

September 26, 2011 Letter from Caltrans: The letter identifies two comments related to design concerns regarding I-205 on-ramp improvements. These design details will be addressed during the on-ramp design process. The third comment references corrections to be made in forecasting tables of the traffic analysis. The corrections have now been made and they do not change the conclusions of the traffic analysis.

September 28, 2011 Letter from San Joaquin Council of Governments (COG) Related to the Regional Congestion Management Program: This letter identifies Transportation Demand Management (TDM) items that are related to implementation of the Congestion Management Plan. These are not specifically CEQA or annexation issues. City staff will work with COG as development applications are submitted for this Project site regarding implementation of applicable TDM measures and how they could eventually be related to development or operations at the Project.

STRATEGIC PLANS

This agenda item supports the Economic Development Strategic Plan and specifically implements the following goals:

Goal 1: Job Creation
Goal 2: Retail Recruitment/Revenue Enhancement

FISCAL IMPACT

This agenda item will not require any specific expenditure from the General Fund. Staff and consultant costs to process the application are recovered through a Reimbursement Agreement with the Developer (City Council Resolution Number 2009-145).

RECOMMENDATION

Staff and the Planning Commission recommend that the City Council take the following action:

1. Certify the Final EIR for the Filios/Dobler Annexation and Development Project;
2. Approve the General Plan Amendment from Urban Reserve 2 to Commercial;
3. Approve the Specific Plan Amendment to add the site to the Specific Plan, designate the site General Commercial, and add a new Section 4.1.2.2 K regarding standards for the Project area;
4. Prezone the Project site PUD; and
5. Authorize an application to LAFCo for annexation of the Project site to the City limit.

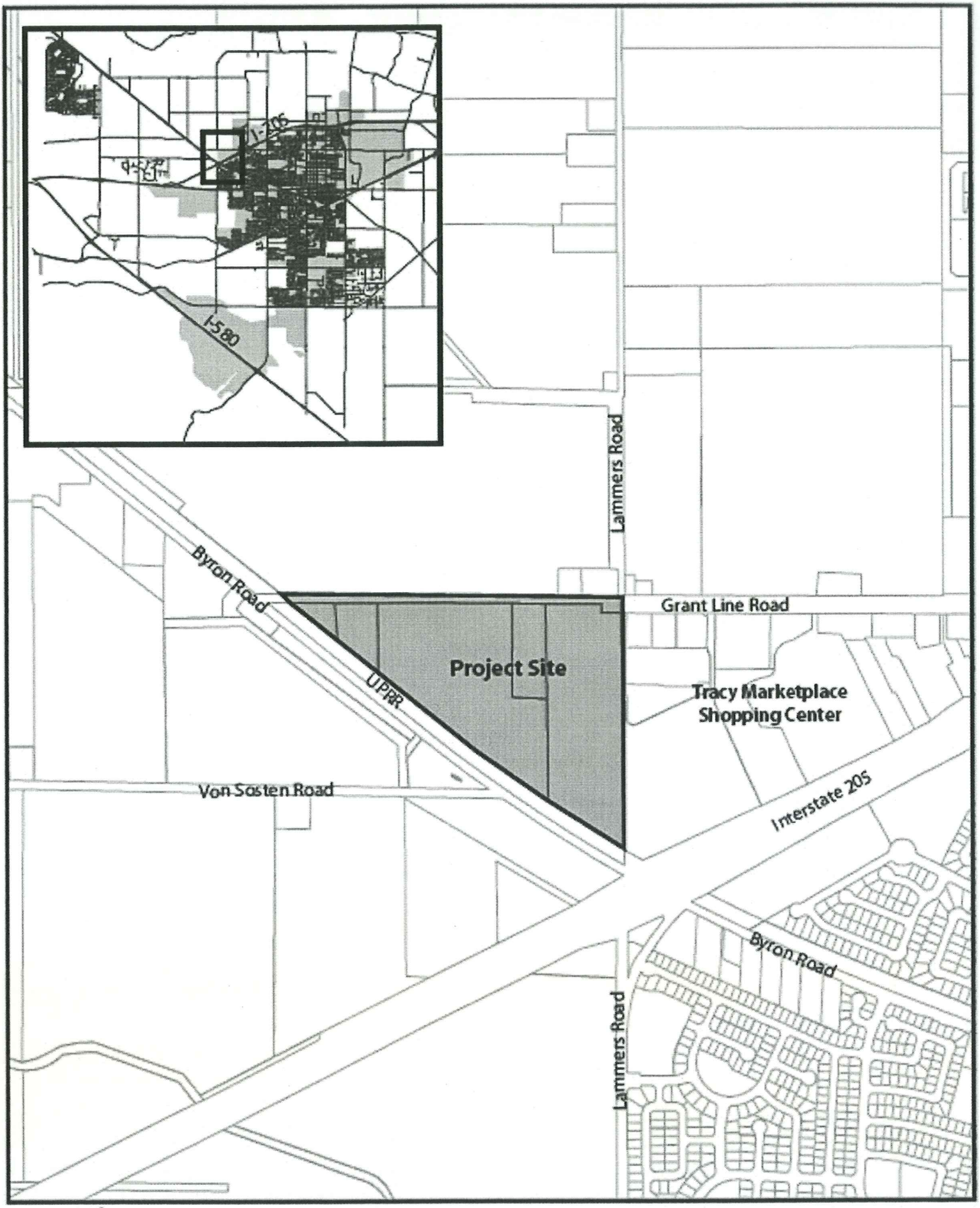
Prepared by: Alan Bell, Senior Planner
Reviewed by: Bill Dean, Assistant Development and Engineering Services Department Director
Approved by: Andrew Malik, Development and Engineering Services Department Director
Leon Churchill, Jr., City Manager

ATTACHMENTS

Attachment A – Location Map
Attachment B – Existing Zoning in Project Vicinity
Attachment C – Existing General Plan in Project Vicinity
Attachment D – June 2011 Project Draft EIR (Distributed Previously to the City Council)
Attachment E – September 2011 Project Final EIR (Distributed Previously to the City Council)
Attachment F – Three Recent, EIR Comment Letters
Attachment G – EIR Certification Resolution (with Four Exhibits)

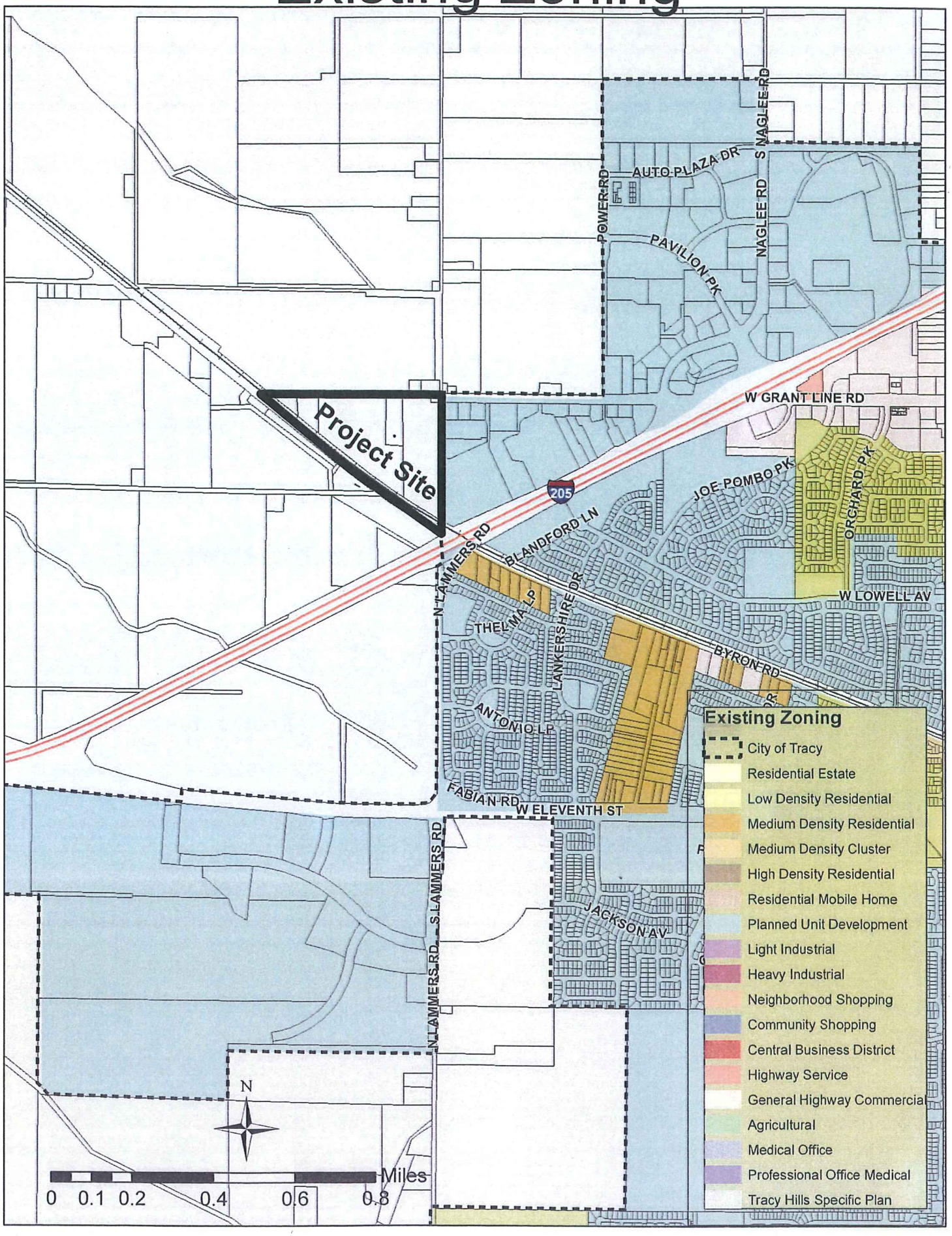
Attachment H – Resolution Approving General Plan Amendment, Specific Plan Amendment and Annexation
Attachment I – Ordinance Approving Prezoning

ATTACHMENT A



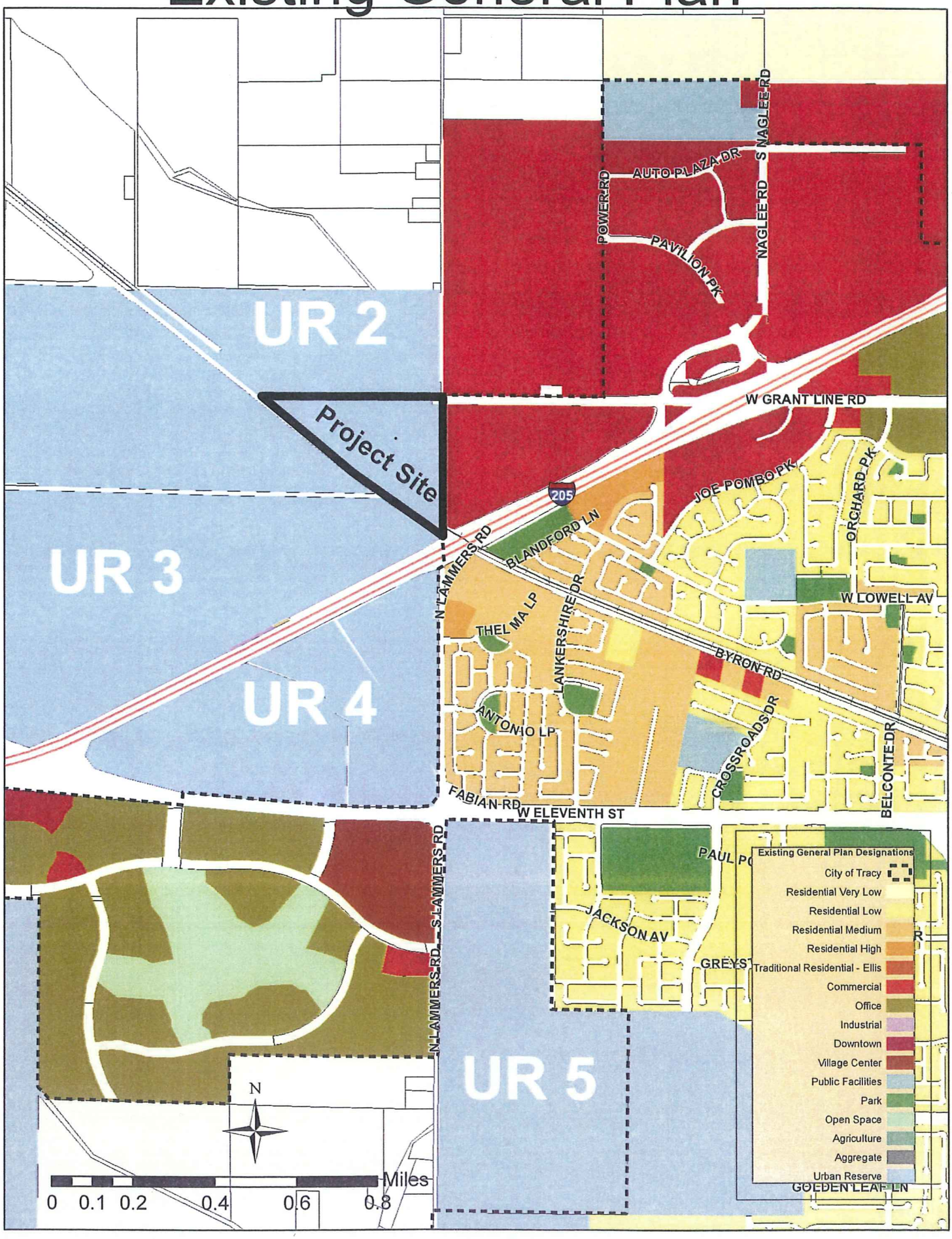
ATTACHMENT B

Existing Zoning



ATTACHMENT C

Existing General Plan



ATTACHMENT D

JUNE 2011 PROJECT DRAFT EIR

(PREVIOUSLY DISTRIBUTED TO CITY COUNCIL UNDER SEPARATE COVER)

ATTACHMENT E

SEPTEMBER 2011 PROJECT FINAL EIR

(PREVIOUSLY DISTRIBUTED TO CITY COUNCIL UNDER SEPARATE COVER)

ATTACHMENT F

California Regional Water Quality Control Board
Central Valley Region
Katherine Hart, Chair

11020 Sun Center Drive, #200, Rancho Cordova, California 95670-6114
(916) 464-3291 • FAX (916) 464-4645
http://www.waterboards.ca.gov/centralvalley

Matthew Rodriquez
Secretary for Environmental Protection

Edmund G. Brown Jr.
Governor

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D.E.S.

22 September 2011

Alan Bell, Senior Planner
City of Tracy Planning Commission
Department of Development and Engineering Services
333 Civic Center Plaza
Tracy, CA 95376

CERTIFIED MAIL
7010 3090 0001 4843 3470

COMMENTS TO THE NOTICE OF PUBLIC HEARING, BILL FILIOS FOR GRANT LINE APARTMENTS, LLC AND GARY DOBLER FOR DOBLER FAMILY TRUCT – SOUTH SIDE OF GRANT LINE ROAD PROJECT, SAN JOAQUIN COUNTY

Pursuant to the City of Tracy Planning Commission's 15 September 2011 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Notice of Public Hearing* for the Bill Filios for Grant Line Apartments, LLC and Gary Dobler for Dobler Family Truct – South Side of Grant Line Road Project, located in San Joaquin County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:
http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits[1]

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed for the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916)557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. Water Quality Certification must be obtained prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

---

[1] Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

Waste Discharge Requirements

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

If you have questions regarding these comments, please contact me at (916) 464-4745 or gsparks@waterboards.ca.gov.

Genevieve Sparks

Genevieve (Gen) Sparks
Environmental Scientist
401 Water Quality Certification Program

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
P.O. BOX 2048 STOCKTON, CA 95201
(1976 E. CHARTER WAY/1976 E. DR. MARTIN LUTHER KING JR. BLVD. 95205)
TTY: California Relay Service (800) 735-2929
PHONE (209) 941-1921
FAX (209) 948-7194

Flex your power!
Be energy efficient!

September 26, 2011

10-SJ-205, PM 5.1
Filios/Dobler Annexation & Development
SCH #2010072043

Alan Bell
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Dear Mr. Bell,

The California Department of Transportation (Department) has reviewed the Final Environmental Impact Report (FEIR) dated September 2011 for **Filios/Dobler Annexation & Development**.

Upon review of the FEIR, the Department has the following comments:

Traffic Operations

1. Traffic Operations agrees with the proposed Mitigation Measure 4.14-3 that proposes a second eastbound (EB) left-turn lane, widening of the EB on-ramp to two lanes, and the westbound (WB) free right turn lane would be modified to be a part of the signal operation at the intersection of I-205 EB ramps and Grant Line Road. However, eliminating the WB Grant Line Road free right turn lane will impact the truck turning movement from WB Grant Line Road onto I-205 EB on-ramp due to the existing geometry of skew angle between WB Grant Line Road and I-205 EB on-ramp. Further clarification needs to be provided that Mitigation Measure 4.14-3 will not only mitigate the level of service at the intersection of I-205 EB ramps and Grant Line Road, but also will not impact the truck turning movement from WB Grant Line Road onto I-205 EB on-ramp.

2. The lane drop of the additional receiving lane on ramp should be accomplished over a distance equal to W (lane with)*V (design speed). The lane to be dropped should be on the right so that traffic merges left.

Travel Forecasting

Some of the comments from our previous letter dated July 25, 2011 were not addressed in the FEIR. Below is a list of tables that still needs to be corrected in the FEIR.

1. Table 4.14-6, Column 7, Row 12
2. Table 4.14-8, Column 5, Row 4
3. Table 4.14-15, Column 7, Rows 1 & 6
4. Table 4.14-18, Column 5, Row 6
5. Table 4.14-19, Column 6, Row 37

If you have any questions, please contact Sinarath Pheng at (209) 942-6092 (e-mail: Sinarath_Pheng@dot.ca.gov) or myself at (209) 941-1921.

Sincerely,

Sinarath Pheng

for TOM DUMAS, CHIEF
OFFICE OF METROPOLITAN PLANNING

SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Avenue • Stockton, California 95202

209.235.0600 • 209.235.0438 (fax)
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STOCKTON,
TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

September 28, 2011

Mr. Alan Bell
Development and Engineering Services Dept.
City of Tracy
333 Civic Center Plaza, Tracy CA 95376

Re: CMA Review - City of Tracy FINAL EIR
FILLIOS/DOBLER ANNEXATIONAND DEVELOPMENT PROJECT

Dear Mr. Bell:

The San Joaquin Council of Governments (SJCOG) has reviewed the above-referenced document. The Final EIR includes the City's responses to SJCOG comments with respect to the Regional Congestion Management Program. On August 17, 2010 and June 21, 2011 SJCOG send comments to the City of Tracy in response to the project's Notice of Preparation and Draft EIR. The comment letters gave background information and also had some specifics regarding compliance with the Regional Congestion Management Program (RCMP) and CEQA Thresholds.

The following is SJCOG's responses to the City's Responses to Comment Letter #4, page 10-33 of the Final EIR:

Response to 4-1

The Final EIR does not incorporate the significance thresholds established within the 2010 CEQA Guidelines that have a direct relation to CMA authority. It is incorrect to state that the thresholds referenced in this comment only relate to public transit and non-motorized modes of transportation. CEQA Guidelines has a very clear threshold for impacts relating to conflicts with a Congestion Management Program, including, but not limited to level of service standards and travel demand measures established by the county's CMA. The significance thresholds within the 2010 CEQA Guidelines, Appendix G, with a direct relation to CMA authority are:

XVI. TRANSPORTATION/TRAFFIC – Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account

all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?

b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?

These CEQA thresholds given above, as well as the RCMP, encompass much more than public transit and non-motorized modes of transportation. The response also states that additional trip reductions were not taken for TDM measures in the Draft EIR and therefore the impact analysis is conservative. Interregional trip reductions are only relevant in determining if a roadway is operating at a level below the program's LOS standards. Staff is not clear how trip reductions would be used in coordination with TDM measures or how this is pertinent to the original comment.

Response to 4-2

SJCOG staff is not able to locate any section within the Draft or Final EIR that addresses the requirements or standards of the RCMP. Section 4.14.2 does not list the CMA's standards and/or methodology. SJCOG specifically requested this as part of the NOP and in commenting on the Draft EIR.

As part of this response, a segment analysis was conducted on the RCMP roadways with the results being placed in Table 10.5-3. Yet Chapter 11.0 REVISIONS TO THE DRAFT EIR does not incorporate this analysis in association with the CEQA significance thresholds listed above.

Additionally, the response states that project conditions will provide an avenue for compliance with the Regional Travel Demand Management Plan. SJCOG staff has not seen any of the final project conditions (only a general list) in order to provide input. The bullet list of conditions listed on page 10-34 is very generalized with respect to compliance with the TDM Action Plan. For example, one of the conditions of approval for future developers of the project site will be to:

"Encourage employers to provide incentives to employees and visitors for utilizing the transit services, carpooling and van pooling."

How will this be achieved? SJCOG requested that a condition be established to facilitate communication between future developers of this project site and Commute Connection, the regional rideshare program operated by the San Joaquin Council of Governments. The program is designed to help commuters make the transition from driving alone to a convenient ridesharing option such as carpooling, vanpooling, bicycling/walking or riding transit. The program's

services are free of charge and include vanpool subsidies, commuter ride-matching, Guaranteed Ride Home, and Employer Services.

Response to 4-3

SJCOG staff, in the above communication, has shown that it is not in agreement with this response. Whether or not the project has an impact to the CMA's RCMP cannot be identified and fully disclosed if the regulatory setting and thresholds are not incorporated into the EIR.

In conclusion, SJCOG requests that the City take these comments into consideration. Ensuring that TDM measures are implemented with both existing and new development is not only a required component of the state's CMP legislation (Section 65089(5)), it is also required by the voter approved Measure K Referendum and the federal Congestion Management Process (mandated through SAFETEA-LU)

If you have any questions please call Laura Brunn, at (209) 235-0579.

Sincerely,

Laura Brunn

LAURA BRUNN
SJCOG Associate Regional Planner

Cc: Andrew Chesley, SJCOG Executive Director
Mike Swearingen, SJCOG Senior Regional Planner

RESOLUTION _____

CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE FILIOS/DOBLER ANNEXATION AND DEVELOPMENT PROJECT
APPLICANTS ARE BILL FILIOS (FOR GRANT LINE APARTMENTS, LLC) AND GARY DOBLER (FOR DOBLER FAMILY TRUST)
APPLICATION NUMBERS GPA09-0002, SPA10-0002, AND A/P09-0002

WHEREAS, Applications have been filed or initiated for a General Plan Amendment to re-designate approximately 43 acres from Urban Reserve 2 to Commercial, amend the I-205 Corridor Specific Plan to add the site to the Specific Plan with a designation of General Commercial, Annex the site to the Tracy city limits, and Prezone the site Planned Unit Development (collectively, the "Project"), and

WHEREAS, The City of Tracy ("City") determined that the Project requires review pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code sections 21000 et seq.), and pursuant to CEQA an Environmental Impact Report ("EIR") was prepared to evaluate the potential environmental effects of the Project, to evaluate potential alternatives to the Project, and to evaluate and recommend mitigation measures for all potentially significant impacts of the Project, and

WHEREAS, The City published a Notice of Preparation on July 14, 2010 regarding the EIR seeking public and public agency review and comments on topics and issues that should be evaluated in the Draft EIR, and

WHEREAS, On August 11, 2010, the City Planning Commission ("Planning Commission") conducted a public scoping meeting to provide an opportunity for public and public agency input regarding the environmental concerns and issues to be addressed in the EIR, and

WHEREAS, On June 9, 2011, the City published the Notice of Availability and Notice of Completion, starting a 45-day public review and comment period on the Draft EIR, which ended on July 25, 2011, and

WHEREAS, The City submitted the Draft EIR to the State Clearinghouse for state agency review (State Clearinghouse No. 2010072043), and

WHEREAS, On July 13, 2011, the Planning Commission conducted a public hearing to receive comments on the Draft EIR, and

WHEREAS, The Draft EIR made reference to Assembly Bill 231 and the General Plan EIR regarding the CEQA Statement of Overriding Considerations concerning the Project's unavoidable significant impacts. Instead, however, the City Council is relying on the analysis in this EIR to making findings for the overriding considerations, and

WHEREAS, On September 28, 2011, the Planning Commission conducted a public hearing to review the EIR and recommended that the City Council of the City ("City Council") certify the EIR (Planning Commission Resolution Number 2011-010) and adopt the findings in accordance with CEQA, which are more fully set forth in this Resolution, and

WHEREAS, On November 1, 2011, City Council conducted a public hearing to review the EIR, and

WHEREAS, The EIR is comprised of the Draft EIR and appendices, comments and a list of those who commented on the Draft EIR, responses to such comments, and revisions to the Draft EIR in response to the comments, and

WHEREAS, the City Council reviewed all evidence presented both orally and in writing and intends to make certain findings in compliance with CEQA, which are more fully set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED by the City Council as follows:

1. Certification

The City Council certifies the following:

a. The EIR has been completed in compliance with the requirements of CEQA and the CEQA Guidelines 914 CA. Code Regs. (hereafter referred to as "Guidelines")). (Guidelines, section 15090(a)(1).)

b. The EIR was presented to the City Council which reviewed and considered the information contained in the EIR and the record thereof prior to taking action on the Project. (Guidelines, section 15090(a)(2).)

c. The EIR reflects the independent judgment and analysis of the City Council. (Guidelines, section 15090(3).)

2. Potentially Significant Impacts

a. The EIR identifies potentially significant environmental impacts of the Project that can be mitigated to a less-than-significant level. The City Council makes the findings with respect to these significant impacts as set forth in Exhibit A (Pub. Resources Code, section 21081; Guidelines, section 15091.)

b. The EIR identifies potentially significant impacts that cannot be mitigated to a less-than-significant level and are thus considered significant and unavoidable. The City Council makes the findings with respect to these significant and unavoidable impacts as set forth in Exhibit A. (Pub. Resources Code, section 21081; Guidelines, section 15091.) For these impacts that are identified as significant and unavoidable, the City Council finds, based on substantial record evidence, that mitigation is infeasible because specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures that would avoid these impacts or reduce them to a less-than-significant level.

c. All other impacts identified in the EIR are less than significant without mitigation. Therefore, further findings are not required for those impacts.

3. Alternatives

The EIR includes three Project alternatives, including the mandatory No Project alternative, which the City evaluated during Project analysis and review and in the EIR. The City Council finds these alternatives to be infeasible based on the findings as set forth in Exhibit B (Pub. Resources Code, section 21081; Guidelines, section 15091.)

4. Statement of Overriding Considerations

The adoption of all feasible mitigation measures will not avoid or reduce to a less-than-significant level all significant adverse environmental effects caused by the Project. However, the City Council finds that the Project's benefits override and outweigh its unavoidable impacts on the environment, and adopts a Statement of Overriding Considerations, as set forth in Exhibit C. (Pub. Resources Code, section 21081(b); Guidelines, sections 15043 and 15093.)

5. Mitigation Monitoring and Reporting Program

The City Council adopts the Mitigation Monitoring and Reporting Program as set forth in Exhibit D. (Pub. Resources Code, section 21081.6; Guidelines, 15097.)

6. Other Findings and Information

a. The City Council finds that there has been no significant new information that has been obtained by the City or added to the EIR after public notice was given of the availability of the Draft EIR. This includes information showing that:

i. A new significant environmental impact would result from the Project or from a new mitigation measure proposed to be implemented;

ii. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance;

iii. A feasible Project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the Project, but the Project's proponents decline to adopt it; or

iv. The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Therefore, the City Council finds that it is not necessary to recirculate the Draft EIR for further public review and comment. (Pub. Resources Code, section 21166; Guidelines, section 15088.5)

b. The record upon which all findings and determinations related to the Project and the EIR are based includes the following, all of which constitute substantial evidence:

i. The EIR, and all documents referenced in or relied upon by the EIR;

ii. All information (including written evidence and testimony) considered by City staff and/or provided by City staff to the Planning Commission or City Council related to the EIR or the proposed approvals for the Project;

iii. All information (including written evidence and testimony) presented to the Planning Commission or City Council by the environmental consultant and sub-consultants who prepared the EIR, or incorporated into reports presented to City staff and/or to the Planning Commission or City Council;

iv. All information (including written evidence and testimony) presented to the City by other public agencies relating to the EIR or the Project;

v. All applications, letters, testimony and hearing presentations given by any of the Project sponsors or their consultants to the City in connection with the Project;

vi. All information (including written evidence and testimony) presented to the City by members of the public relating to the EIR or the Project;

vii. For documentary and information purposes, all City-adopted land use plans and ordinances, including, without limitation, general plans, specific plans, and ordinances, and all environmental impact reports and other CEQA documentation prepared in support of City's consideration and adoption of those regulations and policies;

viii. The Mitigation Monitoring and Reporting Program for the Project; and

ix. All other documents comprising the record of proceedings pursuant to Public Resources Code section 21167.6(e).

c. The findings contained in this Resolution are based upon substantial evidence in the entire record of the City's proceedings relating to the Project. All the evidence supporting these findings was presented in a timely fashion, and early enough to allow adequate consideration by the City. Any information not presented directly to the City Council and the Planning Commission is nonetheless considered to have been before the City Council and the Planning Commission because that information contributed to City staff's consideration and presentation to the City Council and the Planning Commission of the Project and its environmental impacts, mitigation measures and alternatives. References to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings. Any reference to certain parts of the EIR set forth in these findings are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these findings.

d. The custodian of the documents and other materials that constitute the record of proceedings on which the City's decision is based is the Director of Development and Engineering Services, or designee. Such documents and other materials are located at 333 Civic Center Plaza, Tracy, California 95376. (Pub. Resources Code, section 21081(a)(2); Guidelines, section 15091(e).)

* * * * * * * * * * * * *

The foregoing Resolution was adopted by the City Council on the 1ST day of November 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

EXHIBIT A

FINDINGS RELATED TO SIGNIFICANT IMPACTS

A. Significant Impacts that are Mitigated to a Less-Than-Significant Level

Based upon the criteria set forth in the EIR and the administrative record of this proceeding, the City Council finds, based on substantial record evidence, that the following environmental effects of the Project are potentially significant but will be mitigated to a less-than-significant level. (Pub. Resources Code, section 21081; Guidelines, section 15091.)

1. Land Use and Planning

a. Impacts and Mitigation Measures

Impact 4.2-1: The proposed Project could conflict with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan.

Mitigation Measure 4.2-1: Prior to the issuance of building permits, the Project property owners shall either pay the appropriate fee or dedicate, as conservation easements or fee title, habitat lands as prescribed by the San Joaquin County Council of Governments to compensate for the loss of Habitat Land and its conversion to urban use.

b. Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the Project, which would mitigate or avoid potential conflicts with the SJMSCP as identified in the Final EIR. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

c. Facts in Support of Findings

Implementation of Mitigation Measure 4.2-1, requiring compensation for the loss of habitat and its conversion to urban use, would fulfill the mitigation requirements of the SJMSCP and reduce impacts to less than significant.

2. Aesthetics

a. Impacts and Mitigation Measures

Impact 4.3-2: Implementation of the proposed Project may generate additional light and glare beyond existing conditions.

Impact 4.3-3: The proposed Project could result in a cumulatively considerable aesthetic impact.

Mitigation Measure 4.3-2a: All construction-related lighting shall be locate and aimed away from adjacent residential areas and consist of the minimal wattage necessary to provide safety at the construction site.

Mitigation Measure 4.3-2b: The Project applicant shall ensure that any exterior lighting does not spill over onto the adjacent uses in accordance with Tracy Municipal Code Section 10.08. Adequate lighting in accordance with City of Tracy Standard Plan 154 shall be provided to ensure the safety and security of pedestrians and vehicular movements.

b. Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the Project, which would mitigate or avoid potential impacts associated with the generation of additional sources of light and glare as identified in the Final EIR. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

c. Facts in Support of Findings

Construction-related light and glare impacts would be less than significant with implementation of Mitigation Measure 4.3-2a, which would require nighttime security lighting to be located and aimed away from adjacent residential areas and consist of minimal wattage necessary to provide safety at the construction site. Implementation of Mitigation Measure 4.3-2b would ensure that any exterior lighting would not spill over onto adjacent uses and would reduce impacts from permanent sources of light and glare to less than significant.

3. Air Quality

a. Impacts and Mitigation Measures

Impact 4.5-1: Implementation of the Project would result in temporary construction-related dust and vehicle emissions within the Project site.

Mitigation Measure 4.5-1a: Prior to the issuance of any grading, building, or other construction permit, the Project applicant shall demonstrate conformance with SJVAPCD Rule VIII to the satisfaction of SJVAPCD. The Development and Engineering Services Department shall require that the grading plans, building plans, and specifications stipulate compliance with the control measures in SJVAPCD Regulation VIII. The mitigation could include the following or may include other measures as determined by the SJVAPCD:

-Properly and routinely maintain all construction equipment, as recommended by manufacturer's manuals, to control exhaust emissions.
-Shut down equipment when not in use for extended periods of time, to reduce exhaust emissions associated with idling engines.
-Encourage ride-sharing and use of transit transportation for construction employees commuting to the project site.

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-Use electric equipment for construction whenever possible in lieu of fossil fuel-fired equipment.
-Curtail construction during periods of high ambient pollutant concentrations.
-Construction equipment shall operate no longer than eight cumulative hours per day.
-All construction vehicles shall be equipped with proper emission control equipment and kept in good and proper running order to reduce NOx emissions.
-All construction activities within the project site shall be discontinued during the first stage smog alerts.
-Construction and grading activities shall not be allowed during first stage ozone alerts. (First stage ozone alerts are declared when ozone levels exceed 0.20 ppm for the 1-hour average.)

Mitigation Measure 4.5-1b: Prior to the issuance of any grading, building, or other construction permit, the Project applicant shall demonstrate conformance with SJVAPCD Rule VIII to the satisfaction of the SJVAPCD. The Development and Engineering Services Department shall require that the grading plans, building plans, and specifications stipulate that, in compliance with the fugitive dust control measures in SJVAPCD Regulation VIII. The mitigation could include the following or may include other measures as determined by SJVAPCD:

-Water previously disturbed exposed surfaces (soil) a minimum of three-times/day or whenever visible dust is capable of drifting from the site or approaches 20 percent opacity.
-Water and haul roads (unpaved) a minimum of three-times/day or whenever visible dust from such roads is capable of drifting from the site or approaches 20 percent opacity.
-All access roads and parking areas shall be covered with asphalt-concrete paving or water sprayed regularly.
-Dust from all onsite and offsite unpaved access roads shall be effectively stabilized by applying water or using a chemical stabilizer or suppressant.
-Reduce speed on unpaved roads to less than 15 miles per hour.
-Install and maintain a trackout control device that meets the specifications of SJVAPCD Rule 8041 if the site exceeds 150 vehicle trips per day or more than 20 vehicle trips per day by vehicle with three or more axles.
-Stabilize all disturbed areas, including storage piles, which are not being actively utilized for construction purposes using water, chemical stabilizers or by covering with a tarp, other suitable cover or vegetative ground cover.
- Control fugitive dust emissions during land clearing, grubbing, scraping, excavation, leveling, grading or cut and fill operations with application of water or by presoaking.
-When transporting materials offsite, maintain a freeboard limit of at least six inches and cover or effectively wet to limit visible dust emissions.
-Limit and remove the accumulation of mud and/or dirt from adjacent public roadways at the end of each workday. (Use of dry rotary brushes is prohibited except when preceded or accompanied by sufficient wetting to limit visible dust emissions and use of blowers is expressly forbidden.)
-Stabilize the surface of storage piles following the addition or removal of materials using water or chemical stabilizer/suppressants.
-Remove visible track-out from the site at the end of each workday.

-Cease grading activities during periods of high winds (greater than 20 miles per hour [mph] over a one-hour period).
-Asphalt-concrete paving shall comply with SJVAPCD Rule4641 and restrict use of cutback, slow-cure, and emulsified asphalt paving materials.
-Grading should be conducted in phases.
-The Project site shall not be cleared of existing vegetation cover for the preparation of construction until the issuance of grading permits required by construction.
-The Project applicant shall revegetate graded areas as soon as it is feasible after construction is completed.

b. Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the Project, which would mitigate or avoid potential impacts from air pollutant emissions during construction activities as identified in the Final EIR. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

c. Facts in Support of Findings

Short-term air quality impacts during construction would be less than significant with implementation Mitigation Measures 4.5-1a and 4.5-1b, which require conformance with the San Joaquin Air Pollution Control District's (SJAPCD's) Rule VIII regulating fugitive dust and controlling equipment exhaust emissions.

4. Biological Resources

a. Impacts and Mitigation Measures

Impact 4.7-1: Construction in the Project area could disturb nesting Swainson's Hawk and result in the loss of foraging habitat.

Impact 4.7-2: The proposed Project could disturb nesting Burrowing Owls and result in the loss of occupied Burrowing Owl habitat.

Impact 4.7-3: The proposed Project could disturb nesting White-Tailed Kites and result in injury or mortality to individuals.

Impact 4.7-4: The proposed Project could disturb nesting Loggerhead Shrikes and result in injury or mortality to individuals.

Impact 4.7-5: The proposed Project could disturb nesting California Horned Larks and result in injury or mortality to individuals.

Impact 4.7-6: The proposed Project could result in injury or mortality to, and loss of foraging and refuge habitat for, San Joaquin Kit Foxes.

Impact 4.7-8: Grading and construction within the Project area would result in temporary noise impacts to nearby Swainson's Hawks and Burrowing Owls.

Mitigation Measure 4.7-1: Prior to the issuance of grading or building permits, the Project applicant shall either pay the appropriate fee or dedicate, as conservation easements or fee title, habitat lands as prescribed by the San Joaquin County Council of Governments to compensate for the loss of habitat and its conversion to urban use.

Impact 4.7-7: The proposed Project could result in the injury of mortality and the disturbance of maternity colonies of Pallid Bat and SJMSCP-covered bat species.

Mitigation Measure 4.7-7: The Project applicant shall implement take minimization measures, adopted in the SJMSCP to avoid take of other bat species, to minimize take of pallid bats during the breeding season (April-September).

b. Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the Project, which would mitigate or avoid potential impacts to special-status species and nesting birds and raptors as identified in the Final EIR. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

c. Facts in Support of Findings

Potential impacts to special-status species and nesting birds and raptors would be less than significant with implementation of Mitigation Measure 4.7-1 requiring compensation for the loss of habitat and its conversion to urban use either through the payment of the appropriate fee or dedication, as a conservation easement or fee title, of habitat lands as prescribed by the San Joaquin Council of Governments.

5. Cultural Resources

a. Impacts and Mitigation Measures

Impact 4.8-1: Project implementation may cause a substantial adverse change to an unknown historical or archeological resource, or result in the damage or destruction of unknown paleontological resources or human remains.

Mitigation Measure 4.8-1: If subsurface deposits believed to be cultural or human in origin are discovered during the construction of the Project, then all work shall halt within a 200-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeologist, shall be retained at the Project sponsor's expense to evaluate the significance of the find. Work shall not continue at the discovery site until the archaeologist conducts sufficient research

and data collection to make a determination that the resource is either: 1) not cultural in origin; or 2) not potentially significant or eligible for listing on the National Register of Historic Places or the California Register or Historical Resources.

If a potentially-eligible resource is encountered, then the archaeologist, lead agency and Project sponsor shall arrange for either: 1) total avoidance of the resource, if possible; or 2) test excavations to evaluate eligibility and, if eligible, data recovery as mitigation. The determination shall be formally documented in writing and submitted to the lead agency and filed with the North Central Information Center as verification that the provisions in this mitigation measure have been met.

If human remains of any kind are found during construction activities, allactivities shall cease immediately and the San Joaquin County Coroner be notified as required by state law (Section 7050.5 of the Health and Safety Code). If the coroner determines the remains to be of Native American origin, he or she shall notify the Native American Heritage Commission (NAHC). The NAHC shall then identify the most likely descendant(s) (MLD) to be consulted regarding treatment and/or reburial of the remains (Section 5097.98 of the Public Resources Code). If an MLD cannot be identified, or the MLD fails to make a recommendation regarding the treatment of the remains within 48 hours after gaining access to the remains, the City shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance. Work can continue once the MLD's recommendations have been implemented or the remains have been reburied if no agreement can be reached with the MLD (Section 5097.98 of the Public Resources Code).

If any fossils are encountered, there shall be no further disturbance of the area surrounding this find until the materials have been evaluated by a qualified paleontologist, and appropriate treatment measures have been identified.

b. Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the Project, which would mitigate or avoid the potential impacts on historical, archaeological and paleontological resources and human remains as identified in the Final EIR. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

c. Facts in Support of Findings

Potential impacts to cultural resources, including human remains, would be less than significant with implementation of Mitigation Measures 4.8-1 requiring work to halt if subsurface deposits believed to be cultural or human in origin are discovered and retention of a qualified archaeologist to evaluate the find. If a potentially eligible resource is encountered, human remains are found or any

fossils are identified, Mitigation Measure 4.8-1 provides the necessary steps to follow.

6. Geology and Soils

a. Impacts and Mitigation Measures

Impact 4.9-2: The proposed Project could result in substantial soil erosion or the loss of topsoil.

Impact 4.9-3: The proposed Project could be located on a geologic formation unit or soil that is unstable, or that would become unstable as a result of construction and potentially result in liquefaction.

Impact 4.9-4: The proposed Project could be located on expansive soil, as defined in Table 18-1-B of the California Building Code (1994), creating substantial risks to life or property.

Mitigation Measure 4.9-2: In accordance with CBC (Title 24, Part 2) Section 18O4A.3 and A.5, and the requirements of Tracy General Plan Objective SA-1.1, Policy 1, liquefaction and seismic settlement potential shall be addressed in design-level geotechnical engineering investigations. The Development and Engineering Services Department shall ensure that all the pertinent sections of the CBC shall be adhered to in the construction of buildings on the Project site, and that all appropriate measures are implemented in order to reduce the risk of liquefaction and seismic settlement prior to the issuance of a building permit.

b. Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the Project, which would mitigate or avoid potential impacts associated with soil erosion, unstable soil and expansive soil as identified in the Final EIR. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

c. Facts in Support of Findings

Implementation of Mitigation Measure 4.9-2 requiring preparation of design-level geotechnical engineering investigations and adherence to recommendations contained therein would reduce impacts associated with soil erosion, unstable soil and expansive soil to less than significant.

7. Hazards and Hazardous Materials

a. Impacts and Mitigation Measures

Impact 4.10-1: Short-term construction activities and long-term operations at the Project site may create a significant hazard to the public or environment through accident conditions involving the release of hazardous materials.

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Mitigation Measure 4.10-1a: Prior to demolition and/or rehabilitation activities, an asbestos survey shall be conducted by an Asbestos Hazard Emergency Response Act (AHERA) and California Division of Occupational Safety and Health (Cal/OSHA) certified building inspector to determine the presence or absence of asbestos-containing materials (ACMs). If ACMs are located, abatement shall be completed prior to any activities that would disturb ACMs or create an airborne asbestos hazard. Asbestos removal shall be performed by a State certified asbestos containment contractor in accordance with San Joaquin Valley Air Pollution Control District (SJVAPCD) Rule 4002.

Mitigation Measure 4.10-1b: If paint is separated from building materials (chemically or physically) during demolition of the structures, the paint waste shall be evaluated independently from the building material for lead by a qualified Environmental Professional. If lead-based paint is found, abatement shall be completed by a qualified Lead Specialist prior to any activities that would create lead dust or fume hazard. Lead-based paint removal and disposal shall be performed in accordance with California Code of Regulation Title 8, Section 1532.1, which specifies exposure limits, exposure monitoring and respiratory protection, and mandates good worker practices by workers exposed to lead. Contractors performing lead-based paint removal shall notify the City when abatement activities have been completed in accordance with state requirements.

Mitigation Measure 4.10-1c: Prior to issuance of a grading permit, soil sampling shall occur within the portions of the Project site that have historically been utilized for agricultural purposes and may contain pesticide residues in the soil, as determined by a qualified Phase II/Site Characterization specialist. The sampling, conducted in consultation with the San Joaquin County Environmental Health Department (EHD), shall determine if pesticide concentrations exceed established regulatory requirements and shall determine if pesticide concentrations exceed established regulatory requirements and shall identify further site characterization and remedial activities, if necessary. Should further site characterization/remedial activities be required, these activities shall be conducted per the applicable regulatory agency requirements, as directed by the EHD.

Mitigation Measure 4.10-1d: Prior to issuance of building permits, a qualified Site Characterization specialist shall review existing Site Characterization documents with regard to onsite contaminated soils associated with adjacent pipeline leaks. If such review identifies significant data gaps and, if required by the Central Valley Regional Water Quality Control Board (RWQCB), the Site Characterization specialist, in consultation with Chevron and RWQCB, shall conduct Site Characterization at the Project site. Upon completion of the review (and updated Site Characterization activities, if needed), the Site Characterization specialist shall recommend remedial activities, if necessary, in consultation with RWQCB.

Mitigation Measure 4.10-1e: Prior to issuance of building permits, a vapor intrusion screening evaluation shall be conducted by a qualified Environmental Professional, in consultation with the Central Valley Regional Water Quality

Control Board (RWQCB). Should the screening evaluation indicate that there is a reasonable potential that proposed building(s) could be impacted by vapor intrusion, the Environmental Professional, in consultation with Chevron and RWQCB, shall conduct targeted soil vapor/vapor intrusion investigation(s). Should the investigation(s) determine that proposed building(s) could be impacted by indoor air vapor concentrations above regulatory thresholds, the Environmental Professionals, in consultation with RWQCB, shall recommend specific design measures to be incorporated into the building(s) design that would reduce these indoor air quality concentrations to below regulatory thresholds.

Mitigation Measure 4.10-1f: Prior to issuance of a grading permit, the Project applicant(s) shall submit a Worker Safety Plan for site disturbance/construction activities, in consultation with California Division of Occupational Safety and Health (Cal/OSHA) and the San Joaquin County Environmental Health Department (EHD). The Worker Safety Plan shall include safety precautions (e.g., personal protective equipment or other precautions to be taken to minimize exposure to hazardous materials) to be taken by personnel when encountering potential hazardous material, including potential contaminated groundwater.

Mitigation Measure 4.10-1g: If unknown wastes or suspect materials are discovered during construction by the contractor that are believed to involve hazardous waste or materials, the contractor shall comply with the following:
-Immediately stop work in the vicinity of the suspected contaminant, removing workers and the public from the area
-Notify the City Building Official
-Secure the areas as directed by the City Building Official
-Notify the San Joaquin County Environmental Health Department's (EHD's) Hazardous Waste/Materials Coordinator.

Impact 4.10-3: The Project site is located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, could create a significant hazard to the public or the environment.

Mitigation Measures 4.10-1d and 4.10-1e, above.

Impact 4.10-5: Project implementation may expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.

Mitigation Measure 4.10-5: Prior to issuance of building permits, all development at the Project site shall satisfy fire flow and hydrant requirements, street widths and design requirements, as established by the City.

b. Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the Project, which would mitigate or avoid potential impacts associated with accidental release or exposure to hazardous materials and wildland fires as identified in the Final EIR. The City further finds that the change or alteration in the Project or the

requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

c. Facts in Support of Findings

Implementation of Mitigation Measures 4.10-1a through 4.10-1g would reduce impacts that might result from accidental release or exposure to hazardous materials to less than significant. These measures would require an asbestos survey, LBP evaluation, soil sampling within portions of site utilized for agricultural purposes, a Site Characterization to address onsite contaminated soils from adjacent pipeline leaks, vapor intrusion investigations, and stopping work and notifying the City Building Official if unknown wastes or suspect materials are discovered during construction. In addition, impacts associated with wildland fires would be less than significant with implementation of Mitigation Measure 4.10-5 requiring all development to satisfy fire flow and hydrant, street widths and design requirements.

8. Noise

a. Impacts and Mitigation Measures

Impact 4.12-3: Implementation of the proposed Project could result in an increase in ambient noise levels due to operational noise impacts.

Mitigation Measure 4.12-3: Prior to issuance of a building permit, the Project applicant shall demonstrate, to the satisfaction of the Development and Engineering Services Department, that site placement of stationary noise sources would not exceed the City's noise standard of 60 dBA at any adjacent residential district property line inside the City limits, or 65 dBA at an adjacent commercial property line.

b. Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the Project, which would mitigate or avoid potential impacts resulting from an increase in ambient noise levels as identified in the Final EIR. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

c. Facts in Support of Findings

Implementation of Mitigation Measure 4.12-3 requiring building permit plans to demonstrate that the site placement of stationary noise sources would not exceed the City noise standards would reduce the impact to less than significant.

9. Public Services, Utilities, and Service Systems

a. Impacts and Mitigation Measures

Impact 4.13-3: The proposed Project would construct sewer lines, the construction of which could cause significant environmental effects.

Mitigation Measures 4.5-1a and b (in Air Quality Section, above)

Mitigation Measure 4.13-3: Prior to issuance of grading or building permits, whichever occurs first, sewer design calculations shall be prepared for review and approval by the City Engineer to ensure proper sizing of sewer lines and lift stations to meet sewer flow requirements.

Impact 4.13-5: The proposed Project may require additional water lines and/or pump station and water reservoir improvements to provide sufficient water pressure or fire flows, the construction of which could cause significant environmental effects.

Mitigation Measures 4.5-1a and b (in Air Quality Section, above)

b. Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the Project, which would mitigate or avoid potential impacts associated with the construction of new sewer lines, and water lines, pump stations and/or water reservoir improvements as identified in the Final EIR. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

c. Facts in Support of Findings

Impacts from the construction of sewer and water improvements would be less than significant with implementation of Mitigation Measures 4.5-1a and b and 4.12-3, which require conformance with the San Joaquin Air Pollution Control District's Rule VII Rule VIII regulating fugitive dust and controlling equipment exhaust emissions and preparation of sewer design calculations to ensure proper sizing of sewer lines and lift stations to meet sewer flow requirements.

10. Transportation/Traffic

a. Impacts and Mitigation Measures

Impact 4.14-2: The proposed Project would add traffic to the unsignalized County (City of Tracy with Project annexation) intersection of Lammers Road and Grant Line Road (Intersection #2). This intersection is projected to operate at an overall LOS F (unacceptable) in the AM and PM peak hour.

Mitigation Measure 4.14-2: A traffic signal shall be installed at the intersection of Lammers Road and Grant Line Road (Intersection #2). In conjunction with the proposed traffic signal installation, the following geometric improvements shall be constructed:

-Westbound approach – Reconstruct the approach to include one through lane and one through/right-turn lane and a separate left-turn lane.
-Eastbound approach – reconstruct the approach to include one through lane and one shared through/right-turn lane. Provide an acceleration lane east of Lammers Road.
-Northbound approach – Reconstruct the approach to include a shared left-turn/through land and a right-turn lane. The existing truck exit from Costco would be reconstructed to be part of the intersection and the current truck movements incorporated in the northbound right-turn movement.

The Project applicant shall be responsible for implementation of the above improvements prior to Project occupancy or at a time determined by the City Engineer based on the City's ability to meet City vehicle and pedestrian standards. If all or a portion of thi8s traffic signal improvement is otherwise scheduled by the City to be financed as a Program improvement, the Project applicant may be eligible for reimbursements from future benefitting development in excess of the Project's fair share costs.

Impact 4.14-3: The proposed Project would add traffic to the Caltrans intersection of I-205 eastbound ramps and Grant Line Road (Intersection #6). The intersection is projected to operate at an LOS E (Unacceptable) during the PM and Saturday peak hours.

Mitigation Measure 4.14-3: A second eastbound left-turn and widening of the eastbound on-ramp to two lanes shall be constructed at the intersection of I-205 Eastbound Ramps and Grant Line Road (Intersection #6). To accommodate the second left-turn lane and widening of the ramp, the westbound free right-turn land shall be modified to be part of the signal operation. The proposed improvement may require a design exemption from Caltrans. This improvement is included in the City's TIF program (Project 72PP-084). The Project shall make a fair share contribution toward implementation of this improvement through the payment of City of Tracy traffic impact fees.

Impact 4.14-4: The proposed Project would add a driveway and traffic at Project Access Road-2 and Grant Line Road (Intersection #17). This intersection is projected to operate at LOS F (unacceptable) in the PM peak hour.

Mitigation Measure 4.14-4: A traffic signal shall be installed at the intersection of Access Road-2 and Grant Line Road (Intersection #17). In conjunction with the traffic signal installation, the following geometric improvements shall be constructed:

-Westbound approach – Provide two through lanes and a left-turn lane.
-Eastbound approach – Provide one through lane and one shared through-right-turn lane.
-Northbound approach – Provide a separate left-turn and right-turn lane.

The four lane improvement along Grant Line Road would continue along the Project frontage to accommodate traffic flow demand. SimTraffic analysis indicates that four lanes are required to avoid queue overflow between the Project driveways. The Project applicant shall be responsible for implementation of the above improvements prior to project occupancy or at a time determined by the City Engineer based on the City's ability to meet vehicle and pedestrian standards.

Impact 4.14-5: The proposed Project would add a driveway and traffic at Project Access Road-3 and Grant Line Road (Intersection #19) that could result in unsafe conditions.

Mitigation Measure 4.14-5: A westbound left-turn lane for inbound Project traffic shall be provided at the intersection of Access Road-3 and Grant Line Road (Intersection #19). The Project applicant shall be responsible for implementation of the left-turn lane prior to Project occupancy or at a time determined by the City Engineer based on the City's ability to meet vehicle and pedestrian standards.

Impact 4.14-6: (Near term plus Project) The proposed Project, along with near term growth, would result in unacceptable traffic operations at four intersections.

Mitigation Measures 4.14-2 through 4.14-5, above.

Impact 4.14-8: (Cumulative plus Project) The proposed Project, along with cumulative growth, would result in unacceptable operations at four intersections.

Mitigation Measure 4.14-8a: To provide acceptable (LOS D or better) operations at the intersection of Lammers Road/Grant Line Road, a westbound left-turn lane and conversion of one eastbound through lane into a shared through/right-turn lane shall be constructed. These improvements are similar to those recommended in Mitigation Measure 4.14-2. In addition, the northbound approach shall be modified to provide a separate left-turn lane and a shared through/right-turn lane. The Project applicant shall be responsible for implementation of the above improvements prior to occupancy or at a time determined by the City Engineer based on the City's ability to meet City vehicle and pedestrian standards.

Mitigation Measure 4.14-8b: The Project applicant shall make a fair share contribution toward implementation of improvements at the intersection of I-205 Eastbound Ramps/Grant Line Road including the construction of an eastbound loop on-ramp through payment of City traffic impact fees.

Mitigation Measure 4.14-8c: The addition of a traffic signal, westbound left-turn lane (Mitigation Measure 4.14-4), and separate left-turn and right-turn lanes on the northbound approach shall be required at the intersection of Access Road-2/Grant Line Road.

b. Findings

The City finds that, pursuant to Section 15091(a)(1) of the CEQA Guidelines, changes or alterations have been required in or incorporated into the Project,

which would mitigate or avoid potential traffic impacts as identified in the Final EIR. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible.

c. Facts in Support of Findings

Implementation of Mitigation Measures 4.14-2 through 4.14-5 would reduce traffic impacts under Project Plus Existing Conditions and Project Plus Near Term Conditions to less than significant. These mitigation measures would require installation of a traffic signal at the intersection of Lammers Road and Grant Line Road; a second eastbound left-turn lane and widening of the eastbound on-ramp to two lanes at the intersection of I-205 Eastbound Ramps and Grant Line Road; installation of a traffic signal at the intersection of Access Road-2 and Grant Line Road; and a westbound left-turn lane for inbound Project traffic at the intersection of Access Road-3 and Grant Line Road.

In addition, Mitigation Measures 4.14-8a through 4.14-8c would reduce traffic impacts under Cumulative Plus Project Conditions. These mitigation measures would require a westbound left-turn lane and conversion of one eastbound through lane into a shared through/right-turn lane at the intersection of Lammers Road and Grant Line Road plus on the northbound approach a separate left-turn lane and a shared through/right-turn lane; a fair share contribution toward improvements at the intersection of I-205 Eastbound Off-Ramp and Grant Line Road; and a traffic signal at the intersection of Access Road-2 and Grant Line Road, and separate right-turn and left-turn lanes on the northbound approach.

B. Significant and Unavoidable Impacts

Based upon the criteria set forth in the EIR, the City finds that the following environmental effects of the Project are potentially significant and unavoidable. (Pub. Resources Code, section 21081; Guidelines section 15091.) However, as explained in the Statement of Overriding Considerations set forth in Exhibit C below, these effects are considered to be acceptable when balanced against the economic, legal, social, technological and/or other benefits of the Project.

1. Agricultural Resources

a. Impacts and Mitigation Measures

Impact 4.4-1: The proposed Project would convert prime farmland to non-agricultural use.

Mitigation Measure 4.4-1: Prior to the issuance of building permits, the Project applicant shall pay the appropriate Agricultural Mitigation Fee to the City of Tracy, in accordance with Chapter 13.28 of the Tracy Municipal Code.

Impact 4.4-3: The proposed Project would result in cumulatively considerable impacts to agricultural resources.

Mitigation Measure: No feasible mitigation is available beyond the payment of fees described in Mitigation Measure 4.4-1.

b. Findings

The City Council finds Impacts 4.4-1 and 4.4-3 to be significant and unavoidable; the mitigation measure listed above is adopted and will reduce this impact, but not to a level of insignificance. The City Council further finds that there are no other feasible mitigation measures available to minimize, reduce or avoid this impact.

c. Facts in Support of Findings

The Project would permanently convert approximately 43 acres of Prime Farmland to non-agricultural use. Although mitigation is included that requires future developers of the Project site to pay fees to preserve farmland elsewhere in the County and/or dedicate agricultural habitat land, there is no mitigation that could completely reduce or minimize this impact since prime agricultural soils cannot be recreated. Thus, the Project would result in a significant and unavoidable impact.

While local and regional programs and regulations would help reduce the cumulative loss of agricultural land throughout the state, the proposed Project in combination with other development projects undertaken in agricultural areas would result in a net permanent loss of agricultural land to non-agricultural use, which would be significant and unavoidable. The Project's contribution would be cumulatively considerable, as there is no way to recreate the agricultural land it would convert to non-agricultural use.

As there is no feasible mitigation to reduce impacts resulting from the conversion of Prime Farmland to a non-agricultural use, this is significant and unavoidable Project impact as well as a significant and unavoidable cumulative impact.

2. Air Quality

a. Impacts and Mitigation Measures

Impact 4.5-2: The proposed Project would result in an overall increase in the local and regional pollutant load due to direct impacts from vehicle emissions and indirect impacts from electricity and natural gas consumption.

Mitigation Measure 4.5-2: Prior to issuance of building permits, the Development and Engineering Services Department shall verify that the Project has demonstrated compliance with SJVAPCD Rule 9510, Indirect Source Review (ISR) to the satisfaction of the SJVAPCD. The Project applicant shall coordinate with SJVAPCD to ensure that the Project meets the requirements of SJVAPCD Rule 9510, which requires the following reductions:

-20 percent of construction-exhaust NOx
-45 percent of construction-exhaust PM10
-33 percent of operational NOx over 10 years

-50 percent of operational PM10 over 10 years

The SJVAPCD provides numerous measures to attain the emissions reductions target above, which are available on their website (http://www.valleyair.org/ISR/ISROnSiteMeasures.htm.). The SJVAPCD allows project applicants to choose to implement the SJVAPCD-approved emissions reduction measures, or pay an emission based fee to fund off-site emissions reduction projects. If in-lieu fees are required, the Project applicant shall coordinate with SJVAPCD to calculate the amount of the fees required to off-set Project impacts.

Impact 4.5-3: Implementation of the proposed Project could conflict with the most recent air quality management plan.

Mitigation Measure: Implement Mitigation Measure 4.5-2. No other feasible mitigation measures are available.

Impact 4.5-4: Implementation of the proposed Project could impact regional air quality levels on a cumulatively considerable basis.

Mitigation Measures: Implement Mitigation Measures 4.5-1a, 4.5-1b, and 4.5-2. No other feasible mitigation measures are available.

b. Findings

The City Council finds Impacts 4.5-2, 4.5-3, and 4.5-4 to be significant and unavoidable; the mitigation measures listed above are adopted and will reduce these impacts, but not to a level of insignificance. The City Council further finds that there are no other feasible mitigation measures available to minimize, reduce or avoid these impacts.

c. Facts in Support of Findings

Mobile source emissions generated by vehicle traffic associated with the proposed Project would exceed established SJVAPCD thresholds. Although mitigation is included that requires compliance with SJVAPCD's Rule 9510 (Indirect Source Rule [ISR]) to reduce emissions, the impact would remain significant and unavoidable.

The proposed Project would result in significant air quality impacts and would, therefore, conflict with the applicable air quality management plan. The significant air quality impacts could contribute to a pollutant for which the area is non-attainment. Despite mitigation, this impact would remain significant and unavoidable.

Since construction emissions from future development projects within the Project area cannot be mitigated to a less than significant level, operation of those projects would exceed SJAVPCD thresholds, and the construction and operation of 466,000 square feet of commercial and office uses would have similar significant and unavoidable impacts. Thus, cumulative impacts would be considered significant and unavoidable.

The proposed Project would be consistent with the City of Tracy General Plan (City General Plan) vision for UR 2 land use designation. The City of Tracy General Plan Environmental Impact Report (General Plan EIR) analyzed the long-term development of the City and found that buildout under the City General Plan is projected to lead to substantial increases in vehicle travel and contribute to existing air quality issues in the Basin. These air quality impacts associated with increases in regional traffic are anticipated to occur after 2030, constituting a cumulatively significant impact. As a result, the proposed Project would have significant air quality impact at both the Project and the cumulative level.

3. Greenhouse Gas Emissions

a. Impacts and Mitigation Measures

Impact 4.6-1: Greenhouse gas emissions generated by the proposed Project would have a significant impact on the environment.

Mitigation Measure: No feasible mitigation beyond measures included in the General Plan and Sustainability Action Plan are available.

Impact 4.6-3: Greenhouse gas emissions resulting from development associated with implementation of the proposed Project would impact greenhouse gas levels on a cumulatively considerable basis.

Mitigation Measure: No feasible mitigation beyond measures included in the General Plan and Sustainability Action Plan are available.

b. Findings

The City Council finds Impacts 4.6-1 and 4.6-3 to be significant and unavoidable; the mitigation measures contained within the General Plan and the Sustainability Action Plan will reduce the impacts, but not to a level of insignificance. The City Council further finds that there are no other feasible mitigation measures available to minimize, reduce or avoid these impacts.

c. Facts in Support of Findings

An evaluation of potential impacts related to greenhouse gas (GHG) emissions is found in Section 4.6 (Greenhouse Gas Emissions) of the Draft EIR.

Emissions reductions from Project-design features and implementation of the City's Sustainability Action Plan Strategies E-2, T-2, and T-17 would reduce greenhouse gas emissions by 18 percent and implementation of the Sustainability Action Plan would achieve a 22 to 28 percent reduction in greenhouse gas emissions from business-as-usual conditions throughout the City. However, the SJVAPCD requires a 29 percent reduction from business-as-usual projected emissions for greenhouse has impacts to be considered less than significant.

Although the proposed Project would be consistent with the City's General Plan and Sustainability Action Plan and would incorporate relevant measures within the Sustainability Action Plan, Project GHG emissions would not meet SJVAPCD criteria and impacts would be significant and unavoidable. Because the Project's impacts associated with GHG emissions would be significant and unavoidable, the Project's cumulative-related GHG emissions would also be significant and unavoidable.

EXHIBIT B

FINDINGS RELATED TO ALTERNATIVES

The EIR describes and evaluates three alternatives to the proposed Project. While all of the alternatives have the ability to reduce environmental impacts, none of the alternatives can completely reduce all of the environmental impacts to a level of insignificance.

As explained below, the City Council finds these alternatives to be infeasible. To be feasible, an alternative must be capable of being successfully accomplished within a reasonable period of time, taking into account environmental, economic, legal, social, technological and/or other relevant factors, and it must reduce or avoid potentially significant impacts of the Project. A key factor is the degree to which the Project and alternatives to the Project will implement relevant City goals and policies.

The City Council finds that when looked at as a whole, and considering the benefits presented by the Project together with its potential environmental impacts, the Project as conditioned and mitigated offers a reasonable and desirable means for achieving important City goals, policies and objectives including, among others, providing additional opportunities for Tracy residents to gain access to retail goods and consumer and office services, creating opportunities for new businesses to start or expand, building out and implementing the Tracy General Plan, and providing additional employment opportunities for Tracy residents. The Project comprises a feasible and reasonable method of achieving these City goals, policies and objectives while offering benefits to the public that would not otherwise occur in the absence of the Project. As explained in more detail below, the City Council finds that the alternatives to the Project will not achieve these important City objectives to the same degree as the proposed Project. Further, as explained in the findings for each alternative below, unlike the Project, some of the alternatives would impede achievement of City policies and objectives relating to economic development, community development and employment.

The City Council finds that alternatives analyzed in the EIR constitute a reasonable range of alternatives. These alternatives were selected for analysis because they satisfy most of the Project objectives (with the exception of the No Project alternative, which was analyzed to comply with CEQA) and because they reduce or avoid some or all of the potentially significant environmental impacts of the proposed Project. The mixed-use development alternative (Alternative B) provides the decision makers and the public with an analysis of the impacts of the Project developing with a mix of high density residential, commercial, and office uses consistent with the Commercial land use designation identified in the City General Plan. The industrial development alternative (Alternative C) provides the decision makers and the public with a comparison to development under a General Plan designation of Industrial instead of Commercial and land uses including warehouse, distribution, and mini storage. Overall, this constitutes a reasonable range of alternatives given the Project objectives, the limited scope of the Project and the site overall, and the existence of substantial, established surrounding land uses, land use patterns and infrastructure.

A. <u>No-Project/No Build (Status Quo) Alternative</u>

Under the No Project/No Build (Status Quo) Alternative (Alternative A), there would be no physical or operational changes at the Project site and, thus, the existing conditions would remain unchanged. The Project site would not be annexed to the City, the City General Plan and I-205 Corridor Specific Plan would not be amended, and the site would not be Prezoned Planned Unit Development (PUD).

Implementation of Alternative A would avoid the Project's significant and unavoidable impacts related to agricultural resources, air quality and GHG emissions as well as potentially significant impacts in the areas of land use and planning, aesthetics, air quality, biological resources, cultural resources, geology and soil, hazards and hazardous materials, hydrology, drainage and water quality, noise, public services, utilities and service systems, and traffic. Because the Project site would continue to be used for hay production and the existing three homes and their associated outbuildings and the existing welding shop would remain, this alternative would not need to seek coverage under the SJMSCP and, thus, would not have any potential to conflict with the plan. However, Alternative A would not be consistent with the City General Plan vision for the Project site. In addition, Alternative A would have potentially greater risk for pesticide exposure and an increased potential for vapor intrusion compared to the proposed Project.

The City Council finds that this alternative is infeasible and less desirable than the proposed Project and rejects this alternative for the following reasons:

Alternative A would not meet the primary Project objectives of implementing the City General Plan, providing for the expansion of the City's regional commercial corridor, developing a Commercial Center of adequate size with reasonable freeway exposure and access to attract new anchor tenants, and constructing commercial and office buildings consistent with the development potential anticipated for the Project site by the City General Plan.

B. <u>Mixed-Use Development Alternative</u>

The Mixed-Use Development Alternative (Alternative B) assumes the Project site would develop with a mix of high density residential, commercial and office uses consistent with the Commercial land use designation identified in the City General Plan. This alternative would require annexation of the Project site to the City; a General Plan amendment to re-designate the Project site from UR 2 to Commercial; and Prezoning the site PUD. This alternative would allow a similar mix of land uses to develop on the Project site as envisioned by the City General Plan statistical profile. However, this alternative assumes a little less than half the land envisioned for commercial uses (approximately 16 acres) would be developed with residential uses, since the Commercial land use designation allows appropriately scaled and designed residential development in the density ranges permitted in the Residential High (RH) designation (12.1 to 25 units per gross acre).

Based on this, Alternative B would include 16 acres of residential uses at a density of 18 units per gross acre (288 multi-family units), 17 acres of commercial uses at an FAR of 0.3 (222,156 square feet) and seven acres of office uses at an FAR of 0.3 (91,476 square feet). Alternative B would allow multiple combinations of uses and building types, which would allow for flexibility of uses within the site. As a result, uses could be mixed in varying combinations or not mixed at all (e.g., a building could contain first floor retail with residential above, or only residential).

Implementation of Alternative B would reduce impacts related to aesthetics, air quality and greenhouse gas emissions. Because Alternative B would have the same development footprint, there would be no substantial changes in impacts associated with agricultural resources, biological resources, cultural resources, hydrology, drainage, and water quality, and traffic. Greater impacts would result in the areas of land use and planning, geology and soils,

hazards and hazardous materials, noise, and public services, utilities and service systems under Alternative 2.

The City Council finds that this alternative is infeasible and less desirable than the proposed Project and rejects this alternative for the following reasons:

Alternative B would not meet the Project objectives of developing a Commercial Center of adequate size with reasonable freeway exposure and access to attract new anchor tenants, remaining consistent with the I-205 Corridor Specific Plan, and constructing commercial and office buildings consistent with the development potential anticipated for the Project site by the City General Plan.

C. Industrial Development Alternative

The Industrial Development Alternative (Alternative C) assumes that the Project site would be developed with industrial uses such as warehouse, distribution and mini storage. This alternative would require annexation of the Project site to the City; a General Plan amendment to re-designate the Project site from UR 2 to Industrial; an amendment to the I-205 Corridor Specific Plan to add the Project site to the Specific Plan and designate it Light Industrial; and Prezoning the site PUD. Under this alternative, 33 acres of the site would develop with warehouse and distribution uses and the remaining seven acres with mini storage. Based on the I-205 Corridor Specific Plan's FAR of up to 0.5 for warehouse/distribution uses (and applying this same maximum FAR to mini storage uses), 33 acres of warehouse/distribution could accommodate a maximum of 718,740 square feet of floor area and seven acres of mini storage could include up to 152,460 square feet.

Although impacts associated with land use and planning, hydrology and water quality, and noise would be slightly greater under Alternative C, the majority of impacts would be the same or reduced compared to those identified for the proposed Project. Impacts associated with agricultural resources, biological resources, cultural resources and transportation/traffic would be equivalent under Alternative C. However, Alternative C would result in reduced impacts in the areas of aesthetics, geology and soils, greenhouse gas emissions, hazards and hazardous materials, and public services, utilities and service systems. Some impacts associated with air quality would be reduced and some would be greater.

The City Council finds that this alternative is infeasible and less desirable than the proposed Project and rejects this alternative for the following reasons:

Alternative C would not meet the primary Project objectives of implementing the City General Plan, providing for the expansion of the City's regional commercial corridor, developing a Commercial Center of adequate size with reasonable freeway exposure and access to attract new anchor tenants, and constructing commercial and office buildings consistent with the development potential anticipated for the Project site by the City General Plan.

EXHIBIT C

FINDINGS RELATED TO STATEMENT OF OVERRIDING CONSIDERATIONS

The City Council adopts and makes this Statement of Overriding Considerations concerning the Project's unavoidable significant impacts to explain why the Project's benefits override and outweigh its unavoidable impacts.

The City Council finds, based on substantial record evidence, that the Project's unavoidable significant impacts are acceptable in light of the Project's specific economic, legal, social, technological and other benefits. Each benefit set forth below constitutes an overriding consideration warranting approval of the Project, independent of the other benefits, despite each and every unavoidable impact. The Exhibit C also incorporates the findings contained in Exhibit B (relating to Alternatives), and the substantial evidence upon which they are based.

1. The Filios/Dobler Annexation and Development Project would be consistent with andeffectuates the City of Tracy's General Plan and other applicable planning and zoning goals, policies, objectives and requirements.
2. The Filios/Dobler Annexation and Development Project would expand the City's regional commercial corridor, which would provide the City with additional sales tax revenue and provide the community with greater opportunities for shopping for goods and services.
3. The Filios/Dobler Annexation and Development Project would provide and maintain connectivity with the existing shopping areas of the I-205 Corridor Specific Plan and increase opportunities for connectivity to residential areas south of the Project site.
4. The Filios/Dobler Annexation and Development Project would result in employment and shopping opportunities adjacent to existing residential and commercial areas, which would provide the benefits of reduced automobile dependence, gasoline consumption, GHG emissions and emissions of other pollutants associated with automobile use, noise pollution and improved congestion on local roadways.
5. The Filios/Dobler Annexation and Development Project, when compared to the other alternatives analyzed in the Final EIR (including the No Project Alternative), provides the best available balance between maximizing the attainment of the Project objectives while minimizing significant environmental impacts.

FILIOS/DOBLER ANNEXATION AND DEVELOPMENT PROJECT

FINAL ENVIRONMENTAL IMPACT REPORT
(State Clearinghouse No. 2010072043)

MITIGATION MONITORING AND REPORTING PROGRAM

Planning Commission Review Draft
September 28, 2011

EXHIBIT D

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
Land Use and Planning					
4.2-1 - Prior to the issuance of grading or building permits, the Project applicant shall either pay the appropriate fee or dedicate, as conservation easements or fee title, habitat lands as prescribed by the San Joaquin County Council of Governments to compensate for the loss of Agricultural Habitat Land and its conversion to urban use.	Require as a condition of Project approval. Project applicant pays fee or dedicates habitat lands.	City Council and Planning Division Planning Division	Draft and incorporate condition as part of Project approval. Prior to issuance of grading or building permits, ensure that fee has been paid or land has been dedicated.	Deny Project approval. Deny grading or building permits.	
Aesthetics					
4.3-2a - All construction-related lighting shall be located and aimed away from adjacent residential areas and consist of the minimal wattage necessary to provide safety at the construction site.	Require as a condition of Project approval. Project applicant submits building permit plans that conform to requirements.	City Council and Planning Division Planning Division	Draft and incorporate condition as part of Project approval. Prior to issuance of building permits, review plans to ensure that requirements of Mitigation Measure 4.3-2a have been met.	Deny Project approval. Deny building permits.	
4.3-2b - The Project applicant shall ensure that any exterior lighting does not spill over onto the adjacent uses in accordance with Tracy Municipal Code Section 10.08. Adequate lighting in accordance with City of Tracy Standard Plan 154 shall be provided to ensure the safety and security of pedestrians and vehicular movements.	Require as a condition of Project approval. Project applicant submits building permit plans that conform to requirements.	City Council and Planning Division Planning Division	Draft and incorporate condition as part of Project approval. Prior to issuance of building permits, review plans to ensure that requirements of Mitigation Measure 4.2-2b have been met.	Deny Project approval. Deny building permits.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
Agricultural Resources					
4.4-1 - Prior to the issuance of building permits, the Project applicant shall pay the appropriate Agricultural Mitigation Fee to the City of Tracy, in accordance with Chapter 13.28 of the Tracy Municipal Code.	Require as a condition of Project approval. Project applicant pays appropriate fee.	City Council and Planning Division Planning Division	Draft and incorporate condition as part of Project approval. Prior to issuance of building permits, ensure that fee has been paid.	Deny Project approval. Deny building permits.	
Air Quality					
4.5-1a - Prior to the issuance of any grading, building, or other construction permit, the Project applicant shall demonstrate conformance with SJVAPCD Rule VIII to the satisfaction of the SJVAPCD. The Development and Engineering Services Department shall require that the grading plans, building plans, and specifications stipulate compliance with the control measures in SJVAPCD Regulation VIII. The mitigation could include the following or may include other measures as determined by the SJVAPCD: ▪ Properly and routinely maintain all construction equipment, as recommended by manufacturer's manuals, to control exhaust emissions. ▪ Shut down equipment when not in use for extended periods of time, to reduce exhaust emissions associated with idling engines. ▪ Encourage ride-sharing and use of transit transportation for construction employees commuting to the project site. ▪ Use electric equipment for construction whenever possible in lieu of fossil fuel-fired	Require as a condition of Project approval. Project applicant includes relevant measures on plans submitted for grading, building, or other construction permits. Construction contractor implements control measures.	City Council and Planning Division Engineering/Planning Divisions Building Division	Draft and incorporate condition as part of Project approval. Review plans prior to issuance of grading, building, or other construction permits to ensure that requirements described in Mitigation Measure 4.5-1a have been met. Conduct periodic site visits during demolition, grading and construction.	Deny Project approval. Deny grading, building, or other construction permits. Halt demolition, grading or construction until control measures are implemented.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
equipment. ▪ Curtail construction during periods of high ambient pollutant concentrations. ▪ Construction equipment shall operate no longer than eight cumulative hours per day. ▪ All construction vehicles shall be equipped with proper emission control equipment and kept in good and proper running order to reduce NOX emissions. ▪ All construction activities within the project site shall be discontinued during the first stage smog alerts. ▪ Construction and grading activities shall not be allowed during first stage ozone alerts. (First stage ozone alerts are declared when ozone levels exceed 0.20 ppm for the 1-hour average.)					
4.5-1b - Prior to the issuance of any grading, building, or other construction permit, the Project applicant shall demonstrate conformance with SJVAPCD Rule VIII to the satisfaction of the SJVAPCD. The Development and Engineering Services Department shall require that the grading plans, building plans, and specifications stipulate that, in compliance with the fugitive dust control measures in SJVAPCD Regulation VIII. The mitigation could include the following or may include other measures as determined by the SJVAPCD:	Require as a condition of Project approval. Project applicant includes relevant measures on plans submitted for grading, building, or other construction permits.	City Council and Planning Division Engineering/Planning Divisions	Draft and incorporate condition as part of Project approval. Review plans prior to issuance of grading, building, or other construction permits to ensure that requirements described in Mitigation Measure 4.5-1b have been met.	Deny Project approval. Deny grading, building, or other construction permits.	
▪ Water previously disturbed exposed surfaces (soil) a minimum of three-times/day or whenever visible dust is capable of drifting from the site or approaches 20 percent	Construction contractor implements control measures.	Building Division	Conduct periodic site visits during demolition, grading and construction.	Halt demolition, grading or construction until control measures are implemented.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
opacity. ▪ Water all haul roads (unpaved) a minimum of three-times/day or whenever visible dust from such roads is capable of drifting from the site or approaches 20 percent opacity. ▪ All access roads and parking areas shall be covered with asphalt-concrete paving or water sprayed regularly. ▪ Dust from all onsite and offsite unpaved access roads shall be effectively stabilized by applying water or using a chemical stabilizer or suppressant. ▪ Reduce speed on unpaved roads to less than 15 miles per hour. ▪ Install and maintain a trackout control device that meets the specifications of SJVAPCD Rule 8041 if the site exceeds 150 vehicle trips per day or more than 20 vehicle trips per day by vehicle with three or more axles. ▪ Stabilize all disturbed areas, including storage piles, which are not being actively utilized for construction purposes using water, chemical stabilizers or by covering with a tarp, other suitable cover or vegetative ground cover. ▪ Control fugitive dust emissions during land clearing, grubbing, scraping, excavation, leveling, grading or cut and fill operations with application of water or by presoaking. ▪ When transporting materials offsite, maintain a freeboard limit of at least six inches and cover or effectively wet to limit visible dust emissions. ▪ Limit and remove the accumulation of mud and/or dirt from adjacent public roadways at					

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
the end of each workday. (Use of dry rotary brushes is prohibited except when preceded or accompanied by sufficient wetting to limit visible dust emissions and use of blowers is expressly forbidden). ▪ Stabilize the surface of storage piles following the addition or removal of materials using water or chemical stabilizer/suppressants. ▪ Remove visible track-out from the site at the end of each workday. ▪ Cease grading activities during periods of high winds (greater than 20 miles per hour [mph] over a one-hour period). ▪ Asphalt-concrete paving shall comply with SJVAPCD Rule 4641 and restrict use of cutback, slow-cure, and emulsified asphalt paving materials. ▪ Grading should be conducted in phases. ▪ The Project site shall not be cleared of existing vegetation cover for the preparation of construction until the issuance of grading permits required by construction. ▪ The Project applicant shall revegetate graded areas as soon as it is feasible after construction is completed.					
4.5-2 - Prior to issuance of building permits, the Development and Engineering Services Department shall verify that the Project has demonstrated compliance with SJVAPCD Rule 9510, Indirect Source Review (ISR) to the satisfaction of the SJVAPCD. The Project applicant shall coordinate with the SJVAPCD to ensure that the Project meets the requirements of SJVAPCD Rule 9510, which requires the following	Require as a condition of Project approval. Project applicant submits building permit plans that demonstrate compliance.	City Council and Planning Division Planning/Building Divisions and SJVAPCD	Draft and incorporate condition as part of Project approval. Review plans prior to issuance of building permits to ensure that requirements described in Mitigation Measure 4.5-2	Deny Project approval. Deny building permits.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
reductions: ▪ 20 percent of construction-exhaust NO_X ▪ 45 percent of construction-exhaust PM_{10} ▪ 33 percent of operational NO_X over 10 years ▪ 50 percent of operational PM_{10} over 10 years The SJVAPCD provides numerous measures to attain the emissions reductions targets above, which are available on their website. The SJVAPCD allows project applicants to choose to implement the SJVAPCD-approved emissions reduction measures, or pay an emission based fee to fund off-site emissions reduction projects. If in-lieu fees are required, the Project applicant shall coordinate with the SJVAPCD to calculate the amount of the fees required to off-set Project impacts.			have been met.		
Biological Resources					
4-.7-1 - Prior to the issuance of grading or building permits, the Project applicant shall either pay the appropriate fee or dedicate, as conservation easements or fee title, habitat lands as prescribed by the San Joaquin County Council of Governments to compensate for the loss of habitat and its conversion to urban use.	Require as a condition of Project approval. Project applicant pays fee or dedicates habitat lands.	City Council and Planning Division Planning Division	Draft and incorporate condition as part of Project approval. Prior to issuance of grading or building permits, ensure that fee has been paid or land has been dedicated.	Deny Project approval. Deny grading or building permits.	
4.7-7 - The Project applicant shall implement take minimization measures, adopted in the SJMSCP to avoid take of other bat species, to minimize take of pallid bats during the breeding season (April – September).	Require as a condition of Project approval. Project applicant	City Council and Planning Division Planning Division	Draft and incorporate condition as part of Project approval. Prior to issuance of	Deny Project approval. Deny issuance of	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
	includes take minimization measures on plans submitted for grading, building or demolition permits.		grading, building or demolition permits, ensure that take minimization measures adopted in the SJMSCP are included on plans.	grading, building or demolition permits.	
Cultural Resources					
4.8-1 - If subsurface deposits believed to be cultural or human in origin are discovered during the construction of the Project, then all work shall halt within a 200-foot radius of the discovery. A qualified professional archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards for prehistoric and historic archaeologist, shall be retained at the Project sponsor's expense to evaluate the significance of the find. Work shall not continue at the discovery site until the archaeologist conducts sufficient research and data collection to make a determination that the resource is either: 1) not cultural in origin; or 2) not potentially significant or eligible for listing on the National Register of Historic Places or the California Register of Historical Resources. If a potentially-eligible resource is encountered, then the archaeologist, lead agency and Project sponsor shall arrange for either: 1) total avoidance of the resource, if possible; or 2) test excavations to evaluate eligibility and, if eligible, data recovery as mitigation. The determination shall be formally documented in writing and submitted to the lead agency and filed with the North Central Information Center as verification that the provisions in this mitigation measure have been met.	Require as a condition of Project approval. If subsurface deposits are discovered during construction, contractor halts work and complies with requirements, as described in Mitigation Measure 4.8-1.	City Council and Planning Division Planning/Building Divisions	Draft and incorporate condition as part of Project approval. Conduct periodic site visits during grading and construction.	Deny Project approval. Halt grading and/or construction until requirements are met.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
If human remains of any kind are found during construction activities, all activities shall cease immediately and the San Joaquin County Coroner be notified as required by state law (Section 7050.5 of the Health and Safety Code). If the coroner determines the remains to be of Native American origin, he or she shall notify the Native American Heritage Commission (NAHC). The NAHC shall then identify the most likely descendant(s) (MLD) to be consulted regarding treatment and/or reburial of the remains (Section 5097.98 of the Public Resources Code). If an MLD cannot be identified, or the MLD fails to make a recommendation regarding the treatment of the remains within 48 hours after gaining access to the remains, the City shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance. Work can continue once the MLD's recommendations have been implemented or the remains have been reburied if no agreement can be reached with the MLD (Section 5097.98 of the Public Resources Code). If any fossils are encountered, there shall be no further disturbance of the area surrounding this find until the materials have been evaluated by a qualified paleontologist, and appropriate treatment measures have been identified.					
Geology and Soils					
4.9-2 - In accordance with CBC (Title 24, Part 2) Section 18O4A.3 and A.5, and the requirements of Tracy General Plan Objective SA-1.1, Policy 1,	Require as a condition of Project approval.	City Council and Planning Division	Draft and incorporate condition as part of Project approval.	Deny Project approval.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
liquefaction and seismic settlement potential shall be addressed in design-level geotechnical engineering investigations. The City's Building Division of the Development and Engineering Services Department shall ensure that all the pertinent sections of the CBC shall be adhered to in the construction of buildings on the Project site, and that all appropriate measures are implemented in order to reduce the risk of liquefaction and seismic settlement prior to the issuance of a building permit.	Project applicant submits design-level geotechnical investigation.	Building Division	Prior to issuance of building permits, review geotechnical investigation and confirm that recommendations are included in construction plans.	Deny building permits.	
Hazards and Hazardous Materials					
4.10-1a - Prior to demolition and/or rehabilitation activities, an asbestos survey shall be conducted by an Asbestos Hazard Emergency Response Act (AHERA) and California Division of Occupational Safety and Health (Cal/OSHA) certified building inspector to determine the presence or absence of asbestos-containing materials (ACMs). If ACMs are located, abatement of asbestos shall be completed prior to any activities that would disturb ACMs or create an airborne asbestos hazard. Asbestos removal shall be performed by a State certified asbestos containment contractor in accordance with the San Joaquin Valley Air Pollution Control District (SJVAPCD) Rule 4002.	Require as a condition of Project approval. Project applicant hires certified building inspector to conduct asbestos survey and completes abatement, if asbestos containing materials are located.	City Council and Planning Division Planning/Building Divisions	Draft and incorporate condition as part of Project approval. Prior to issuance of demolition permit, confirm that asbestos survey has been prepared and any necessary abatement has been completed.	Deny Project approval. Deny issuance of demolition permit.	
4.10-1b - If paint is separated from building materials (chemically or physically) during demolition of the structures, the paint waste shall be evaluated independently from the building material for lead by a qualified Environmental Professional. If lead-based paint is found, abatement shall be completed by a qualified Lead Specialist prior to any activities that would create	Require as a condition of Project approval. Project applicant hires qualified Environmental Professional to evaluate paint separated from	City Council and Planning Division Planning/Building Divisions	Draft and incorporate condition as part of Project approval. Conduct periodic site visits during demolition and verify that requirements described in	Deny Project approval. Halt demolition until requirements are met.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
lead dust or fume hazard. Lead-based paint removal and disposal shall be performed in accordance with California Code of Regulation Title 8, Section 1532.1, which specifies exposure limits, exposure monitoring and respiratory protection, and mandates good worker practices by workers exposed to lead. Contractors performing lead-based paint removal shall notify the City when abatement activities have been completed in accordance with state requirements.	building materials during demolition and completes abatement, if lead-based paint is found.		Mitigation Measure 4.10-1b have been met.		
4.10-1c - Prior to issuance of a grading permit, soil sampling shall occur within the portions of the Project site that have historically been utilized for agricultural purposes and may contain pesticide residues in the soil, as determined by a qualified Phase II/Site Characterization Specialist. The sampling, conducted in consultation with the San Joaquin County Environmental Health Department (EHD), shall determine if pesticide concentrations exceed established regulatory requirements and shall identify further site characterization and remedial activities, if necessary. Should further site characterization/remedial activities be required, these activities shall be conducted per the applicable regulatory agency requirements, as directed by the EHD.	Require as a condition of Project approval. Project applicant hires Phase II/Site Characterization Specialist to conduct soil sampling and recommend remedial activities, if necessary.	City Council and Planning Division Building/Engineering Divisions	Draft and incorporate condition as part of Project approval. Prior to issuance of a grading permit, ensure that requirements of Mitigation Measure 4.10-1c have been met.	Deny Project approval. Deny issuance of grading permit.	
4.10-1d - Prior to issuance of building permits, a qualified Site Characterization Specialist shall review existing Site Characterization documents with regard to onsite contaminated soils associated with adjacent pipeline leaks. If such review identifies significant data gaps and, if required by the Central Valley Regional Water Quality Control Board (RWQCB), the Site Characterization Specialist, in consultation with	Require as a condition of project approval Project applicant hires Site Characterization Specialist to review documents and recommend remedial	City Council and Planning Division Building/Engineering Divisions	Draft and incorporate condition as part of project approval Prior to issuance of building permits, ensure that requirements of Mitigation Measure 4.10-1d have been met.	Deny project approval Deny issuance of building permits.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
Chevron and RWQCB, shall conduct updated Site Characterization at the Project site. Upon completion of the review (and updated Site Characterization activities, if needed), the Site Characterization specialist shall recommend remedial activities, if necessary, in consultation with RWQCB.	activities, if necessary.				
4.10-1e - Prior to issuance of building permits, a vapor intrusion screening evaluation shall be conducted by a qualified Environmental Professional, in consultation with the Central Valley Regional Water Quality Control Board (RWQCB). Should the screening evaluation indicate that there is a reasonable potential that proposed building(s) could be impacted by vapor intrusion, the Environmental Professional, in consultation with Chevron and RWQCBD, shall conduct targeted soil vapor/vapor intrusion investigation(s). Should the investigation(s) determine that proposed building(s) could be impacted by indoor air vapor concentrations above regulatory thresholds, the Environmental Professional, in consultation with RWQCB, shall recommend specific design measures to be incorporated into the building(s) design that would reduce these indoor air quality concentrations to below regulatory thresholds.	Require as a condition of Project approval. Project applicant hires qualified Environmental Professional to conduct vapor intrusion screening evaluation and recommend specific design measures, if necessary.	City Council and Planning Division Building/Engineering Divisions	Draft and incorporate condition as part of Project approval. Prior to issuance of building permits, ensure that requirements of Mitigation Measure 4.10-1e have been met.	Deny Project approval. Deny issuance of building permits.	
4.10-1f - Prior to issuance of a grading permit, the Project applicant(s) shall submit a Worker Safety Plan for site disturbance/construction activities, in consultation with California Division of Occupational Safety and Health (Cal/OSHA) and the San Joaquin County Environmental Health Department (EHD). The Worker Safety Plan shall include safety precautions (e.g., personal	Require as a condition of Project approval. Project applicant submits Worker Safety Plan.	City Council and Planning Division Building/Engineering Divisions	Draft and incorporate condition as part of Project approval. Prior to issuance of a grading permit, ensure that requirements of Mitigation Measure 4.10-	Deny Project approval. Deny issuance of grading permit.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
protective equipment or other precautions to be taken to minimize exposure to hazardous materials) to be taken by personnel when encountering potential hazardous materials, including potential contaminated groundwater.			1f have been met.		
4.10-1g - If unknown wastes or suspect materials are discovered during construction by the contractor that are believed to involve hazardous waste or materials, the contractor shall comply with the following: ▪ Immediately stop work in the vicinity of the suspected contaminant, removing workers and the public from the area ▪ Notify the City Building Official ▪ Secure the areas as directed by the City Building Official Notify the San Joaquin County Environmental Health Department's (EHD's) Hazardous Waste/Materials Coordinator.	Require as a condition of Project approval. Construction contractor stops work and complies with requirements if unknown wastes or suspect materials are discovered.	City Council and Planning Division Building Division	Draft and incorporate condition as part of Project approval. Conduct periodic site visits during grading and verify that requirements described in Mitigation Measure 4.10-1g have been met.	Deny Project approval. Halt grading until requirements are met.	
4.10-5 - Prior to issuance of building permits, all development at the Project site shall satisfy fire flow and hydrant requirements, street widths and design requirements, as established by the City.	Require as a condition of Project approval. Project applicant submits plans that meet requirements.	City Council and Planning Division Building Division	Draft and incorporate condition as part of Project approval. Prior to issuance of building permits, review plans to ensure that requirements are met.	Deny Project approval. Deny issuance of building permits.	
Noise					
4.12-3 - Prior to issuance of a building permit, the Project applicant shall demonstrate, to the satisfaction of the Development and Engineering	Require as a condition of Project approval.	City Council and Planning Department	Draft and incorporate condition as part of Project approval.	Deny Project approval.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
Services Department, that site placement of stationary noise sources would not exceed the City's noise standard of 60 dBA at any adjacent residential district property line inside the City limits, or 65 dBA at an adjacent commercial property line.	Project applicant submits building permit plans that conform to requirements.	Planning/Building Divisions	Prior to issuance of building permits, review plans to ensure that requirements of Mitigation Measure 4.12-3a have been met.	Deny issuance of building permits.	
Public Services, Utilities and Service Systems					
4.13-3 - Prior to issuance of grading or building permits, whichever occurs first, sewer design calculations shall be prepared for review and approval by the City Engineer to ensure proper sizing of sewer lines and lift stations to meet sewer flow requirements.	Require as a condition of Project approval. Project applicant submits sewer design calculations.	City Council and Planning Division Engineering Division	Draft and incorporate condition as part of Project approval. Prior to issuance of grading or building permits, review calculations to ensure proper sizing of sewer lines and lift stations.	Deny Project approval. Deny issuance of grading or building permits.	
Transportation/Traffic					
4.14-2 - A traffic signal shall be installed at the intersection of Lammers Road and Grant Line Road (Intersection #2). In conjunction with the proposed traffic signal installation, the following geometric improvements shall be constructed: ▪ Westbound approach – Reconstruct the approach to include one through lane and one through/right turn lane and a separate left-turn lane. ▪ Eastbound approach – Reconstruct the approach to include one through lane and one shared through/right-turn lane. Provide an acceleration lane east of Lammers Road.	Require as a condition of Project approval. Project applicant submits plans for traffic signal and geometric improvements. Project applicant installs traffic signal and completes improvements.	City Council and Planning Division Building/Engineering Divisions Building/Engineering Divisions	Draft and incorporate condition as part of Project approval. Prior to issuance of building permits, review plans to ensure that requirements of Mitigation Measure 4.14-2 have been met. Prior to occupancy, ensure that traffic signal and improvements have been completed.	Deny Project approval. Deny issuance of building permits. Deny Project occupancy.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
▪ Northbound approach – Reconstruct the approach to include a shared left-turn/through lane and a right-turn lane. The existing truck exit from Costco would be reconstructed to be part of the intersection and the current truck movements incorporated in the northbound right-turn movement. The Project applicant shall be responsible for Implementation of the above improvements prior to Project occupancy or at a time determined by the City Engineer based on the City's ability to meet City vehicle and pedestrian standards. If all or a portion of this traffic signal improvement is otherwise scheduled by the City to be financed as a program improvement, the Project applicant may be eligible for reimbursements from future benefiting development in excess of the Project's fair share costs.					
4.14-3 - A second eastbound left-turn lane and widening of the eastbound on-ramp to two lanes shall be constructed at the intersection of I-205 Eastbound Ramps and Grant Line Road (Intersection #6). To accommodate the second left-turn lane and widening of the ramp, the westbound free right-turn lane shall be modified to be part of the signal operation. The proposed improvement may require a design exemption from Caltrans. This improvement is included in the City's TIF program (Project 72PP-084). The Project applicant shall make a fair share contribution toward implementation of this improvement through the payment of City of Tracy traffic impact fees.	Require as a condition of Project approval. Project applicant makes fair share contribution toward improvement.	City Council and Planning Division Engineering Division	Draft and incorporate condition as part of Project approval. Prior to issuance of grading or building permits, Project applicant makes fair share contribution toward improvement.	Deny Project approval. Deny issuance of grading or building permits.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
4.14-4 - A traffic signal shall be installed at the intersection of Access Road-2 and Grant Line Road (Intersection #17). In conjunction with the traffic signal installation, the following geometric improvements shall be constructed: ▪ Westbound approach – Provide two through lanes and a left-turn lane. ▪ Eastbound approach – Provide one through lane and one shared through/right-turn lane. ▪ Northbound approach – Provide a separate left-turn and right-turn lane. The four lane improvement along Grant Line Road would continue along the Project frontage to accommodate traffic flow demand. SimTraffic analysis indicates that four lanes are required to avoid queue overflow between the Project driveways. The Project applicant shall be responsible for implementation of the above improvements prior to project occupancy or at a time determined by the City Engineer based on the City's ability to meet City vehicle and pedestrian standards.	Require as a condition of Project approval. Project applicant submits plans for traffic signal and geometric improvements. Project applicant installs traffic signal and completes improvements.	City Council and Planning Division Building/Engineering Divisions Building/Engineering Divisions	Draft and incorporate condition as part of Project approval. Prior to issuance of building permits, review plans to ensure that requirements of Mitigation Measure 4.14-4 have been met. Prior to occupancy, ensure that traffic signal and improvements have been completed.	Deny Project approval. Deny issuance of building permits. Deny Project occupancy.	
4.14-5 - A westbound left-turn lane for inbound Project traffic shall be provided at the intersection of Access Road-3 and Grant Line Road (Intersection #19). The Project applicant shall be responsible for implementation of the left-turn lane prior to Project occupancy, or at a time determined by the City Engineer based on the City's ability to meet vehicle and pedestrian standards.	Require as a condition of Project approval. Project applicant submits plans for intersection improvements.	City Council and Planning Division Building/Engineering Divisions	Draft and incorporate condition as part of Project approval. Prior to issuance of building permits, review plans to ensure that requirements of Mitigation Measure 4.14-5 have been met.	Deny Project approval. Deny issuance of building permits.	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record Name/Date
	Project applicant completes improvements.	Building/Engineering Divisions	Prior to occupancy, ensure that improvements have been completed.	Deny Project occupancy.	
4.14-8a - To provide acceptable (LOS D or better) operations at the intersection of Lammers Road/Grant Line Road, a westbound left-turn lane and conversion of one eastbound through lane into a shared through/right-turn lane shall be constructed. These improvements are similar to those recommended in Mitigation Measure 4.14-2. In addition, the northbound approach shall be modified to provide a separate left-turn lane and a shared through/right-turn lane. The Project applicant shall be responsible for implementation of the above improvements prior to occupancy or at a time determined by the City Engineer based on the City's ability to meet City vehicle and pedestrian standards.	Require as a condition of Project approval. Project applicant submits plans for intersection improvements. Project applicant completes improvements.	City Council and Planning Division Building/Engineering Divisions Building/Engineering Divisions	Draft and incorporate condition as part of Project approval. Prior to issuance of building permits, review plans to ensure that requirements of Mitigation Measure 4.14-8a have been met. Prior to occupancy, ensure that improvements have been completed.	Deny Project approval. Deny issuance of building permits. Deny Project occupancy.	
4.14-8b - The Project applicant shall make a fair share contribution toward implementation of improvements at the intersection of I-205 Eastbound Ramps/Grant Line Road including the construction of an eastbound loop on-ramp through payment of City traffic impact fees.	Require as a condition of Project approval. Project applicant makes fair share contribution toward improvement.	City Council and Planning Division Engineering Division	Draft and incorporate condition as part of Project approval. Prior to issuance of grading or building permits, Project applicant makes fair share contribution toward improvement.	Deny Project approval. Deny issuance of grading or building permits.	
4.14-8c - The addition of a traffic signal, westbound left-turn lane (Mitigation Measure 4.14-4), and separate left-turn and right-turn lanes on the northbound approach shall be required at the intersection of Access Road-2/Grant Line Road.	Require as a condition of Project approval. Project applicant	City Council and Planning Division Building/Engineering	Draft and incorporate condition as part of Project approval. Prior to issuance of	Deny Project approval. Deny issuance of	

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring/Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record - Name/Date
	submits plans for traffic signal and geometric improvements.	Divisions	building permits, review plans to ensure that requirements of Mitigation Measure 4.14-8c have been met.	building permits.	
	Project applicant installs traffic signal and completes improvements.	Building/Engineering Divisions	Prior to occupancy, ensure that traffic signal and improvements have been completed.	Deny Project occupancy.	

RESOLUTION _____

APPROVING A GENERAL PLAN AMENDMENT (GPA09-0002),
I-205 CORRIDOR SPECIFIC PLAN AMENDMENT (SPA10-0002),
AND ANNEXATION (A/P09-0002), FOR THE
FILIOS/DOBLER ANNEXATION AND DEVELOPMENT PROJECT

WHEREAS, Applications have been filed or initiated for a General Plan Amendment to re-designate approximately 43 acres from Urban Reserve 2 to Commercial, amend the I-205 Corridor Specific Plan to add the site to the Specific Plan with a designation of General Commercial, and Annex the site to the Tracy City limits (Exhibit 1), (collectively, the "Project"), and

WHEREAS, The Project would be an expansion of the I-205 regional commercial corridor, providing consumer shopping opportunities, commercial services, jobs, and tax revenue for City services, and

WHEREAS, The Project will have access to City services by extension of existing utilities and payment of a proportionate share of costs for expansion of utility and service systems, and

WHEREAS, The site is located within the City's Sphere of Influence and designated Urban Reserve 2 by the General Plan, the Profile for which includes a mix of commercial and office development, and

WHEREAS, LAFCo's review of the City's Municipal Services Review and Sphere of Influence is currently underway and anticipated to be complete in early 2012, and

WHEREAS, The City determined that the Project requires review pursuant to the California Environmental Quality Act (CEQA), and pursuant to CEQA, an Environmental Impact Report (EIR) was prepared to evaluate the potential environmental effects of the Project, to evaluate potential alternatives to the Project, and to evaluate and recommend mitigation measures for all potentially significant impacts of the Project, and

WHEREAS, The Planning Commission conducted a public hearing to receive public input and review the Project on September 28, 2011, and

WHEREAS, The City Council conducted a public hearing to receive public input and review the Project on November 1, 2011, and

NOW, THEREFORE, BE IT RESOLVED by the City Council as follows:

1. <u>Environmental Impact Report</u>

. In accordance with CEQA, the City Council has taken the following actions in regard to the Project:

a. Certified the EIR;
b. Made findings relating to significant impacts, alternatives, and Statement of Overriding Considerations; and
c. Adopted a Mitigation Monitoring and Reporting Program.

2. General Plan Amendment (GPA09-0002)

The City Council adopts the findings and recommendation of the Planning Commission and approves the General Plan Amendment, re-designating the Project site from Urban Reserve 2 to General Commercial.

3. Specific Plan Amendment (SPA10-0002)

a. The City Council finds as follows:

i. The Specific Plan Amendment to add the Project site to the Specific Plan area and designate it General Commercial is consistent with the goals, actions and policies of the Specific Plan and with its purposes, standards and land use guidelines. The Specific Plan was adopted in 1990 to promote economic development along the City's major transportation route. One design goal of the Specific Plan is that the "[p]lan area shall be designed to provide large commercial and industrial sites to attract needed retail and commercial uses to serve the whole town and surrounding region." (Specific Plan, section 2.1.1.) Another design goal of the Specific Plan is that "[r]etail land uses needing and benefiting from the freeway shall be given priority sites. Less extensive services and industrial land uses shall require less proximity to freeway visibility." (Specific Plan, section 2.1.2.) The Specific Plan Amendment is consistent with these and other goals of the Specific Plan. Furthermore, all improvements of the Project will be required (through the Specific Plan development application review process) to conform to all applicable provisions of the Specific Plan, including those for parking, landscaping, shade coverage, driveway location and design, floor area ratio and utilities. For additional discussion as to the Amendment's consistency with the Specific Plan, please see section 4.2 of the Draft EIR (Land Use and Planning).

ii. The Specific Plan Amendment will help achieve a balanced community of all races, age groups, income levels and ways of life.

iii. The Specific Plan Amendment results in development of desirable character which will be compatible with existing and proposed development in the surrounding neighborhood. The designation of the site to General Commercial will contribute to the regional draw for customers seeking consumer retail shops and services. The Specific Plan Amendment will promote the most appropriate development of property within the vicinity by helping to draw customers to the area, thus promoting a synergistic effect of the commercial district already established by the West Valley Mall, Walmart, restaurants, hotels, and other nearby commercial businesses. The Specific Plan Amendment will also result in the extension of and other improvements to Grant Line Road in the vicinity of the Project.

iv. The Specific Plan Amendment contributes to a balance of land uses that will enable local residents to work and shop within the Tracy Planning Area. Populations along the I-205 corridor are increasing and many of the people who make their homes in the area need and desire general commercial and retail services. The Specific Plan Amendment would allow the placement of such services closer to this population base.

v. As outlined in the EIR, the Specific Plan Amendment respects the environmental and aesthetic assets of the community consistent with economic realities.

vi. The Specific Plan Amendment incorporates, where feasible, active and passive energy conservation measures. Populations along the I-205 corridor, are increasing and many of the people who make their homes in the area need and desire general commercial and retail services. The Specific Plan Amendment would allow the placement of such services closer to this population base and therefore reduce the number and length of automobile trips. The Sustainability Action Plan items required specifically for this Project through the EIR (Attachment 1), furthermore, will reduce energy consumption and result in energy efficiency by encouraging carpooling, energy efficient light fixtures, and other measures.

b. The City Council approves the Specific Plan Amendment to (1) add the approximately 43-acre Project site to the Specific Plan area, (2) designate the site General Commercial, and (3) add Section 4.1.2.2 K to the Specific Plan to include specific Sustainability Action Plan and EIR mitigation measures to apply to the Filios/Dobler Project site (Exhibit 2).

4. Annexation of the Site (A/P09-0002)

The City Council adopts the findings and recommendation of the Planning Commission and authorizes an application to the Local Agency Formation Commission of San Joaquin County for jurisdictional annexation to the City of Tracy.

* * * * * * * * * * * *

The foregoing Resolution 2011-_____ was adopted by the City Council on the 1st day of November, 2011, by the following vote:

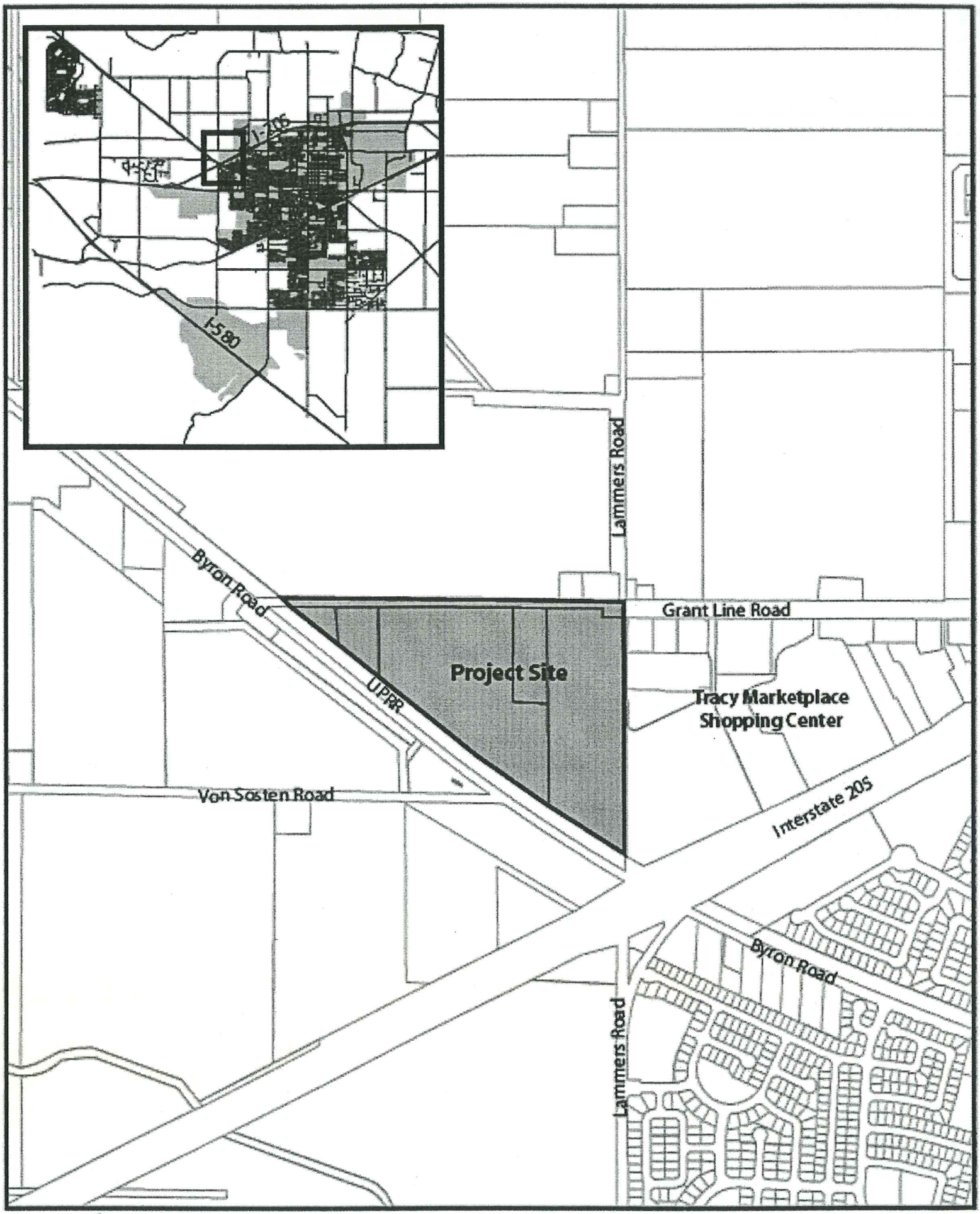
AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

EXHIBIT 1


I-205
I-580
Lammers Road
Byron Road
Grant Line Road
Project Site
UPRR
Tracy Marketplace
Shopping Center
Von Sosten Road
Interstate 205
Byron Road
Lammers Road

ATTACHMENT I

ORDINANCE _____

PREZONING THE FILIOS/DOBLER ANNEXATION PROJECT SITE PLANNED UNIT DEVELOPMENT (PUD)
APPLICATION NUMBER A/P09-0002

WHEREAS, Applications have been filed or initiated by owners of properties for a General Plan Amendment to re-designate approximately 43 acres from Urban Reserve 2 to Commercial, amend the I-205 Corridor Specific Plan to add the site to the Specific Plan with a designation of General Commercial, Annex the site to the Tracy City limits, and Prezone the site Planned Unit Development (PUD) (collectively, called the "Project"), and

WHEREAS, On November 1, 2011, the City Council certified the Environmental Impact Report (SCH No. 2010072043) for the Project pursuant to the California Environmental Quality Act (CEQA), and

WHEREAS, On November 1, 2011, the City Council approved the General Plan Amendment and the Specific Plan Amendment and authorized the annexation application to be submitted to LAFCo, and

WHEREAS, The Prezoning to PUD is consistent with the General Plan in that General Plan Section B.7 requires each urban Reserve to obtain a zoning district, specific plan or PUD and the PUD (General Commercial designation of the I-205 Corridor Specific Plan) is consistent with the land use designation of Urban Reserve 2 General Plan Statistical Profile (General Plan Section E.2.), and

WHEREAS, In accordance with the I-205 Corridor Specific Plan, the PUD Zone district implements the Specific Plan, and

WHEREAS, The Prezoning is required to support the public necessity, convenience, and general welfare because opportunities for consumer access to retail goods and commercial services, jobs production, expansion of local sales tax to support City services, and other benefits of the Project could be realized after annexation and Prezoning of the property, and

WHEREAS, On September 28, 2011, the Planning Commission conducted a public hearing to consider the property owners' application for Prezoning, and

WHEREAS, On November 1, 2011, the City Council conducted a public hearing to consider the property owners' application for Prezoning.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The Filios/Dobler Annexation Project site, located on the south side of Grant Line Road, north of Byron Road and the Union Pacific Railroad, and west of the Tracy Marketplace Shopping Center (Assessor's Parcel Numbers 209-270-10, 11, 26, and 31) (Exhibit 1) is hereby prezoned Planned Unit Development. The zoning of said Project site as PUD shall take effect on the same date that annexation of the site occurs.

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

SECTION 3: This Ordinance shall be published once in a newspaper of general circulation within fifteen (15) days from and after its final passage and adoption.

* * * * * * * * * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council held on the 1st day of November, 2011, and finally passed and adopted by said Council at its regular meeting on the ___ day of _____, 2011, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

EXHIBIT 1

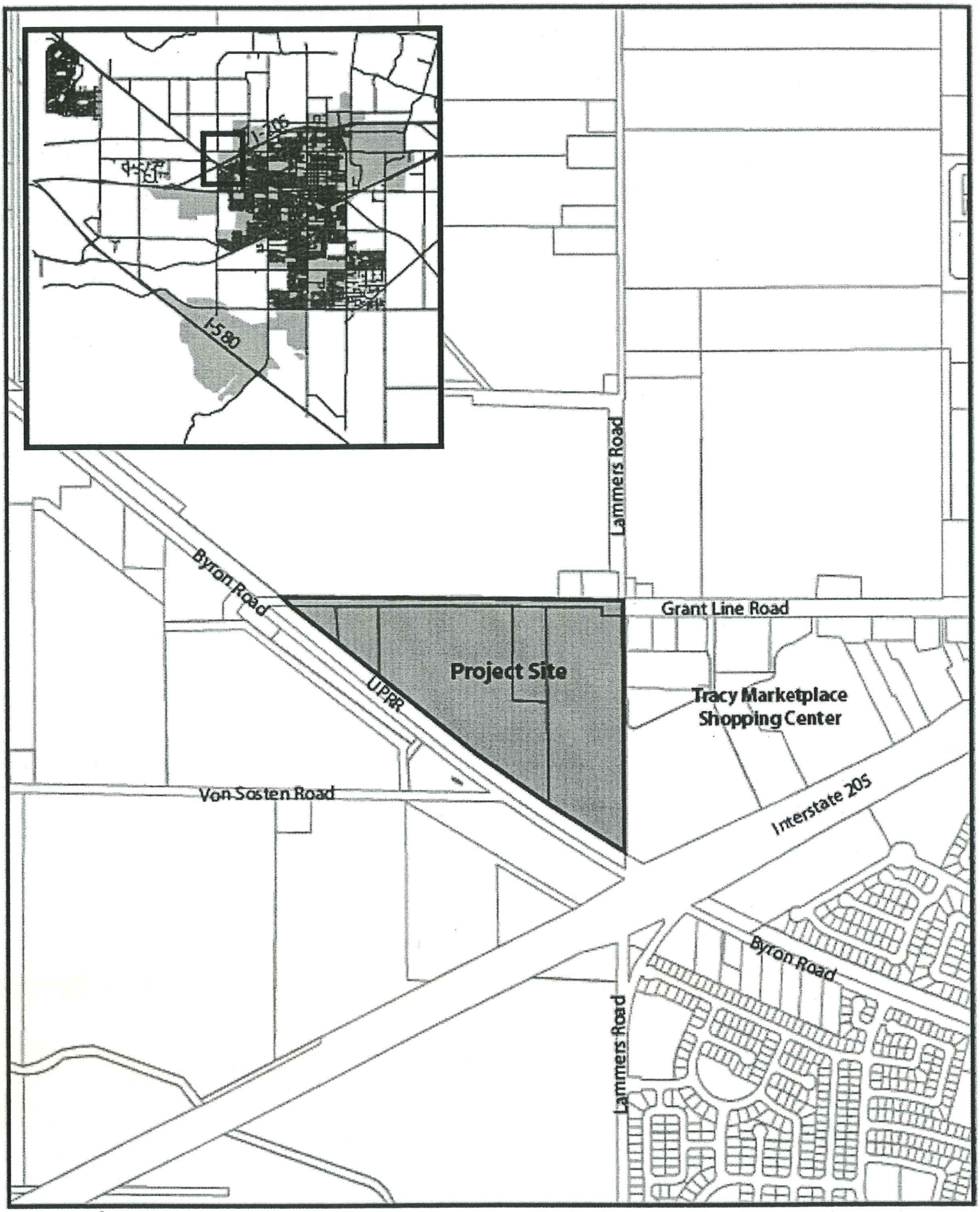

I-205
I-580
Lammers Road
Byron Road
Grant Line Road
Project Site
UPRR
Tracy Marketplace
Shopping Center
Von Sosten Road
Interstate 205
Byron Road
Lammers Road

EXHIBIT 2

I-205 Corridor Specific Plan Amendment for the Filios/Dobler Project Site

The following new Section is added to the I-205 Corridor Specific Plan:

4.1.2.2 K <u>Filios/Dobler Commercial Project Site</u>

The following standards apply specifically to the approximately 43-acre, triangular-shaped, Filios/Dobler Project site, on the south side of Grant Line Road, north of Byron Road and the Union Pacific rail line, and west of the Tracy Marketplace Shopping Center (APNs: 209-270-10, 11, 26, and 31), added to the Specific Plan through Application Number SPA10-0002, City Council Resolution Number _____. The following standards are required mitigation measures from the Filios/Dobler Annexation and Development Project Environmental Impact Report (City Council Resolution Number _____.)

1. A minimum of 1% of on-site parking spaces shall be reserved in close proximity to building primary entrances for hybrid or electric vehicles, carpool, van pool, or car share vehicles.

2. The Project shall contain at least one, publicly accessible, bus/transit stop located within or adjacent to the Project site.

3. Employers are encouraged to provide incentives to employees and visitors for utilizing the transit services, carpooling and van pooling.

4. Except as otherwise provided herein, the minimum number of required off-street parking spaces shall be in accordance with this Specific Plan Section 4.1.2.2 D (Parking and On-Site Vehicular Circulation) or as demonstrated by a parking study approved through the Preliminary and Final Development Plan process, which may result in a lower minimum number of parking spaces.

5. When two or more uses combine their parking into a single adjoining parking lot with common ingress and egress, they may receive a 25% reduction in the required number of off-street parking spaces.

6. Parking lot light fixtures and light fixtures on buildings shall be on full cut-off fixtures, except emergency exit or safety lighting, and all permanently installed exterior lighting shall be controlled by adjustable timers.

7. Sidewalks and bicycle lanes shall be required along the Project frontage in compliance with San Joaquin Council of Governments and City policies.

8. The Project shall pay its proportionate fair share toward the City's traffic development impact fee program that will include the use of Intelligent Transportation Systems, such as traffic signal controllers.

November 1, 2011

AGENDA ITEM 6

REQUEST

AMEND RESOLUTION NO. 91-344 TO SPECIFY THAT THE TRACY WAR MEMORIAL FOUNDATION, INC. (COMMONLY KNOWN AS THE TRACY WAR MEMORIAL ASSOCIATION) SHALL DETERMINE WHICH TRACY VETERANS, IF ANY, HAVE BEEN KILLED IN ACTION IN WAR, WARS, OR FUTURE WARS FOR THE PURPOSES OF PLACING THEIR NAMES ON THE WAR MEMORIAL

EXECUTIVE SUMMARY

In 1991, the City accepted the War Memorial from the Tracy War Memorial Association (Association) under Resolution No. 91-344 which set forth certain conditions. Included in those conditions was the provision that the City will permit no alterations to the War Memorial except the adding of names of Tracy Veterans who are killed in action in future war or wars, if any. The Association has formally requested that it be the responsible party to choose names to be placed on the War Memorial. On October 18, 2011, staff requested that the City Council approve this request by amending the conditions of acceptance of the War Memorial. After a member of the public spoke on this item, City Council directed staff to complete further investigation of the Tracy War Memorial Association's status. Staff has completed its investigation and found that the Association's official name is the Tracy War Memorial Foundation, Inc. but that it has been commonly known as the Tracy War Memorial Association for many years. The Association is again recommending that the request is considered by City Council. The Association has requested a name be added to the Tracy War Memorial prior to Veterans Day, which falls on November 11, 2011, therefore this item is being presented to City Council sooner than the 30 to 60 days recommended by City Council at its October 18, 2011 meeting.

DISCUSSION

On November 5, 1991, via Resolution No. 91-344, the City Council accepted the War Memorial under certain conditions. Those conditions include a provision that the City will permit no alterations to the War Memorial except the adding of names of Tracy Veterans who are killed in action in future war or wars, if any.

Since that time, the Tracy War Memorial Foundation, commonly referred to as the Tracy War Memorial Association, (Association) has played an active role in deliberating on, and recommending to the City, which names should be added to the memorial and has formally requested, by a resolution of their board, that the above condition of acceptance be revised to allow the Association to determine which Tracy Veterans have been killed in action in war, wars, or future wars, if any.

At the October 18, 2011 City Council meeting, staff requested that the City Council approve the Association's request to amend the conditions of acceptance of the War Memorial. After receiving input from James Corso, City Council directed staff to complete further investigation as to the current status of the Association. Staff has met with Mr. Corso and representatives of the Association and has determined the following information regarding the Association's current status.

Tracy War Memorial Association Structure

Staff has found that the actual name of the Association is the Tracy War Memorial Foundation, Inc. According to members of the Foundation, the organization has always been called the Tracy War Memorial Association. The Association is in the process of bringing its non-profit corporation into active status with the State of California. Representatives from the Association have also indicated that its original by-laws have only been updated once with a couple of administrative changes only. The Association meets on a regular basis and its membership includes members from the American Legion and Veterans of Foreign War. In light of this information, staff believes that the Tracy War Memorial Foundation, Inc. is in fact the Tracy War Memorial Association.

Disbanding after Construction of War Memorial

The Articles of Incorporation of the Foundation indicate that the Foundation will continue to maintain the War Memorial. The Foundation would need to continue to exist to maintain the War Memorial. Additionally, as a condition of acceptance by the City, the Association is required to light the flame during events and replace the flags on an as needed basis.

Dissolving of Association Funds.

In reviewing relevant documents, it was mentioned that a copy of the Articles of Incorporation was previously provided to the City. The language in the Articles appears to be standard "wind up and dissolve" provisions for non-profits. The City is not involved in the operation of the Association which staff is informed is a 501(c)(3) non-profit.

However, after the dedication of the Memorial, the Association donated funds to the City to purchase street signs with the names of veterans killed in action. Street names have been assigned to represent all such veterans. The City and/or developers have installed the signs and the City maintains the signs. If maintenance or replacement of the signs is needed, city staff does it. The City has not been involved in the operation or funding of the Association. Oversight of non-profits, such as their formation, use of funds, tax-exempt status, etc. is done by state and/or federal agencies such as the Franchise Tax Board, the Internal Revenue Service and the Secretary of State. Staff was informed that Association funds are used for replacement flags and to light the flame, as well as for celebration gatherings at the Memorial on Memorial Day and Veteran's Day.

Staff has completed its investigation and is again recommending that the request is considered by City Council. In practice, the Association has always recommended which names are to be placed on the War Memorial.

The City pays tribute to those that have made the supreme sacrifice to protect our freedoms and way of life, and recognizes the efforts and sincerely thanks all those currently in military, those that have survived in the military and Veteran Organizations in the City of Tracy. Staff recommends that the War Memorial Association is best suited to determine the selection of names to be placed on the War Memorial.

STRATEGIC PLAN

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

FISCAL IMPACT

Since acceptance of the War Memorial, the City has funded the costs for maintenance of the War Memorial as well as inclusion of additional names. There is no additional fiscal impact.

RECOMMENDATION

That the Tracy City Council, by resolution, amend Resolution No. 91-344 to specify that the War Memorial Association shall determine which Tracy Veterans, if any, have been killed in action in war, wars, or future wars for the purposes of placing their names on the War Memorial.

Prepared by: Rod Buchanan, Parks and Community Services Director

Reviewed by: Maria A. Hurtado, Assistant City Manager

Approved by: R. Leon Churchill, Jr., City Manager

RESOLUTION_____

AMENDING RESOLUTION NO. 91-344 TO SPECIFY THAT THE WAR MEMORIAL FOUNDATION, INC., COMMONLY KNOWN AS THE WAR MEMORIAL ASSOCIATION, SHALL DETERMINE WHICH TRACY VETERANS, IF ANY, HAVE BEEN KILLED IN ACTION IN WAR, WARS, OR FUTURE WARS FOR THE PURPOSES OF PLACING THEIR NAMES ON THE WAR MEMORIAL

WHEREAS, The City accepted the War Memorial under Resolution No. 91-344 which set forth certain conditions; and

WHEREAS, One condition of accepting the War Memorial provides that the City will permit no alterations to the War Memorial except the adding of names of Tracy Veterans who are killed in action in future war or wars, if any; and

WHEREAS, The War Memorial Foundation, Inc. (commonly referred to as the War Memorial Association) has played an active role since 1991 in deliberating on, and recommending to the City, which names be added to the memorial and has requested that the above condition of acceptance be revised to allow the War Memorial Association to determine which Tracy Veterans have been killed in action in war, wars, or future wars, if any; and

WHEREAS, The City pays tribute to those who have made the supreme sacrifice to protect our freedoms and way of life, and recognizes the efforts and sincerely thanks all those currently in the military, those that have survived in the military and veterans' organizations in the City of Tracy; and

WHEREAS, The War Memorial Association and the City of Tracy acknowledge that the War Memorial Association is best suited to determine the selection of names to be placed on the War Memorial.

NOW THEREFORE BE IT RESOLVED, That the Tracy City Council hereby amends Resolution No. 91-344 to specify that the War Memorial Foundation, Inc. (commonly known as the War Memorial Association) shall determine which Tracy Veterans, if any, have been killed in action in war, wars, or future wars for the purposes of placing their names on the War Memorial.

The foregoing Resolution _____ was passed and adopted by the City Council of the City of Tracy on the 1st day of November, 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

November 1, 2011

AGENDA ITEM 7

REQUEST

ACCEPT A STAFF REPORT REGARDING GENERAL PROJECTS FUND 301

EXECUTIVE SUMMARY

This report outlines the expected available revenues for the City's General Projects Fund #301.

DISCUSSION

Many capital improvement projects are paid for by restricted funds. For example, developer impact fees have constructed many capital items such as City Hall and expansions to the water and wastewater treatment plants as well as new roadways. Gas tax is also restricted to capital use regarding roadway improvements. In addition to capital projects funded from restricted funds, the City is also in need of capital funds from its own discretionary (unrestricted) funds.

In the past, the City of Tracy has accumulated discretionary capital funds from two sources. In years when the City had General Fund revenues greater than operating expenses, these "budget surpluses" were used to pay for capital items through the City's General Projects Fund #301. Some of these budget surpluses were also used to increase the City's reserve levels. In the past, Fund 301 has also received funding via the refinancing of bonds. Taking advantage of lower interest rates and improved security (level of development of property), the City has refinanced many of its bonds and used the savings generated in the refinancing to pay for capital projects. The fiscal policy the City has used as guidance is that one-time revenue (like a budget surplus or proceeds from a bond refinancing) should be used for one-time expenditures such as capital items. The City has not had the financial ability to regularly budget for capital items (like it does for equipment replacement) directly from its operating budget. Instead the City has had to rely on the periodic use of one-time funds for capital projects.

In FY 10-11 most of the available money at the time in Fund 301 had been allocated to a series of capital improvement projects. City Council approved the allocation of these funds to various projects with the adoption of the CIP budget. As a result the FY 11-12 CIP budget had very few new Fund 301 appropriations.

In FY 10-11 the City spent more in General Fund operating expenditures than it had revenue. This was the 4th year in a row of having a budget deficit which requires a draw on reserves. The FY 11-12 budget also anticipates a budget deficit. As such, there have not been budget surpluses to provide capital funding. However, a number of one-time revenues have been identified that can provide funding for capital improvement projects via Fund 301. The following is a summary of likely revenues that will be available for appropriation for capital projects in the upcoming FY 12-13 CIP process.

Source	Amount	Status
Fund Balance	$900,000	Estimated 7/1/11 unobligated
Close Out AD 87-3	$1,473,618	Cash with Trustee after all bonds paid
Close Out of AD 87-3	$730,040	Cash with City to transfer to Fund 301
Close Out of AD 84-1	$1,579,850	Cash with City to transfer to Fund 301
Close Out of Land COP	$326,905	Cash with City to transfer to Fund 301
Refinancing of CFD 99-2	$830,000	Estimated – bonds close 12/7/11
Grand lobby = Com. Center	$1,077,000	Assumes successful dev. Impact fee update
Engineering Deposits	$1,207,646	Per Engineering Review
Total	$8,125,059	
Committed		
Loan to Tracy Rural station	($500,000)	Possible loan to be repaid to Fund 301
West High Pool	($250,000)	Replacement fund required by agreement
BALANCE	$7,375,059	

Use of Funds

The $900,000 fund balance of Fund 301 is discretionary funds of the City of Tracy. This represents left over (uncommitted) money in the fund that derived from cash contributions to Fund 301 from previous budget surpluses.

In September 2011, the final bonds of AD 87-3 were paid. At this time, all funds associated with paid off assessment districts were reviewed including that of AD 84-1 and the City's prior land Certificate of Participation (a form of bond financing). It can be noted that assessment levies to properties in both AD 84-1 and AD 87-3 were eliminated a year earlier that the amortization schedules for these districts thereby using some of the surplus funds. Over the course of the 25 years of these bond districts, it is likely surplus funds accumulated due to the City's purchasing of excess Equivalent Consumer Units (ECU). An ECU was the basis by which the assessments were allocated in these districts. An ECU represented one single family home's capacity in the wastewater and water treatment plants – capacity that was created by the plant expansions funded via these districts. However, actual development was less dense that planned thereby created "excess ECUs" that the City purchased and later resold (for the same price) to subsequent development. The payoff of and excess ECU by the City thereby reduced outstanding principle of the bonds and therefore resulted in less interest paid on the bonds than anticipated. The City may use these funds for general purposes including capital.

The City is currently refinancing CFD 99-2 bonds. Like the City has done in the past, as a financing district has reached mature development status, the improved security for the bonds as well as favorable interest rates have resulted in the ability of the City to refinance the bonds and create additional project funds. The estimated project fund of $830,000 is expected with the bond refinancing to close on December 7, 2011. These funds must be used for capital items of Fund 301 specified in the bond documents.

Plan C, South MacArthur, and Presidio Development areas all adopted development impact fees to mitigate impact to City infrastructure and facilities. One item called for in the impact fees of these areas is the expansion of the City's Community Center. Total fees are $1,077,000. The impact fee documents specify and expansion to the existing

Community Center in order to provide additional space that can be used by the community. At the time of the construction of the new City Hall, a grand lobby was included in the plans and the building was designed to use this lobby for a variety of events even when City offices are closed. The grand lobby of City Hall can be rented by the community just like space in the adjacent Community Center. As such, the grand lobby is expanded community center space and upon adoption of amending clarification language to the development impact fees, Fund 301 money used for the grand lobby construction can be released.

Finally Staff has reviewed a variety of engineering fee deposits from a 15 year period and has concluded $1,207,646 represents services rendered by the Development and Engineering Services Department which can now be transferred to revenue. Use of such funds for capital projects is appropriate in that there are substantial engineering charges for project management for all City capital projects. It should also be noted that this transfer does not include current engineering deposits for which there is active development or known developers.

If the matters discussed above conclude as anticipated (i.e. bond financing and development fee impact update), the City should have approximately $8.1 million available for new capital improvement projects in Fund 301. From this amount, there is currently one obligation ($250,000 for West High pool replacement) and one anticipated loan (to Tracy Rural for Station 92 construction but also repaid to Fund 301) thereby leaving $7,375,000 available for appropriation in the upcoming CIP cycle.

Capital Improvement Projects (CIP) Prioritization Process, Criteria, and Timeline for FY 2012-2013

The CIP project prioritization process was developed several years ago due to the increase in number of CIP project requests and the reduction of Fund 301 money available to fund those projects. Because there are many competing priority projects with limited funds available, each CIP Project is ranked based on how well that project supports each of the nine criteria. The criterion includes: (1) Public Safety, (2) Neighborhood/Community Impact, (3) Legal Requirements, (4) General Plan, (5) Population Served by Project, (6) Fiscal Impact, (7) Life Expectancy, (8) Economic Development, and (9) Sustainability. The definition of each of the criterion listed above is further explained in Attachment A *(Attachment A: City of Tracy CIP Project Scoring Sheet)*.

Staff is currently identifying various capital improvement projects for funding from Fund 301. The Engineering Division will review all project submissions and provide cost estimates. This is expected to take the months of December and January. The City's interdepartmental CIP review team will meet in February 2012 to review and rank all projects *(Attachment B: FY 12/13 CIP Budget Preparation Schedule).*

The final prioritized CIP Project list with cost estimates will be presented to the City Council in March 2012 at a CIP workshop. At the March, 2012 CIP workshop, City Council will review and discuss the recommended priority projects and direct staff which final projects to include in the FY 12-13 CIP. The CIP will be official adopted along with the City's operating budget in June 2012. This includes adoption of Fund 301 monies and CIP Projects.

STRATEGIC PLAN

This item is a report only and does not require action. Therefore, it does not pertain to one of the City's four strategic plans.

FISCAL IMPACT

None.

RECOMMENDATION

It is recommended that the City Council by motion accept this report on Fund 301 funding status.

Prepared by: Zane Johnston, Finance & Administrative Services Director
Approved by: Leon Churchill, Jr., City Manager

ATTACHMENTS:

Attachment A: City of Tracy CIP Project Scoring Sheet
Attachment B: FY 12/13 CIP Budget Preparation Schedule

ATTACHMENT "A"

CITY OF TRACY
CIP PROJECT SCORING SHEET

(For Staff Use)

CIP #:_____ **PROJECT #:_____**

PROJECT NAME: _____ **RATER DEPARTMENT:_____**

INSTRUCTIONS: Provide a score from 1 to 5 to assist in determining how well the project supports the stated criteria.
1 = Does not support stated criteria. 3 = Neutral or moderate impact regarding stated criteria.
5 = Supports or enhances stated criteria.
Note: Highest and lowest scores from the group will be discarded and the remaining scores will be averaged to produce an AVERAGE ADJUSTED SCORE for a project.

CRITERIA		1	2	3	4	5	TL
Public Safety	Does the project eliminate or prevent an existing health, environment, or safety hazard? *Example: Improvements to playgrounds that would protect children from traffic or hazardous equipment.*						
Neighborhood / Community Impact	Does the project enhance property or increase quality of life within the City of Tracy? *Example: New ball fields or expansion*						
Legal Requirements	Is the project in accordance with state, local and federal laws or regulations? *Example: ADA compliance*						
General Plan	Does the Project advance the goals of the *City of Tracy's General Plan*? *Example: Increase or expansion of Passive Recreation, Expansion of bikeways.*						
Population Served By Project	Who in the community/region will the project serve? *Example: All customers in City vs. a small segment of the population.*						
Fiscal Impact	Will the project have a net positive, neutral or negative impact on the City's finances? Does this project represent good financial value for the cost? Does the project have high ongoing operational and maintenance costs? What's the Phase-ability of the project? *Example: Upgrade in lighting might have a savings in energy costs. The ongoing O & M is significantly high and unbudgeted;*						
Life Expectancy	How long is the improvement expected to last? *Example: A new roof may extend the life of a building 20 years.*						
Economic Development	Does the project promote Economic Development Goals? infrastructure opportunity sites opportunity *Example: Enhances the City's Infrastructure (i.e. in undeveloped opportunity sites)* *Sports Park (Promotes Regional community draw & increases revenue (sales & TOT taxes)*						
Sustainability	Does the project promote sustainability efforts? *Example: Fuel efficient Vehicles, Sustains existing assets, results in energy-saving measures*						
						TOTAL SCORE	

Revised 10/25/11

ATTACHMENT B

DRAFT

FY 12/13 CIP BUDGET PREPARATION SCHEDULE

TIMELINE		TASK
	11/7/2011	Budget Officer Distributes CIP Instructions and Materials
11/7/2011	12/5/2011	Departmental Staff Update Project Detail Sheets & Prepare New Project Proposals
	12/5/2011	Project Detail Sheets Due (To Finance *(Allan*), DES *(Kul)* , & CMO *(Maria)*
12/5/2011	1/26/2012	DES Obtains Cost Estimates and Scopes of Work
	1/26/2012	DES submits Completed Cost Estimates to Budget Officer
1/26/2012	2/15/2012	Budget Officer organizes CIP materials and submittals for Project Team Review
	2/15/2012	CIP Project Team Reviews General CIP Projects (3:00 p.m. - 5:00 p.m.)
	2/22/2012	CIP Project Team Reviews All CIP's and Makes Recommendations to CMO (3:00 p.m. - 5:00 p.m.)
	3/2/2012	CMO Reviews and Finalizes CIP's
3/5/2012	3/16/2012	Budget Officer prepares proposed CIP for Council Review
	3/20/2012	City Council CIP Workshop (Before regular City Council Meeting)

Revised 10/25/11

November 1, 2011

AGENDA ITEM 8

REQUEST

AMEND THE CITY MASTER FEE SCHEDULE TO INCLUDE FIREARMS TRAINING FACILITY USER FEES, ACCEPT REPORT ON HISTORY AND USE OF THE TRACY FIREARMS TRAINING FACILITY, AND PRESENT THE COST ESTIMATE FOR CAPITAL IMPROVEMENTS TO THE TRACY FIREARMS TRAINING FACILITY

EXECUTIVE SUMMARY

This staff report provides the City Council with a (1) brief history and description of use of the Tracy Firearms Training Facility (firearms training facility), (2) a proposed amendment to the City's Master fee schedule to include firearms training facility user fees, (3) and present the cost estimate for capital improvement to the firearms training facility.

DISCUSSION

History and description of use of the Firearms Training Facility

The firearms training facility was established in the 1950s. Over the past 60 years, the facility has helped train generations of Tracy police officers in basic shooting skills and other types of training. Currently, no regional firearms training facility exists within the region and the requests for use of the Tracy firearms training facility have increased in the last few years, particularly as local agencies evaluate the costs for overtime to send their officers a long distance to training.

Due to the aging cycle of the firearms training facility, the facility is not only in need of basic repairs, but also improvements are necessary to keep pace with current technology, legal mandates and best practices. Since the establishment of the firearms training facility, the City has invested approximately $100,000 for numerous repairs and has received various donations of materials and services from local businesses.

Technological Advances in Training Equipment

Early firearms training consisted of little more than a remote area where targets were placed in a stand and officers fired at paper targets. Today, varying degrees of technology are incorporated into training to recreate the realism of actual armed encounters that may be experienced by officers on the street--this is consistent with the Commission on Peace Officer Standards and Training (POST) mandate that police departments conduct training that is "reality-based." The police department is currently considering including Force Options Simulators in firearms training. The Force Options Simulator uses a high definition video footage for a variety of interactive video scenarios. With the use of the Force Options Simulator, a diverse and inclusive range of use of force responses can be taught and evaluated. The value in simulation, based on use of force training, is the ability to allow the training to go beyond the point of simply mastering specific skills and focus on teaching the appropriate application of these skills under realistic field conditions.

What began as exclusively marksmanship and safety training in the 1950s has become a much more comprehensive training endeavor encompassing a wide variety of skills under the umbrella of firearms training. The decision-making process must be more involved than just "shoot-don't shoot" scenarios. Training must include a wide range of force options where use of firearms may not be the appropriate response. [1]

Increased Training Requirements

POST sets the minimum training standards for police officers and recognizes Tactical Firearms training as a perishable skill that must be continuously refreshed. The Tracy Police Department also recognizes the need for an increased amount of training. Officer-involved shootings are events that are low frequency but represent high liability. Therefore, Tracy police officers conduct regular firearms training with on-duty weapons, off duty weapons, long rifles as well as shotguns. Officers carrying the long rifle must qualify once a month and must conduct weekly sight alignment checks for the purpose of validating the accuracy of the weapon. Training hours are also increased for SWAT team officers who must maintain a high level of proficiency in use of various weapons and physical conditioning.

The POST Administrative Manual lists and describes the myriad of legislatively mandated courses police officers must complete and the minimum requirements for completing these courses. The Department finds it more cost effective to train and utilize in-house instructors to conduct most courses, rather than sending officers to external training. Improved skills and sound decision-making through increased training in the application of appropriate levels of force will reduce the City's legal exposure should force be used.

Overview of Incremental Change at the Firearms Training Facility

As noted above, greater and changing demands require a broader degree of shooting skills training and training facilities, including a range course that can accommodate the greater range of the long rifles. The current firearms training facility has undergone several incremental improvements. The facility was originally intended for the Tracy Police Department exclusively, but has grown to accommodate multiple users at any given time. Over the years, the firearms training facility has expanded and now has a training classroom and four independent firing ranges that can safely accommodate multiple users at one time. The facility can be configured for use in rifle, pistol, shotgun, and simunitions (non-lethal training ammunition) simultaneously. Additionally, the facility has a 300 yard rifle course, making it the only police range in San Joaquin County with a 300 yard capability. The outdoor facility allows for tactical and expansive training needs, such as in the case of interactive training with buses, vehicles, etc.

Regional Demand for a Firearms Training Facility

Currently, San Joaquin County does not maintain any regional firearms training facilities. The closest law enforcement ranges with similar capacity are the Alameda County Sheriff's Department's range in Dublin and the Santa Clara Sheriff's Department's range in San Jose. The Alameda County Sheriff's Department opens its range to other local

[1] William Stewart, "What Role Will Technology Play in the Future of Law Enforcement Firearms Training Facilities?" The Future of Realistic Training, 2008.

law enforcement agencies and charges fees for use of its range in the amount of $400/range day which results in annual earnings of about $250,000. Local law enforcement agencies pay these rates because they have no other option and the demand is such that it is difficult to schedule time at the Alameda County Firing Range. The Santa Clara County Sheriff's Department has a "law enforcement use only" range that generated $108,000 and $105,000 of revenue in calendar years 2009 and 2010, respectively.

Charging users to recover ongoing costs of operations and maintenance has not previously been considered in Tracy, however, with increasing demand for use of the firearms training facility and the need to address maintenance and repair needs for the facility, Staff has alerted current range users that user fee charges may be charged in the future. Currently, the U.S. Air Force has offered $4200 per year for use of the facility.

Given the current and expressed interest by various entities to use the firearms training facility in Tracy, staff estimates that the firearms training facility could generate approximately $50,000-$65,000 in revenue per fiscal year from law enforcement agencies beginning in FY 12-13. Currently, the following agencies use the firearms training facility:

- San Joaquin County Sheriffs Department SWAT team.
- Defense Logistical Agency Police.
- California Highway Patrol (Valley Division).
- Brentwood Police Department/SWAT.
- San Joaquin County EOD.

<u>Adopting a firearms training facility User Fee:</u>

A demand currently exists for continued firearms training by law enforcement agencies. Given the limited supply of available options, the Tracy firearms training facility is an attractive option for regional law enforcement agencies. Law enforcement agencies that use firearm training facilities typically pay a user fee which can help offset operating costs such as routine maintenance, electricity, portable bathrooms, wear and tear of targeting systems, weapons cleaning supplies, and use of other classroom equipment.

After evaluating fees charged by two local law enforcement training facilities, the proposed fees listed below are both reasonable and competitive.

The Tracy Police Department proposes the following fees for use of the classroom and shooting ranges:

Tracy specific amenities below *versus comparable rates of others*	Tracy (proposed)	Alameda County	Santa Clara County
Classroom with Audio Visual Equipment (seating for up to 65). If using one of the ranges this fee is dropped.	4 hours $ 50 8 hours $ 100	8 hours/$150	$30/Hour $200/Day
Classroom with Physical Training Mat Room (Mat space for up to 20 students).	4 hours $ 100 8 hours $ 150	N/A	N/A
Central Range (25 yard Outdoor range with 20 firing lanes, weapons clearing/cleaning, tactical	4 hours $ 150 8 hours $ 300	4 hours/$300 8 hours/$400	$40/Hour $250/Day

range with props, vehicles and motors are allowed).			
Rifle Range (150-300 yard Outdoor range with 10 firing lanes, tactical range and vehicles and motors are allowed).	4 hours $ 150 8 hours $ 300	4 hours/$300 8 hours$400	$20/hour $150/Day
Shotgun Range (50 yard Outdoor range with 10 firing lanes, tactical range and vehicles and motors are allowed).	4 hours $ 150 8 hours $ 300	4 hours/$300 8 hours/$400	$40/Hour $250/Day
*** At the City's option, range fees may be computed at an hourly rate within certain exceptions.**			

Cost Estimate for Capital Improvements to the Firearms Training Facility:

The estimated capital improvement costs for the Tracy firearms training facility is $1.8 million dollars. This cost estimate includes a number of improvements such as addressing infrastructure needs, improvements to shooting lanes, fiber optic network installation, paving of parking lot, site grading and improvements to access road, landscaping and a K-9 area designation.

The improvements can be phased over a five year period and cost spread as money becomes available. As outlined below, staff estimates that Phase one will cost $425,000, that Phase two will cost $245,000, that Phase three will cost $432,000, that Phase four will cost $420,000, and that Phase five will cost $280,000 for a total of $1,802,000 total cost should this become a capital improvement project.

Firearms Training Facility Improvement Phases I – V

Phases	Description	Amounts
Phase I (FY 2012 – 13)	Water & Sewage Bathrooms Electrical Upgrades Bullet traps Storm Draining (2 Dry Wells)	$425,000
Phase II (FY 2013 - 14)	Improvements to Shooting lanes & Walkways Electrical upgrade & site lighting Fiber Optic Network for computer and Internet access Roof repairs	$245,000
Phase III (FY 2014 - 15)	Paving of upper and lower parking lots	$432,000
Phase IV (FY 2015 - 16)	Improvements to access road, landscaping & K-9 area	$420,000
Phase V (FY 2016 – 17)	Site grading and slope protection	$280,000
	Total	**$1,802,000**

Although the firearms training facility is currently functional, it is in need of some basic infrastructure like running water and restroom facilities. For example, donated landscape materials last for a limited amount of time due to lack of available water on site.

The firearms training facility currently has a CIP funding allocation in the amount of $43,000 for FY11-12, which will be used to repair the access road to the firearms training facility in preparation for the winter months.

The CIP Prioritization Review Process:

As explained in an earlier staff report item relative to 301 CIP Fund, a CIP request for the Tracy firearms training facility will be submitted this month to be reviewed through the CIP prioritization process for Council's consideration during the March, 2012 CIP Workshop. This will assist Council in assessing this project against the other recommended priority projects and will determine which phases may be recommended for funding.

STRATEGIC PLAN

This agenda item supports the Economic Development strategic plan and specifically implements the following goal and objectives:

Goal 4: Establish relationships with the public, private and non-profit sectors to leverage resources

FISCAL IMPACT

There is no immediate impact to the City's FY 2011-12 Budget. A CIP allocation in the amount of $43,000 is in the current fiscal year budget (CIP #71072). If the Firearms Training Facility Fee schedule is adopted, the Police Department expects to generate about $50,000 to $65,000 annually in revenue beginning FY 2012-13.

RECOMMENDATION

That the City Council receives this report and approve the Firearms Training Facility user fee.

Prepared by: John Espinoza, Police Captain
Wade Harper, Police Lieutenant
David Sasser, Police Sergeant
Dwayne Pedersen, Police Officer

Reviewed by: Gary R. Hampton, Chief of Police

Approved by: R. Leon Churchill, Jr., City Manager

Attachments: Attachment A – Proposed Tracy Firearms Training Facility User Fee

Attachment A

Proposed
Tracy Firearms Training Facility User Fee

Tracy specific amenities below	Tracy Rate (proposed)
Classroom with Audio Visual Equipment (seating for up to 65). If using one of the ranges this fee is dropped.	4 hours $ 50 8 hours $ 100
Classroom with Physical Training Mat Room (Mat space for up to 20 students).	4 hours $ 100 8 hours $ 150
Central Range (25 yard Outdoor range with 20 firing lanes, weapons clearing/cleaning, tactical range with props, vehicles and motors are allowed).	4 hours $ 150 8 hours $ 300
Rifle Range (150-300 yard Outdoor range with 10 firing lanes, tactical range and vehicles and motors are allowed).	4 hours $ 150 8 hours $ 300
Shotgun Range (50 yard Outdoor range with 10 firing lanes, tactical range and vehicles and motors are allowed).	4 hours $ 150 8 hours $ 300

RESOLUTION _____

AMENDING THE CITY'S MASTER FEE SCHEDULE BY ADDING NEW FEES FOR USE OF THE TRACY POLICE DEPARTMENT FIREARMS TRAINING FACILITY

WHEREAS, The City of Tracy established a Tracy Police Firearms Training Facility in the 1950's and has supported its improvement over the years, and

WHEREAS, The unique capabilities of the Firearms Training Facility are bringing value to end users and thereby creating a potential revenue opportunity, and

WHEREAS, The Police Department has proposed a Firearms Training Facility Fee use schedule to charge end users of the facility and those fees are comparable to other law enforcement agencies and are not in competition with any private entities within the city limits, and

WHEREAS, The City recognizes the direct and indirect financial revenue to be generated by opening the Tracy Police Firearms Training Facility to other law enforcement agencies and firearms manufacturers.

NOW THEREFORE BE IT RESOLVED, That the City Council hereby amends the City's Master Fee schedule (Resolution 2011-101) by adding Tracy Police Firearms Training Facility fees as follows:

Tracy specific amenities below	Tracy Rate
Classroom with Audio Visual Equipment (seating for up to 65). If using one of the ranges this fee is dropped.	4 hours $ 50 8 hours $ 100
Classroom with Physical Training Mat Room (Mat space for up to 20 students).	4 hours $ 100 8 hours $ 150
Central Range (25 yard Outdoor range with 20 firing lanes, weapons clearing/cleaning, tactical range with props, vehicles and motors are allowed).	4 hours $ 150 8 hours $ 300
Rifle Range (150-300 yard Outdoor range with 10 firing lanes, tactical range and vehicles and motors are allowed).	4 hours $ 150 8 hours $ 300
Shotgun Range (50 yard Outdoor range with 10 firing lanes, tactical range and vehicles and motors are allowed).	4 hours $ 150 8 hours $ 300

* * * * * * * *

The foregoing Resolution _____ is hereby passed and adopted by the Tracy City Council this 1st day of November, 2011, by the following vote:

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

_____
Mayor

ATTEST:

_____
City Clerk

November 1, 2011

AGENDA ITEM 9

REQUEST

DISCUSSION AND DIRECTION REGARDING VACANT AND ABANDONED PROPERTIES

EXECUTIVE SUMMARY

This report is in response to City Council Member Rickman's request for information relative to the City's process in enforcing nuisances associated with vacant and foreclosed properties in the City of Tracy. Staff also takes this opportunity to share with City Council how the current Code Enforcement Program generally is geared toward complaint based enforcement. Staff will share ideas with City Council how the program could become more proactive. Specifically, staff will solicit Council feedback and guidance on its position relative to expanding existing Tracy Municipal Code requirements as they pertain to blighted property and to consider its position on a potential vacant property registry.

DISCUSSION

Current Code Enforcement Efforts Related to Residential Properties

The City of Tracy Municipal Code has several provisions that address the general maintenance and safety-related issues associated with residential properties. Attachment A to the staff report includes a listing of those provisions, which ranges from minor nuisances such as garbage and debris to public safety issues such as sub-standard buildings and living conditions. Foreclosed homes have been on the increase in the last several years and specific new code enforcement tools related to foreclosures are discussed below

Scope of Vacant Building Problem

Vacant and abandoned properties in the City of Tracy are not limited to properties in foreclosure. Many properties in the City of Tracy are vacant for various reasons; however, Code Enforcement has no exact statistics on the number of vacant, boarded-up or abandoned houses in the City. Although vacant and abandoned residences alone do not violate City ordinances, they become problematic as a result of broken windows, unsecured doors, overgrown weeds, accumulation of garbage and junk and are conducive to criminal activity including drugs, prostitution, and vandalism. Other problems associated with these properties include arson, accidental fires, noxious odors due to sanitation issues and transients. These problems become attractive nuisances for children playing in and around the area, perpetuating neighborhood deterioration.

Current Codes to Address Vacant Buildings

Tracy Municipal Code Section 9.60, Boarding of Buildings with Unsecured Openings, addresses vacant buildings which have unsecured windows and doors or other openings allowing entry, resulting in an attractive nuisance. This Ordinance defines what constitutes an unsecure structure, applicability, and building permit requirements for securing the structure. Once a building is boarded and in compliance with code requirements, there are

no time limits specified in the code relative to how long a building can remain boarded. Staff estimates there are approximately 15 boarded up buildings in the City of Tracy.

With the exception of foreclosures, enforcement powers on private property nuisances are limited to uniform statewide building codes and a variety of local nuisance laws. However, not all existing statutes work in every situation.

Recent Additions to the Scope of Code Enforcement Tools on Foreclosed Homes

On October 21, 2008, Tracy City Council adopted Resolution 2008-228 approving Senate Bill 1137, enacted as an urgency measure to help lessen the negative effects of the foreclosure crisis. This bill applies only to residential mortgage loans acquired from January 1, 2003 through December 31, 2007, and sets forth the following procedures which *only* apply to residential property and are effective until January 2013.

- Requires a legal owner to maintain and secure vacant residential property at a foreclosed sale, or acquired by that owner through a foreclosure under a mortgage or deed of trust.

- Authorizes the City to impose civil fines and penalties for failure to maintain property (up to $1,000 per day for a violation).

- Requires the City to give notice of the violation, description of conditions that lead to the violation and notice of the City's intent to access a civil fine if action to correct the violation is not commenced within a period of not less than fourteen (14) days and completed within a period of not less than thirty (30) days.

- Allows for hearing to contest civil fines and penalties.

- Fines and penalties collected must be directed to a local nuisance abatement program.

The use of SB 1137 has been successfully used on two occasions to effectuate change in resolving code cases that fall under the authority of SB 1137 and has been effective in allowing the City to impose civil and/or administrative penalties for nuisance properties after the property has been purchased as a result of a foreclosure sale.

A subsequent bill, Assembly Bill 1427, adopted by the state legislature, requires that government agencies provide the legal owner with not less than 30 days to remedy the violation prior to imposing a civil fine and requires that the entity provide a hearing and opportunity to contest any fine imposed. The governmental entity may provide less than 30 days' notice to remedy a condition before imposing a civil fine if the entity determines that a specific condition of the property threatens public health or safety, provided that notice of that determination and time for compliance is given. AB 1427 provides greater clarification of SB 1137 with regard to due process measures, therefore, there is no need to incorporate SB 1427 into the City's processes since our local authority already provides due process rights, administrative remedies and nuisance abatement issues.

Organization Efforts to Address Vacant Buildings/Blight

Because there are a variety of statutes to consider when trying determining the best approach to deal with a blighted property, the City of Tracy has an established inter-departmental task force that reviews and addresses blighted properties. This task force consists of a member of each City department that has a role in dealing with blighted properties. This team, known as the Inter-Departmental Enforcement Alliance (IDEA) (description attached) meets on an as needed basis to discuss problem properties, share information, collaborate on best practices and solutions on how to best deal with problem properties and identify available resources. Remedies are selected, members are given assignments for their departments and progress is monitored. In addition, IDEA team members conduct walk-through inspections of neighborhoods and make contact with community organizations such as neighborhood watch groups, to help identify problem properties in the community. Using this approach has been an effective method in our goal of achieving compliance utilizing the various City disciplines available throughout the organization.

What Happens When Voluntary Compliance Fails?

When dealing with a blighted property, the goal is to work in collaboration with the property owner for compliance (see attached Code Enforcement Process-Dealing with Foreclosed Properties). However, in many instances efforts to make an owner assume responsibility prove unsuccessful. Some properties are owned by individuals who live outside Tracy and become disinterested in the property. In some cases, properties are owned by companies or individuals that have filed for bankruptcy or do not have the financial resources to correct blighted conditions. In other instances, a property owner dies without a will and the property passes to multiple heirs who are either unknown or have such a small interest in the property that they are unwilling to assume responsibility for it.

Even with enforcement tools available that give the City the right to take certain actions to compel an owner to abate blighted conditions, there are times when, for reasons listed above and other factors, compliance measures are simply unsuccessful. When this occurs, the City may move forward with managing and funding the abatement. In extreme cases, where administrative and judicial remedies prove ineffective, the City may move forward with more aggressive action, such as receivership (see attached Health and Safety Receiverships: An Effective Code Enforcement Remedy in Tough Times).

Receivership is a powerful but infrequently used tool for ensuring that seriously troubled properties are repaired or rehabilitated. Receivership is used as a last resort when traditional code enforcement practices to motivate an owner to perform necessary maintenance and repairs are unsuccessful and a property is a danger to the community. If a property is not being properly maintained, a municipality can go to court and seek to have a receiver appointed to take control of the property. If the court appoints a receiver, this third party is authorized to act as if it owns the property. The receiver can take any step the court authorizes to repair or rehabilitate the property. Receivers can finance the work with cash loans from banks or the municipality. In exchange, the receiver gives the lender a special certificate, which basically guarantees that it will get the full value of the loan back

with interest. If the owner of the property doesn't pay back the receiver's loan with interest, the certificate becomes a lien on the property, which the Court may order be paid back before all other encumbrances on the property except taxes.

Innovative Approaches in Dealing with Vacant Properties

In response to the blighting influence and expense of vacant, foreclosed, and abandoned homes, many cities throughout the United States have begun to enact vacant property registration ("VPR") ordinances. Registration ordinances typically require owners of properties that have become vacant or abandoned for a certain length of time to register formally with the local agency. Registration provides the local agency with a point of contact for regulation and holds the owner to certain safety and maintenance standards.

There are two types of VPR ordinances, and both approaches are generally staff intensive and would require significant City resources to implement. The first, known as The Wilmington Model, regulates all types of vacant and abandoned properties (those with structures, such as residential, commercial, industrial and those without). The second is The Home Foreclosure Ordinance (aka The Chula Vista Model). This VPR is commonly used as the best practice model, focusing on the responsibilities of the lender and mortgage servicers during the mortgage foreclosure process after the former owners and/or tenants permanently leave the property. This model may also be applied to vacant properties that are not a result of foreclosure, but privately owned property that have been left vacant and neglected by private property owners.

The following nine tools are common within VPRs:

Tool 1: An Early Warning Database

Used to identify problem properties and at-risk neighborhoods and facilitate collaboration.

Tool 2: Identifying a Party Responsible for Property Maintenance

Used to identify the right person to contact at a financial institution to ensure that vacant properties are maintained and secured when a traditional property owner cannot be found.

Tool 3: Collaboration

Collaboration among City departments and possibly outside agencies and the broader community to maximize resources and reduce the impact of vacant properties.

Tool 4: Establishment of a Vacant Building Registry

Such a registry motivates owners to maintain buildings and return them to productive use, identifies the party responsible for problem properties, monitors vacant properties, and defrays costs of providing related municipal services.

Tool 5: Targeting Resources

Identifies and maximizes limited resources for addressing vacant property issues.

Tool 6: Recovering Costs of Property Maintenance

Maintaining vacant properties and recovery of a greater share of the costs they impose.

Tool 7: Receivership

A process that ensures that an agency with the necessary expertise and resources repairs or rehabilitates a vacant property.

Tool 8: Acquiring Properties

Acquire properties to stabilize or rehabilitate individual properties or to redevelop an entire area or neighborhood in communities with large numbers of vacant properties.

Tool 9: Demolishing Properties

Demolish vacant properties that pose significant danger to the community and cannot be adequately addressed in any other way.

Among the most important components of a successful registry program is a requirement that owners submit a "statement of intent" or vacant property plan that sets forth the expected period plans for maintaining the property during the vacancy, and a detailed plan and timeline for reoccupying, rehabbing or demolishing the property. In staff's research, it was discovered that those communities with experience in administering property registry programs believe such a requirement is particularly valuable because it provides a tool for municipal staff to engage with motivated property owners and to help them think concretely and realistically about appropriate steps that need to be taken to identify and address problems with their properties. Such plans can require an owner to have an approved vacant property plan within 30 days of filing the registration form. Failure to have an approved plan within this time period or failure to comply with an approved plan constitutes a violation, subjecting the owner to applicable penalties and remedies.

Policy Direction Needed

An area that staff has little authority to regulate under current codes relates to properties that do not rise to the level of a public nuisance, but are simply eyesores. The City's Code Enforcement Division regularly receives requests from the community to declare a situation as being a threat to the public health, safety or welfare when it is actually nothing more than an annoying condition, as these situations are not addressed in the TMC. Although staff has no specific number of inquiries relative to these types of complaints, these types of enforcement requests are only permitted under an adopted policy that sets forth beautification standards. Property maintenance and image are significant when considering the community's perception of property safety. Additionally, long term commitment to care is essential because it tells the would-be criminal that someone cares about the property

and the neighborhood. Keeping property up can also set neighborhood standards and enforcement of City building and maintenance codes can discourage criminal activity, preserve neighborhood character and can have a stabilizing effect on property values.

Although some of the nuisances addressed through such standards are currently provided in the TMC (attached), there are opportunities to expand and/or broaden these statutes to better address these issues.

In terms of policy direction, staff requests the following input from Council:

- Possible amendment to the Board Up of Open Unsecured Structures ordinance that establishes timelines that a vacant, boarded property can remain vacant and further requiring the filing of a Statement of Intent that sets forth the expected period and plan for maintaining the vacant property along with a detailed plan and timeline for reoccupying, rehabbing or demolishing the property.

- Adoption of a Vacant Building Registry for vacant residential properties as outlined above.

- Adopting additional property maintenance standards including, but not limited to:

  - *Vehicle parking on lawns and in back yards*. Restrict parking on landscaped areas within front, rear, and side yards in residential zones. Reduces the City's cost of repairing damaged curbs and sidewalks caused by vehicles driving over curbs and and repaving curbs to slop upwards towards private property front yards

  - *Limit the paving of entire front yards.* Would reduce negative impacts to the community's shared environment caused by an increase in impervious land covers (i.e., reduction in water runoff into the City's storm drain system), soften visual appearances of street frontages, and reduce the creation of additional curb cuts, damaged curb cuts, and associated parking complaints.

  - *Overgrown, dying and/or unmaintained vegetation, including lawns and landscaping, especially private property landscaping that encroaches public rights of way.* Well maintained property decreases the potential for rodent harborages, ensures adequate ADA compliance and addresses visual obstruction. This section would further address neighborhood security issues, as overgrown bushes provide a location for predators in hiding.

  - *Watering and yard maintenance requirements*. Would maintain the visual integrity of a neighborhood by reducing unsightly appearances, potential fire hazards and insect/vermin infestation.

  - *Accumulation of newspapers, circulars, flyers, notices*. Requiring these items be removed would minimize the potential of blight and security related incidents in neighborhoods.

- *Creation of a Property Maintenance section in the TMC*. Combining the various property maintenance-related sections of the TMC into one comprehensive code section would enhance the public's ability to more easily identify code requirements as they relate to private property maintenance. Currently, these sections are spread throughout the TMC and are somewhat difficult for locate.

- *Outside Storage and Temporary Carports.* The TMC does not address storage of PODS units on private property. Incorporating language to the existing code could establish a timeframe (i.e., 30 days) that a PODS can be located on private property. Temporary carports are not specifically addressed in the code and, as such, staff has considered these carports an accessory structure, as defined in the Building Code. Prohibiting this use via a code amendment would provide clarity to the community that these units are prohibited.

While researching similar ordinances from other jurisdictions, these types of standards vary from city to city in terms of stringency. For example, the City of Brea's Beautification Ordinance closely resembles standards often found within a homeowner's association, such as limiting on-street parking hours, established paint color palettes for residential and commercial structures, tree species allowed in front yards, to name a few.

STRATEGIC PLAN

There are several key components involved in engaging residents in public safety through education both external and internal. A graffiti abatement program, property maintenance standards considerations and a vacant building registry program have been established as part of Goal 4 of the Public Safety Strategy's overall infrastructure, supporting prevention and education and education efforts using a holistic approach using fire safety, municipal code information and crime prevention through environmental designs (CPTED).

Additionally, community partnerships with residents affected by foreclosures have and continue to be established through existing Neighborhood Watch Meetings. Code Enforcement attends these meetings with the Tracy Police Department on a regular basis to educate residents affected by foreclosed properties with tips on how they can help keep the property from negatively impacting their neighborhoods and how to report violations. Staff believes these alliances have a positive impact on the condition of the community's property stock and demonstrate a united commitment on the part of all stakeholders in the community, both public and private alike.

FISCAL IMPACT

The fiscal impact varies depending on Council's direction. Each area of policy direction is addressed separately.

1. Update Boarding of Unsecure Buildings Ordinance to establish amount of time a property can be boarded. Continuation of existing code provisions would not result in a fiscal impact. Introduction of a time limit would have a negligible fiscal impact as current

administrative support staff would be assigned the task of tracking timeframes on boarded up buildings.

2. Vacant Property Registry – Although incorporated into the City's public safety strategy, this process is staff intensive and would substantially increase the caseload. Current staffing levels are inadequate to successfully carry out such a program. Such a program could impose registration fees to help offset the cost of operating the program, and any fines and penalties imposed and received from non-compliant owners would be used towards administrative costs, field investigations. Nonetheless, it is anticipated that a VPR program would require 1.5 to 2 FTEs at a General Fund impact.

3. Tracy Municipal Code Amendments that address additional property maintenance standards in the TMC would result in additional code enforcement cases very similar to current cases. Accordingly, the case load would increase and would require additional staff. Depending on the maintenance standards, it is anticipated that this would require between 0.5 to 1.5 FTEs funded from the General Fund.

RECOMMENDATION

This information is provided for Council's review. Staff seeks Council feedback and direction in regards to definition of annoyance issues and direction on three major areas: (1) Changes to current TMC for length of time a vacant building can remain boarded; (2) the future of a Vacant Building Registry in the City of Tracy, and (3) Scope of TMC amendments that address violations of community standards and values that reflect Tracy's character and quality of livable neighborhoods. Staff recommends that City Council, over time, include amendments listed in number 3 and coordinate the amendments based on existing Code Enforcement case load.

Prepared by: Ana Contreras, Community Preservation Manager

Reviewed by: Bill Dean, Assistant Director DES
Andrew Malik, Development and Engineering Services Director

Approved by: Leon Churchill, Jr., City Manager

Attachments:

A: IDEA Team Description
B: Code Enforcement Process-Dealing with Foreclosed Properties
C: Health and Safety Receiverships: An Effective Code Enforcement Remedy in Tough Times
D: City of Tracy Code Sections Relative to Property Maintenance

ATTACHMENT A

Implementation of a Multi-Disciplinary Enforcement Team

The Inter-Department Enforcement Alliance (IDEA) is a philosophy and methodology designed to identify and analyze community problems and to develop effective responses through partnerships between City departments. Conversely, outside governmental agencies may call upon the Alliance to partner on issues of community concern in areas outside of the City's designated target areas. The IDEA, by design, will provide seamless and coordinated service in such circumstances to facilitate the resolution of an identified community problem. The team will target problem properties as they relate to police issues, fire safety, building, planning and zoning code violations, and other regulations as appropriate, to combat nuisance properties that traditional code enforcement measures do not effectively address. In order to support and complement these interagency/interdepartmental efforts, systematic and non-compliant based code enforcement may be implemented. Enforcement can include both administrative and judicial remedies, as provided in the Tracy Municipal Code.

The process recommended to accomplish this service utilizes the "SARA" Model. SARA involves scanning the community looking for problems **or** utilizing pre-determined properties or areas within the community that have been identified as recidivist properties, analyzing the depth of the problem and the best method for solving it, responding to the problem, and assessing the effectiveness of the response. This process involves a great deal more than just police involvement. It requires input, commitment, and a willingness to solve problems from citizens, businesses, city departments and other governmental agencies.

City Designation of the Top Ten

The Top Ten is a program dedicated to identify and implement the reconstruction, rehabilitation or removal of the most blighted residential and commercial buildings throughout the city. Buildings identified and targeted for this program will include both commercial buildings and residential living units. The resources of several City departments and divisions will be utilized in a collective approach to deliver more efficient services.

Three components of the Top Ten Program:

- The IDEA Team will maintain a list of the Top Ten Properties, which require inter-departmental enforcement effort.
- Constituents are asked to proceed with the normal enforcement complaint process as all properties are selected from current cases. City departments are still responsible for monitoring and tracking all current cases as usual.
- New properties will be rotated onto the list as others are resolved.

The list of the Top Ten properties will be made public and property owners will be identified via mapping system available for view on the City's website.

City Designated Blighted Properties

In an effort to comprehensively and effectively address multiple violations of City designated blighted properties, the Alliance may implement non-compliant based code enforcement against properties designated as blighted properties.

Recidivist Properties (Three Strike Properties)

Recidivism will be an identifiable case type addressed by the Alliance. Utilizing the IDEA to address recidivism is intended to provide relief via an expedited enforcement process for neighborhoods experiencing problems with residents who repeatedly violate City codes and who have demonstrated an inability or unwillingness to maintain their property in accordance with City requirements.

The definition of a recidivist case is a property where a history of violations exist involving the same responsible person at the same property. A recidivist is any person or property that on at least one prior occasion has violated City codes within a twelve month period. The recidivist will have the following premise history:

- Has received a Violation Notice and failed to abate the violation(s) within the time established by the Tracy Municipal Code and contained on the Violation Notice;
- Has had civil or criminal charges initiated and/or filed pursuant to the Tracy Municipal Code, or
- Has had an abatement order initiated on their property.

IDEA Participants

An inter-departmental approach to enforcement brings together the resources of eight (8) city departments, each of which shares responsibilities relating to the enforcement and compliance of nuisance properties. By institutionalizing interdepartmental cooperation and coordination, the IDEA team facilitates a more effective response to the problems associated with nuisance properties. Team participants include staff from the following City departments:

City Manager's Office

- MCYSN (Monica Gutierrez)

Development & Engineering Services Department

- Planning Division (Scott Claar)
- Code Enforcement/Building Divisions (Ana Contreras; Jim Decker; Patricia Zona; Laura Serrano)

Economic Development

- Economic Development (Amy Parker)
- Downtown Revitalization (Ana Reynoso)

Finance Department

- Business License Division (Rocki Bennett)
- Utility Disconnects (Eileen Solario)

Fire Department

- Division Chief (Andy Kellogg)
- Administrative Assistant (Gina Rodriguez)

Parks and Community Services Department

- Parks Division (Mark Honberger)

Police Department

- Neighborhood Services (NROs, Irene Rose, Lt. Dave Sant)

Public Works Department

- Solid Waste Division (Jenny Cariglio)
- Graffiti Abatement Division (Bob Gravelle)
- Streets Division (Don Mason)
- Storm Water Division (Stephanie Reyna)

Code Enforcement
Addressing Vacant and Unsecured Buildings
(Foreclosures)

The City's involvement in dealing with abandoned and foreclosed property begins when a complaint is filed with Code Enforcement. The complaint is then entered into its database, a case is opened, and a site inspection is performed to validate the complaint. Many of the violations found on these properties cross departmental and agency lines. For instance, abandoned vehicles and overgrown weeds are referred to the Fire Department. Issues involving vandalism and abandoned animals are reported to the Police Department, while unkempt swimming pools (which can become a breeding ground for West Nile Virus) are referred to the San Joaquin County Mosquito Abatement District for abatement of mosquito larvae.

Once the complaint has been confirmed, Code staff notifies the property owner by phone, in person, or by mailing a Notice and Order with a specified time frame for correcting the violation(s) along with an appeal period. A follow-up investigation is then conducted shortly after the deadline contained in the Order to verify whether or not corrective action has been taken. If the violation(s) still exist at the time of the follow-up inspection, the City will move forward with a Notice to Abate or Show Cause, including a deadline for compliance and appeal dates. If the violations are still not corrected, the City can move forward with more punitive action, such as administrative citations, and/or criminal or civil injunctions. Upon correction of all cited violations, the case is closed and no further action is required.

Although Code Enforcement's goal is to gain timely, voluntary compliance, foreclosures are a tremendous challenge to work through. Because these properties are vacant and the property owners are no where to be found, staff is tasked with the time intensive process of locating the financial institutions on title which, in most cases, are out of the area or out of state. The complications associated with dealing with large financial institutions result in delayed enforcement and compliance. Even after making contact with these lending agencies, they are generally slow to respond. To this end, staff has modified its procedure for locating owners of these foreclosed properties by registering with ChoicePoint, an on-line people finder service (similar to that used by skip trace companies) and with RealtyTrac, a foreclosure alert service, for up-to-date information on the various stages of foreclosure of these properties. Staff also orders litigation guarantees which provide title information and lists any persons, agencies, and/or institutions with a financial interest in the property.

In situations where lenders, trustees, or beneficiaries fail to comply with the City's abatement orders, the City can seek Council approval to abate the violations at the City's cost, with cost recovery (plus administrative charges) in the form of a lien against the property. However, in situations of imminent danger to the public and immediate action is necessary, the City can hire contractors to abate the nuisance and attempt to recover the cost for said abatement through small claims judgments.

Community partnerships with residents affected by foreclosures have and continue to be established through existing Neighborhood Watch Meetings. Code Enforcement attends these meetings on a regular basis to educate residents affected by foreclosed properties with tips on how they can help keep the property from negatively impacting their neighborhoods and how to report violations. Collaboration and assistance is also obtained from the Board of Realtors to

help address the problems often encountered on foreclosed properties. Staff anticipates these alliances will have a positive impact on the condition of the community's property stock and will demonstrate a united commitment on the part of all stakeholders in the community, both public and private alike.

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ATTACHMENT C

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Health and Safety Receiverships: An Effective Code Enforcement Remedy in Tough Times

BY DEAN J. PUCCI

Dean J. Pucci is an attorney and Superior Court receiver for the law firm of Jones & Mayer. He can be reached at djp@jones-mayer.com.

About Legal Notes

This column is provided as general information and not as legal advice. The law is constantly evolving, and attorneys can and do disagree about what the law requires. Local agencies interested in determining how the law applies in a particular situation should consult their local agency attorneys.

Many cities in California are facing unprecedented budget crises and must make difficult decisions about which services to cut and which to preserve. These challenges are compounded by decreasing home values, large numbers of foreclosures and the general financial pinch that increasingly result in property owners' and/or occupants' inability — or flat-out refusal

— to comply with local agency code enforcement efforts. In response, cities are calling on city attorneys and city prosecutors more frequently to find remedies to address code enforcement issues as cost-effectively as possible.

Code enforcement cases typically come to the enforcement agency's attention in one of three scenarios: owners and/or occupants who refuse, are unable or cannot be found to comply with local enforcement agency's orders to abate substandard conditions.

Triaging your agency's enforcement efforts and problem properties is critically important. The remedies that may have been standard operating procedure for your agency during the past 10 years may no longer be the most effective in terms of producing results or financial viability. The enforcement tool you choose must be implemented with an eye toward properties and property owners being required to pay for their own cleanup. These tools include:

- Administrative citations;
- Criminal prosecution;
- City/county-initiated abatement, initially performed at a cost to the agency;
- Civil nuisance litigation, including temporary restraining orders as well as preliminary and permanent injunctions;
- Foreclosure/bank-owned property enforcement programs, which impose fines but provide no assurance of abatement;
- Conservatorships, which under state law can be sought by a public official;[1] and
- Public guardianship, under which cases can be referred by a public agency without guarantee of acceptance or qualification.

These enforcement tools can be effective and appropriate under certain circumstances. However, they tend to be costly and provide little assurance of abatement within a reasonable time frame. Thus, local government agencies are often turning to alternative enforcement tools that provide a better guarantee that properties will be brought into compliance and maintained. This article focuses on health and safety receiverships as a model remedy.

About Health and Safety Receiverships

A health and safety receivership is a legal process through which title to a piece of real property is temporarily taken from the owner and placed with a court-appointed officer: the receiver.[2] These receiverships are used primarily for:

- Abandoned and substandard properties where the owner has a history of noncompliance with a local enforcement agency's orders to abate; or
- Situations where emergency circumstances are discovered that pose immediate threats to health and safety.

This is a dramatic, immediate, comprehensive and systematic process that virtually eliminates slum housing and/or habitually substandard properties at no expense to the referring agency/prevailing party. It also visibly communicates to the community that the agency is taking cleanup action and protecting residents and tenants who have been subjected to dangerous conditions by absentee or recalcitrant owners.

How It Works

Who or what are the typical candidates for health and safety receiverships?

Packrats and hoarders; owners who cannot properly care for the property because of advanced age or disability; referrals from police and/or fire departments; properties requiring forced tenant/owner relocation; properties with illegal construction/occupation; multi-unit/apartment complexes; fire-damaged properties; properties with drug/nuisance

abatement issues; bank-owned/abandoned properties; redevelopment agency properties.

What is the legal authority for appointing a health and safety receiver?

Legal authority is provided by the California Health & Safety Code sections 17980 through 17992, specifically sections 17980.6 and 17980.7.[3]

Who can ask the Superior Court to appoint a health and safety receiver over property?

The local enforcement agency, a tenant or tenant association or organization.

What is the receiver's specific legal authority?[4]

The receiver takes full and complete control of the property, including:

- Managing and paying expenses of operating the substandard building;
- Obtaining cost estimates for necessary repairs/rehabilitation;
- Entering into contracts with contractors to perform necessary repairs;
- Collecting rents and income from substandard building and using such rents to pay for repairs;
- Borrowing funds to pay for repairs;
- Relocating tenants and providing relocation compensation; and
- Much more.

If a city's/county's rules/regulations or traditional code enforcement process provides (or requires) a lengthy notice, hearing and appeal, must these procedures be followed first?

No. Health and safety receivership "remedies shall be in addition to those provided by any other law."[5]

What are the rules related to grounds for issuing a notice to repair or abate for health and safety receiverships?

- Only the existence of a building is required; it can be residential or commercial, abandoned or occupied.[6]
- Any local ordinance that is "similar in nature" to either the grounds found in the California Health & Safety Code section 17920.3 or the California Building Code can be used as grounds under the notice to determine violations, virtually encompassing all of the city/county-adopted codes related to code enforcement and property maintenance.
- The conditions present must be "so extensive and of such a nature that the health and safety of residents or the public is substantially endangered."

How much time must the city/county give to repair or abate?

A "reasonable time."[7] What constitutes a reasonable time depends on the facts and circumstances presented by each individual property.

What happens when a property owner fails to comply with the Health and Safety Notice to correct violations?

"The enforcement agency may seek and the court may order the appointment of a receiver for the substandard building pursuant to this subdivision."[8] Once the "reasonable time" to repair/abate has expired, the only remaining notice requirement to owner/recorded interests, prior to filing an ex parte emergency application/petition, is the minimum three-day notice that the city/county must give to the owner that it intends to file the petition.

Can immediate family members, friends and other relatives assist in the process of obtaining a receiver?

Yes. Frequently family members and friends have exhausted most remedies and welcome assistance. They can even sign declarations in support of the city's petition.

What happens if a property has negative or minimal equity? Can a receiver still be appointed, and how can the receiver borrow money?

A property's title profile, ownership or equity status have no effect upon whether a property meets the qualifications for appointment of a receiver. Title profile and equity are relevant to the receiver in assessing how to obtain the funds to accomplish the scope of work under the receivership and to the court in ordering super-priority status to the receivership certificates.[9]

Does the city need to adopt an enabling ordinance to authorize the use of receiverships?

No.[10] A city does not need to adopt any type of enabling ordinance to access the enforcement remedies provided in the Health & Safety Code.

Have courts upheld a receiver's discretion as it relates to whether to demolish, rehabilitate or vacate properties?

Yes. Most recently, in Santa Monica, the court appointed a receiver over substandard residential rental property and authorized the receiver to contract for demolition of the property over the owner's objection, in a case where the property

had a long history of unsafe and unsanitary conditions in violation of local building codes.[11] The California Supreme Court upheld the receivership and also upheld the lower court's decision and direction to the receiver to demolish the residential structure.

Is the city or county responsible for supervising the actions of the receiver or responsible for actions the receiver takes?

No. A receiver is an agent and officer of the appointing court.[12] As an officer of the court, a receiver is not an agent of any particular party to the action, but represents all persons interested in the property.[13] Property in receivership remains under the court's control and continuous supervision.

Can we recover our attorney's fees associated with asking the court to appoint a health and safety receiver?

Yes. The "prevailing party" in an action to appoint a receiver "shall be entitled to reasonable attorney's fees and court costs as may be fixed by the court."[14]

Putting the Burden Where It Belongs

Many local agencies are seeing an increase both in code violations and recalcitrant attitudes on the part of property owners and occupants. Even the courts have recognized that it frustrates code enforcement efforts and rewards noncompliance if the city has to bear the fees it incurred as a result of a property owner's recalcitrance.[15] Instead, using code enforcement tools that require property owners to reimburse the city for its legal fees "induces compliance with the city's regulatory authority."[16]

Health and safety receiverships offer an aggressive, effective remedy for substandard property that puts the burden and cost of abatement where it belongs — on those who created the blight and/or are responsible for the property.

Footnotes:

[1] Cal. Probate Code §§ 1800, et seq.

[2] Cal. H & S Code §§ 17980, et seq.

[3] California Rules of Court, Rules 3.1175 through 3.1184 further provide procedures for the appointment of a receiver on an emergency ex parte basis.

[4] Cal. H & S Code § 17980.7(c) (4).

[5] Cal. H & S Code § 17980.7 (g).

[6] Cal. H & S Code § 17980.6.

[7] Cal. H & S Code § 17980.7.

[8] Cal. H & S Code § 17980.6.

[9] Title Ins. & Trust Co. v. CA Develop Co. (1915) 171 Cal. 227, is the leading California case on issuing receiver's certificate with priority over existing liens. This case allows receiver's certificates to take precedence over prior lien holders "whenever the court finds them necessary to carry out the primary object of the appointment which is the care and preservation of the property."

[10] Cal. H & S Code §17980.7 (g) ("these remedies shall be in addition to those provided by any other law").

[11] City of Santa Monica v. Gonzalez (2008) 43 Cal. 4th 905.

[12] People v. Stark (2005) 131 Cal. App. 4th 184.

[13] Security Pacific National Bank v. Geernaert (1988) 199 Cal. App. 3d 1425.

[14] Cal. H & S Code §17980.7 (c)(11) (emphasis added).

[15] City of Santa Paula v. Narula (2003) 114 Cal. App.4th 485 (emphasis added).

[16] Id.

ATTACHMENT D

Property Maintenance Code

3.08.260	Parking or driving vehicles on sidewalks
3.08.420	Limited parking time in municipal parking lot located on East 11th Street
3.08.500	Repair of vehicles on streets
3.08.510	Storage and parking of vehicles in public right-of-ways—Prohibition of certain vehicles—Removal.
3.08.470	Washing vehicles in streets
3.48.030	Graffiti prohibited
3.48.130	Graffiti Appeal
4.12.020	Obstructions to public easements
4.12.040	Owners of utilities on public easements may remove obstructions
4.12.250	Removal of weeds and refuse
4.12.340	Unpaid assessments—Reports to County
5.04.010	Throwing rubbish on streets unlawful
5.08.220	Unsanitary conditions prohibited
5.12.010	Camp cars and trailers
5.12.200	Use of camp cars and/or trailers and tents
5.20.030	Requirement to subscribe for residential trash collection
5.20.040	Requirement to subscribe for commercial trash collection
5.20.050	Accumulation of trash prohibited
5.20.110	Burning Prohibited in the open air
5.20.400	Public nuisances
5.20.430	Authority to issue citations
6.24.010	Abandoned shopping carts
9.06.080	Section 505.1 Address Numbers & Section 505.1.2 Address Illumination
9.60	Boarding of buildings with unsecured openings
9.60.040	Standards for securing building
10.08.1080	Permitted uses (28) Use group 28: Household pets and small animals
10.08.1250	Off-street parking Low Density Residential (LDR)
10.08.1370	Off-street parking Medium Density Cluster (MDC)
10.08.1460	Off-street parking Medium Density Residential (MDR)
10.08.3130	Temporary construction buildings
10.08.3150	Permitted locations of boats and boat trailers
10.08.3140	Permitted locations of mobile homes, travel trailers, motor homes, and campers.
10.08.3250	Fence and hedge requirements (Add fence permit)
10.08.4550	Enforcement (Reduce time period to five (5) days)
10.08.4570	Home Occupation
?10.08.4360	Time limits for development
4.16.180	Unlawful acts in park
4.16.180 (d)	Cut, break, injure, deface or disturb any plant, rock, building, cage, pen, monument, fence, bench or other structure, apparatus or property; or pluck, pull up, cut, take or remove any shrub, bush, plant or flower; or make or write upon any building, monument, fence, bench or other structure

Health and Safety 17920.3

Replaces Chapter 10 – Uniform Housing Code

per Health and Safety Code 17922.

17920.3. Any building or portion thereof including any dwelling unit, guestroom or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building:

(a) Inadequate sanitation shall include, but not be limited to, the following:
- (1) Lack of, or improper water closet, lavitory, or bathtub or shower in a dwelling unit.
- (2) Lack of, or improper water closets, lavitories, bathtubs or showers per number of guests in a hotel.
- (3) Lack of, or improper kitchen sink.
- (4) Lack of hot and cold running water to plumbing fixtures in a hotel.
- (5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
- (6) Lack of adequate heating.
- (7) Lack of, or improper operation of required ventilating equipment.
- (8) Lack of minimum amounts of natural light and ventilation required by this code.
- (9) Room and space dimensions less than required by this code.
- (10) Lack of required electrical lighting.
- (11) Dampness of habitable rooms.
- (12) Infestation of insects, vermin, or rodents as determined by the health officer.
- (13) General dilapidation or improper maintenance.
- (14) lack of connection to required sewage disposal system.
- (15) Lack of adequate garbage and rubbish storage and removal facilities as determined by the health officer.

(b) Structural hazards shall include, but not be limited to, the following:
- (1) Deteriorated or inadequate foundations.
- (2) Defective or deteriorated flooring or floor supports.
- (3) Flooring or floor supports of insufficient size to carry imposed loads with safety.
- (4) Members of walls, partitions, or other vertical supports that split, lean list, or buckle due to defective material or deterioration.
- (5) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
- (6) Members of ceilings, roof, ceiling and roof supports, or other horizontal members which sag, split, or buckle due to defective material or deterioration.

(7) Members of ceiling, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(c) Any nuisance.

(d) All wiring, except that which conformed with all applicable laws in effect at the time of installation if it is currently in good and safe condition and working properly.

(e) All plumbing, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly, and which is free of cross connections and siphonage between fixtures.

(f) All mechanical equipment, including vents, except that which conformed with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.

(g) Faulty weather protection, which shall include, but not be limited to, the following:

(1) Deteriorated, crumbling, or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations, or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.

(4) Broken, or rotted, split, or buckled exterior wall coverings or roof coverings.

(h) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the chief of the fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

(i) All materials of construction, except those which are specifically allowed or approved by this code, and which have been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health, or safety hazards.

(k) Any building or portion thereof which is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

(l) All buildings or portions thereof not provided with adequate exit facilities as required by this code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or to any change in occupancy.
When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.

(m) All buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this code, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) All buildings or portions thereof occupied for living, sleeping, cooking, or dining purposes which were not designed or intended to be used for such occupancies.

(o) Inadequate structural resistance to horizontal forces.

However, a condition which would require displacement of sound walls or ceiling to meet height, length, or width requirements for ceiling, rooms, and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of such requirements in effect at the time of construction, alteration, or conversion.

Chapter 9.60

BOARDING OF BUILDINGS WITH UNSECURED OPENINGS

Sections:

9.60.010	**Findings and intent.**
9.60.020	**Application.**
9.60.030	**Unsecured building a public nuisance—Boarding permit required.**
9.60.040	**Standards for securing building.**

9.60.010 Findings and intent.

(a) The Council finds and declares that vacant buildings which have unsecured windows and doors or other openings allowing entry become an attractive nuisance to children, a harborage for rodents, an invitation to vagrants and criminals as a temporary abode and as a place to engage in illegal conduct, frequently including illegal drug-related activity, and an increased fire hazard; that such buildings contribute to the growth of blight within the City, depress market values of surrounding properties, thereby reducing tax revenues, necessitate additional governmental services, significantly interfere with the use and enjoyment of neighboring properties, create an unsafe condition affecting the public and constitute an unreasonable use of property and a public nuisance.

(b) Protection of the environment, and the public health, safety and welfare requires the establishment and enforcement of the means by which such nuisance conditions may be prevented. (Ord. 1090 § 1 (part), 2006)

9.60.020 Application.

(a) The provisions of this chapter shall apply generally to all property throughout the City in which any of the conditions, hereinafter specified, are found to exist; provided, however, that the provisions of this chapter shall not apply to buildings or structures in which a person resides or otherwise occupies in such a manner that unauthorized entries to the structure can be promptly observed and reported to the City of Tracy Police Department.

(b) The provisions of this chapter are to be supplementary and complementary to all of the provisions of the Tracy Municipal Code, state law, and any law cognizable at common law or in equity, and nothing in this chapter shall be read, interpreted or construed in any manner so as to limit any existing right or power of the City to abate any and all nuisances. Any public nuisance set forth in this chapter may be abated by the City under the procedures set forth in chapter 1.32 of this Code.

(c) Property owners with buildings located within the City that are boarded as of the date of adoption of this chapter will be given a six (6) month grace period to comply with the provisions of this chapter. The grace period will be considered the same as if an initial boarding permit was granted by the Building Official. At the end of the six (6) month period, any such boarded building will be considered a public nuisance unless the property owner has applied for and received a renewal boarding permit. Property owners with boarded buildings which fall under the provisions of this subsection will be notified by mail of the conditions and requirements of this chapter.

(d) Notwithstanding any provision of this chapter to the contrary, the Building Official shall have the discretion to grant a property owner a grace period of five (5) working days to apply for a permit in emergency situations such as natural disasters or other unforeseen circumstances.

(e) The applicant shall specify, on the application for the permit, the number and location of each window, door, or other opening to be boarded. Only doors, windows or other openings that are broken or missing, so as to allow access to the interior, must be temporarily boarded and secured. However, should the applicant decide to use boarding for an opening that is not yet broken or missing, such boarding must be shown on the application for the permit and installed in compliance with the standards set forth in section 9.60.040 of this chapter.

(f) The applicant shall submit a new application, and pay another permit fee, for any additional windows, doors, or other openings to be boarded after the final inspection on the original permit occurs. (Ord. 1090 § 1 (part), 2006)

9.60.030 Unsecured building a public nuisance—Boarding permit required.

(a) It shall be unlawful and a public nuisance for any owner of property in this City to allow to exist on such property any building or structure whose doors, windows or other openings are broken or missing, so as to allow access to the interior; or which is not temporarily boarded and secured in compliance with section 9.60.040 of this chapter within the time set forth by the Building Official in the permit; or which is left in such temporary boarded-up condition after the expiration of any initial or renewed boarding permit.

(b) It shall be unlawful and a public nuisance for any person, firm, association or corporation to erect, install, place or maintain boards over the doors, windows or other openings of any building or structure or otherwise secure such openings by a means other than the conventional method used in the original construction and design of the

building or structure without a valid, current and unexpired boarding permit therefor from the Building Official. No boarding permit shall be issued for a period of greater than six (6) months. Upon an application and a showing of good cause, the Building Official may issue renewals of such permits.

(c) The fees for the issuance or renewal of a boarding permit shall be set by Council resolution and may be amended from time to time to adjust for the personnel costs upon which the fee is based rising or falling. Upon payment of the required fee, the Building Official shall issue or renew a boarding permit upon the submission of a written application by the property owner or his/her authorized representative or contractor and upon the confirmation by a city building inspector that the boarding or other method of securing the building will or has been done in compliance with this chapter.

(d) Any person violating or causing the violation of this chapter shall be guilty of an infraction as provided for in section 1.04.030 of this Code, in addition to any other remedies provided for in this Code, including those set forth in section 1.04.010 of this Code, or under other applicable law. (Ord. 1090 § 1 (part), 2006)

9.60.040 Standards for securing building.

(a) The temporary boarding of the doors, windows or other openings of any building or structure or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, shall comply with the following minimum standards:

(1) Windows. Windows and similar openings shall be boarded with exterior grade plywood of minimum thickness three-fourths (3/4") (to be consistent with door security standards) inch or its equivalent. Vent holes may be required, as deemed necessary by the Building Official. The plywood shall be secured in place, as a minimum standard, by a set of two (2) Grade No. 2 Douglas Fir two (2) by four (4) or four (4) by four (4) cross members set at two (2') foot on center vertically, secured to the plywood by three-eighths (3/8") inch plated carriage bolts with large washers at each end and with the cross member turned so that the carriage bolt goes through the larger dimension. Bolts used to secure the cross member shall be threaded to the correct length. A minimum of two (2) sets of such cross members shall be used on each window. Each cross member shall be a continuous piece of lumber, and each must extend at least one foot past the window opening in each direction. Bolts and nuts used to secure the cross members to the plywood must be tightened enough to slightly deflect the wood. Bolt heads must fit tightly against the wood and not give a purchase for pliers or pry bars. The nuts are to be located on the interior side of the structure.

(2) Exterior doors. The main exterior (required) residential exit door(s) and all commercial exterior exit doors shall be boarded with exterior grade plywood of a minimum thickness of three-fourths (3/4") inch or its equivalent, fitted to the entry door jamb with maximum one-eighth inch clearance each edge from the door jambs and threshold. The existing door should be removed. The plywood shall, as a minimum standard, be attached to three (3) Grade No. 2 Douglas Fir horizontal two (2) by four (4) wooden crossbars with two (2) each three-eighths (3/8") inch carriage bolts and matching hardware with nuts located on the interior side of the structure. The plywood shall be attached to the door entry with three (3) case hardened strap hinges located at quarter points and the plywood shall be secured by two (2) case hardened steel hasps located at third points on the strike side of the door and minimum two (2) inch case hardened padlock. Fasteners used to attach the door hasp and hinges shall be the non-reversible type that do not give a purchase for pliers or pry bars. All other unsecured residential doors providing exterior access shall be removed and be secured in the same fashion as windows noted above.

(3) Painting of boarded openings. All boarded openings shall be painted with a minimum of one coat of exterior paint which is of a dark gray or similar earth color or a color compatible with the exterior color of the building or structure.

(4) Garages. Overhead garage doors shall be secured. Nailing the door to the jamb or nailing pieces of two (2) by four (4) to the jamb is not acceptable. The overhead door shall be padlocked with the existing garage lock or a newly installed one. In an attached garage it is acceptable, as a minimum standard, to insert a piece of Grade No. 2 Douglas Fir two (2) by four (4) lumber through the overhead mechanism on the inside of the door. The two (2) by four (4) shall be long enough to go through both sides of the mechanism or shall be nailed in place on the inside so that it cannot fall out. Secondary garage entrances to the outside of the garage shall be secured with strong-backed plywood as described for windows above. Access doors between the house and attached garage need not be boarded. Detached garages shall be secured as a separate structure. Access shall be provided by padlock as described for doors above.

(b) Alternative methods of securing a building. Notwithstanding subsection (a) of this section, the Building Official may approve alternative methods of securing doors, windows or other openings of any building or struc-

ture. In making the determination to approve any alternative method, the Building Official shall consider the aesthetic and other impacts of such method on the immediate neighborhood and the extent to which such method provides adequate and long-term security against the unauthorized entry to the property.

(c) During all times that persons are inside a boarded structure, all exits and entries under title 9 of this Code shall be made accessible provided that the structure must be again secured when such persons are no longer inside. (Ord. 1090 § 1 (part), 2006)

Chapter 9.64

ENERGY CODE

Sections:

9.64.010	**Reference to chapter.**
9.64.020	**Purpose of chapter.**
9.64.030	**Adoption by reference of the California Energy Code.**
9.64.040	**Penalty provisions.**

9.64.010 Reference to chapter.

This chapter 9.64 of the Tracy Municipal Code may be referred to as the "City Energy Code," and is adopted pursuant to Government Code 50022.2. For purpose of clarity, the term "Code," when used alone, shall refer to the Tracy Municipal Code. (Ord. 1103 § 4 (part), 2007)

9.64.020 Purpose of chapter.

The purpose of this chapter is to provide minimum standards to sustain energy reliability, reduce electrical and gas demand, contribute to a more stable economy as energy costs increase and reduce pollution and greenhouse emissions by way of regulating building construction activity for maximum energy efficiency. The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter. (Ord. 1103 § 4 (part), 2007)

9.64.030 Adoption by reference of the California Energy Code.

The City hereby adopts by reference the code entitled "2005 California Energy Code," including all appendices attached thereto, published by the International Code Council and copyrighted by the California Building Standards Commission (hereinafter "California Energy Code"), as amended by this chapter. The California Energy Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6. (Ord. 1103 § 4 (part), 2007)

9.64.040 Penalty provisions.

The City in accordance with Tracy Municipal Code section 9.02.040 shall enforce violations of this chapter. (Ord. 1103 § 4 (part), 2007)

November 1, 2011

AGENDA ITEM 10

REQUEST

DISCUSS THE CITY'S FREEWAY SIGN REGULATIONS, PROVIDE DIRECTION TO STAFF RELATED TO POTENTIAL CHANGES, AND APPROPRIATE $25,000 TO FUND CREATION OF CITYWIDE FREEWAY SIGN DESIGN STANDARDS

EXECUTIVE SUMMARY

This agenda item summarizes the City's current freeway sign regulations, highlights several requested changes, proposes moving forward ahead of the Zoning Code Update project with freeway sign ordinance changes, and requests City Council direction related to potential changes. This agenda item also requests the City Council to appropriate $25,000 in order to create citywide freeway sign design standards.

BACKGROUND

Purpose of Sign Codes

Signs are intended to identify businesses and direct people to goods and services. They can also be important in promoting businesses through name recognition.

Tracy Municipal Code Section 10.08.4430 describes the purpose of signs in Tracy, and states the following:

> "Signs have an obvious impact on the character and quality of the City. As a prominent part of the scenery they attract or repel the viewing public, affect the safety of vehicular traffic, and their suitability or appropriateness help to set the tone of the neighborhood. In view of these facts, the City adopts the policy that the sign should serve primarily to identify the general nature of an establishment or to direct attention to a product, activity, place, person, organization, or enterprise. As identification devices, signs shall not subject the citizens of the City to excessive competition for their visual attention."

The Tracy Municipal Code regulates only the location, size and type of signs permitted throughout the City.

Existing Freeway Signs

There are 37 existing freeway signs within Tracy's City limits, several of which were constructed on properties within San Joaquin County that were later annexed into the City. Many of these signs advertise a single business, and tend to be clustered together, adjacent to freeway exits. An example of this is the intersection of Tracy Boulevard and I-205, where there are 21 freeway signs in the immediate vicinity; all but one advertises individual tenants (Attachment A is a series of pictures of existing freeway signs). A number of these freeway signs were constructed prior to the properties becoming a part of the City and are larger and taller than the Tracy Municipal Code (TMC) currently allows.

Existing Freeway Sign Regulations

The City's current regulations regarding freeway signs vary between three different areas abutting I-205: The I-205 Corridor Specific Plan, the Northeast Industrial Concept Development Plan (NEI), and remaining frontage areas regulated by the Tracy Municipal Code (Attachment B is a map identifying the three areas). The TMC allows for freeway signs to be no larger than 300 square feet and no taller than 15 feet above the crown of the freeway or 45 feet, whichever is less. Any business to be advertised on a freeway sign must be no more than 350 feet from the freeway and a Conditional Use Permit must be approved by the Planning Commission prior to sign approval. However, the regulations in the I-205 Specific Plan area and in the NEI area differ from the TMC. Most of these variations from the regulations of the Tracy Municipal Code were written to address specific projects, such as the West Valley Mall and the Outlet Center.

Overall, the freeway sign regulations relate to businesses that have a freeway presence or serve as a regional shopping destination. Billboards, which typically advertise establishments that are not within the same parcel as the sign itself, and often advertise establishments that are not within the City, are prohibited in Tracy.

Currently, the TMC prohibits any sign that "flashes, blinks, moves, changes color, appears to change color, changes intensity, or contains any part of an attachment which does the same…" The only exceptions to this are barber poles, and time and temperature signs, within the appropriate zones. Accordingly, electronic reader board signs are not currently permitted anywhere within the City.

Existing Freeway Sign Design

Currently there are no adopted citywide design standards for freeway signs. Current regulations only address sign height, size, and location. The result, over many years is a mix of signs along the I-205 corridor that serve individual establishments without regard to an overall design theme or aesthetic.

DISCUSSION

Recent Sign Proposals

There are currently a number of requests for new or enlarged freeway signs that have been proposed to City staff, both formally and informally, in recent months. These requests range from increases in area or height to electronic reader boards, as follows:

- Increases in amount of signage: Tracy Marketplace, Tracy Outlets, Cordes Ranch, Auto Mall, Filios Project
- Increases to TMC allowed heights (Cordes Ranch, Toste, Filios)
- Electronic Reader Board (Auto Mall, Tracy Blast)

Attachment C to the staff report are written requests from the Auto Mall and Tracy Blast. A matrix showing the City's freeway sign regulations, several existing signs, and the recent sign requests is attached to the staff report as a means of showing the current

regulations compared to the current request (Attachment D: Matrix of Sign Regulations and Sign Requests).

This matrix shows the current variations within the City today with regard to freeway sign regulations. While some of the existing signs, such as the West Valley Mall and Outlet Center were given special consideration within the I-205 Specific Plan planning process due to their nature of being significant regional destinations, it is clear that many other projects, large and small, upcoming and existing, are also seeking to gain approvals to allow more signage and/or new types of signage outside the current requirements of the TMC.

With so many new or varied freeway signs proposed at the same time, staff believes it is better to discuss the I-205 corridor as a whole as opposed to bringing individual requests one at a time to City Council. Prior to approval of any of the proposed signs, TMC and/or Specific Plan amendments would need to be approved. Because there are so many signs currently proposed, some of which vary so widely from what is allowable, staff is analyzing them as a whole. The visual effect of these signs on the City would be cumulative, and therefore their cumulative impacts on the aesthetics of the I-205 corridor (and I-580 in the future) need to be considered.

A logical way to complete the review of all the proposed signs and sign amendments would be with the Zoning Code Update process, which will result in a comprehensive review and update to the entire Zoning Code, including the Sign Ordinance. However, due to the timing of that project (2012) and the needs of the freeway sign proponents, staff is proposing that we pull the freeway sign section out of the Code and review and update it separately at this time, ahead of the remainder of the Zoning Code, in order to expedite the process.

<u>Electronic Readerboard / Electronic Billboard Sign Requests</u>

Both the Tracy Blast proponents and Auto Mall tenants have expressed interest in digital display (readerboard) or “TV screen” signs along the I-205 corridor. Electronic readerboard signs are lighted billboard displays with changing text and images (Attachment E is an example of an electronic readerboard/electronic billboard sign). With these signs becoming more common, there have been numerous discussions statewide on these signs and the potential safety hazards and aesthetic impacts they can present. Many cities (such as Tracy) do not allow LED or digital display signs, some more recently banning them along freeways (Los Angeles) because they have declared them a nuisance or have concerns regarding their tendency to distract drivers.

These signs can be highly desirable to property owners because they can function to both advertise their on-site business or activity, but also provide an additional source of income for the property owner in the form of fees paid by others off-site to advertise on the signs. It should be noted that the City would be unable to regulate the *content* of these signs, making it possible that the signs could be used to advertise businesses outside of Tracy, as well as for the promotion of non-commercial activities, such as political campaigns. It is possible that one or more of these signs could be located on City-owned property, should they become a permitted sign type. Some nearby areas

that have a number of electronic readerboard signs include the 880 corridor through Fremont, Newark, Union City and Hayward, and the Sacramento and Roseville area along Interstate 80.

The City's current sign ordinance prevents these signs for four separate reasons.

1. No off-site advertising is allowed (with the exception of residential subdivision signs and real estate open house signs for directional purposes). This causes all signs for a business to be located only on the same site as the business. If the City were to simply remove this provision from the Tracy Municipal Code, it would likely cause the proliferation of signs throughout the City, with businesses advertising on properties other than their own. It would also result in creating a market for leasing or selling sign space to the highest bidder, including out of town businesses.

2. Billboards are not allowed within the City at all.

3. The Sign Ordinance prohibits any sign that "flashes, blinks, moves, changes color, changes intensity, or contains any part of an attachment which does the same (except for barber poles and time and temperature signs)".

4. Any sign "adversely affecting traffic control or safety" is prohibited. In order to consider allowing electronic readerboard signs/billboards, the City would need to consider a number of changes to the Sign Ordinance that have the potential to affect signs in the remainder of the City, not just along the freeways.

Policy Issues/Questions

In order to proceed with consideration of these requests in a coordinated manner, staff is seeking direction on the following:

1. Should the City's sign regulations be amended to allow for increased signage (height, square footage, number of signs per parcel or project)?

2. Should the City allow electronic readerboards / electronic billboards as a sign type, thus allowing for off-site signage to be permitted within the City (including signage for businesses outside of the City)? Please note that allowing off-site signage likely cannot be limited to solely freeway locations.

3. Should the City have design standards for freeway signs incorporated into the City's Design Goals and Standards? Such standards could be a way for the City to have a more unified design theme for signs along the freeway corridors.

City Council Options

The following options have been identified for the City Council to consider. Each option is listed with its fiscal impact.

1. **No Action**. This option would have the effect of leaving in place current freeway sign regulations, including current size and height limitations (i.e. disallowing electronic readerboards/electronic billboards). This would require no additional staff resources, and applications for any new or changed freeway signs would be processed individually in accordance with current regulations.

2. **New Freeway Sign regulations with Electronic Readerboards / Electronic Billboards**. Direct staff to amend the Tracy Municipal Code, Northeast Industrial PUD, and the I-205 Corridor Specific Plan to include provisions for electronic readerboard / electronic billboard signs, new freeway size and height regulations, and create new freeway sign design standards. This option would have the effect of indicating City Council's intention to allow electronic readerboard signs along the I-205 and I-580 corridors. Such amendments would propose the approval processes that would be followed later by individual applicants. This option would require significant staff resources and would cost $25,000 for new design standards.

3. **New Freeway Sign regulations without Electronic Readerboards / Electronic Billboards**. Direct staff to amend the Tracy Municipal Code, Northeast Industrial PUD, and the I-205 Corridor Specific Plan to include new freeway size and height regulations, and create new freeway sign design standards. This option would have the effect of indicating City Council's intention to NOT allow electronic readerboard signs. This option would require fewer staff resources and would require $25,000 for new design standards.

4. **New Freeway Sign Regulations without Electronic Readerboards / Electronic Billboards** and without design standards. This option would have the effect of directing staff to create only new regulations for the size and height of freeway signs. This option would require fewer staff resources and would not require $25,000 for design services.

Environmental Documentation

Environmental analysis and documentation through the California Environmental Quality Act (CEQA) are triggered with actions that may cause a direct or indirect physical change or impact to the environment, both at present time or in the foreseeable future. CEQA contains a checklist of factors to be considered for any project that is reviewed under CEQA, and electronic readerboard / electronic billboard signs would trigger review within the aesthetics and traffic sections of CEQA. These analyses (potentially resulting in an Environmental Impact Report) would need to be conducted prior to the construction of any such signs. Moving forward with any TMC amendments however, would also require CEQA review, though it is anticipated to be more expeditious than an EIR.

STRATEGIC PLAN

This agenda item supports the Livability Strategic Plan and Economic Development Plan. The Livability Plan contains a goal for a more beautiful city, with an objective to beautify the I-205 and I-580 corridors. It also includes a task to create coordinated and

recognizable freeway sign standards, which would be achieved by the creation of design goals and standards for freeway signs.

The Economic Development Strategy goal to focus efforts on projects that will result in an increase to sales tax revenues may be supported with this effort to establish freeway sign standards that will assist businesses with their advertising needs.

FISCAL IMPACT

Developing a freeway sign ordinance will require a significant amount of staff time, especially if it includes new provisions for electronic readerboard / electronic billboard signage. The costs for professional design services staff anticipates that would be necessary is $25,000. Such funding would either be RSP funded or compete with other CIPs for funding from the General Fund.

RECOMMENDATIONS

Staff recommends that the City Council discuss freeway signage and the policy issues raised in this report and direct staff accordingly. Staff also recommends that if the City Council desires design guidelines, it directs staff to either appropriate $25,000 from the RSP fund or compete with other CIPs for funding from the General fund.

Prepared by: Victoria Lombardo, Senior Planner
Bill Dean, Assistant DES Director

Reviewed by: Andrew Malik, Development & Engineering Services Director

Approved by: Leon Churchill, Jr., City Manager

ATTACHMENTS

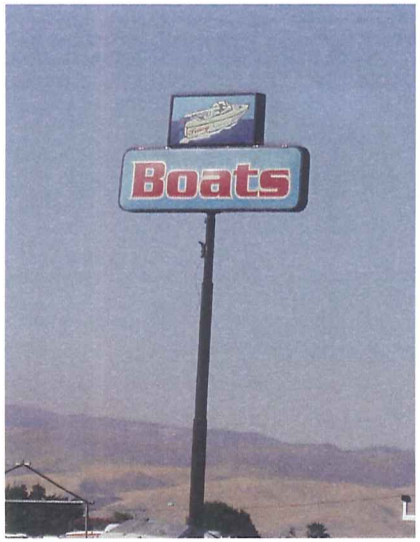
Attachment A—Existing Freeway Sign Photographs
Attachment B—Regulatory areas along I-205, and existing sign locations
Attachment C—Letters from Tracy Blast and Auto Dealers
Attachment D—Freeway Sign Matrix
Attachment E—Example of Electronic Readerboard / Electronic Billboard

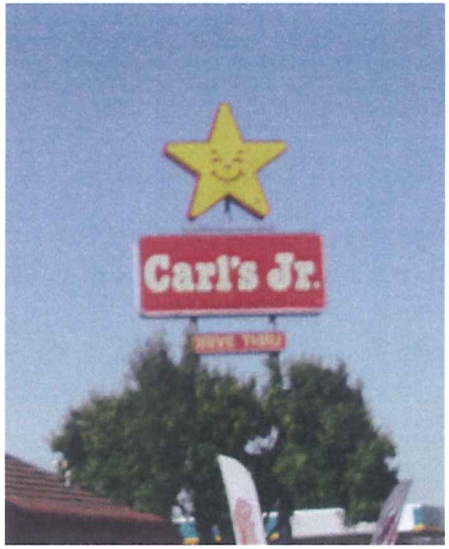
ATTACHMENT A

BACKWOODS
CUSTOM CYCLES

Black
Bear
DINER

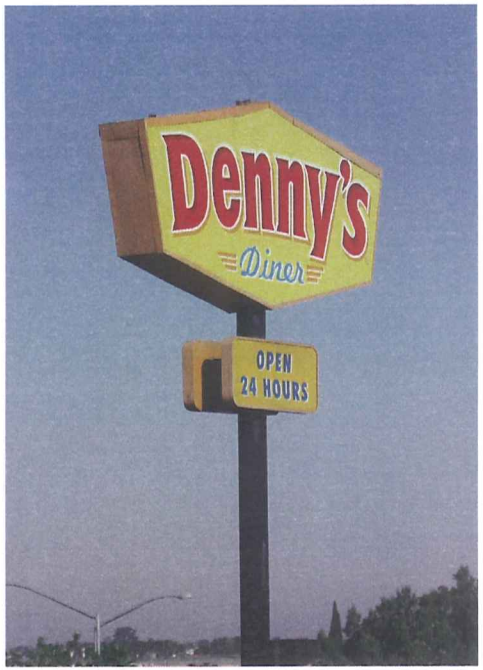
7
ELEVEN


Boats


Carl's Jr.

DINE
Boats

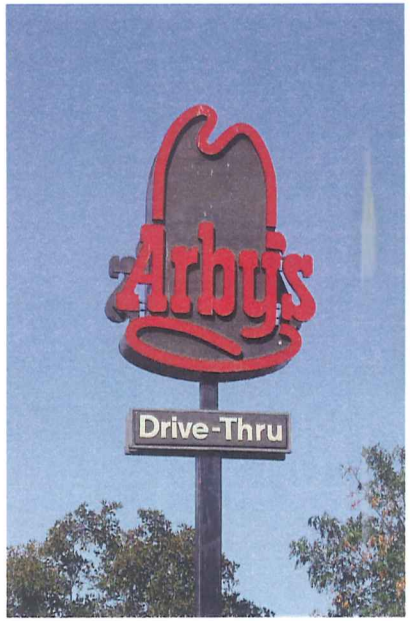
Chevron


Denny's
Diner
OPEN
24 HOURS

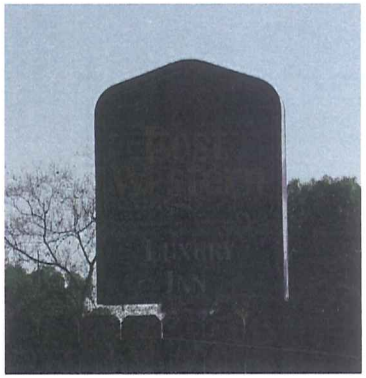
MOTEL 6

TRACY MINI
STORAGE

QUALITY
INN

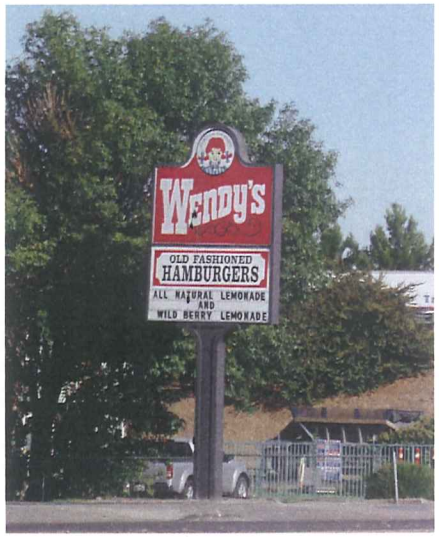

Arby's
Drive-Thru

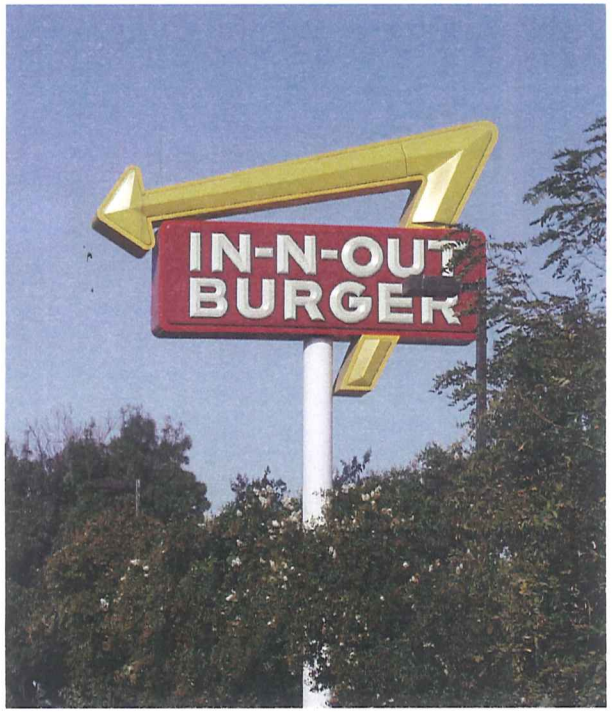
ARCO
am
pm
Wendy's

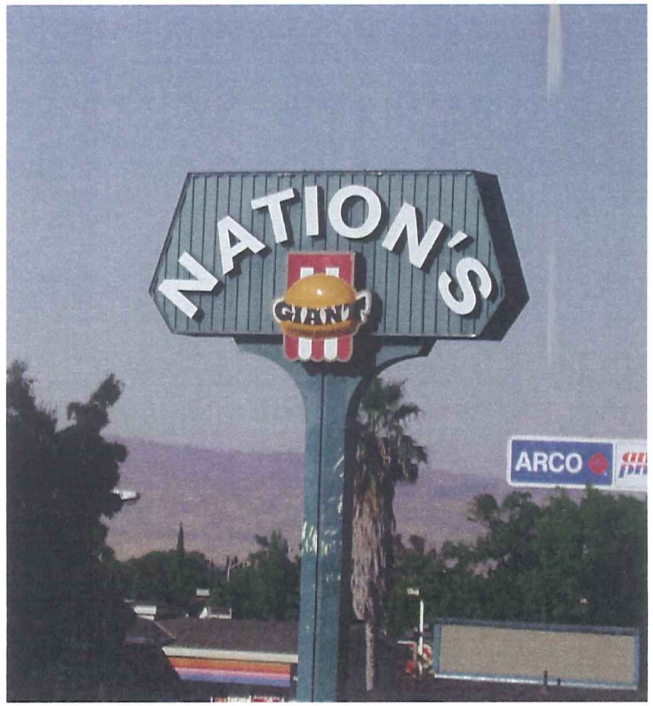


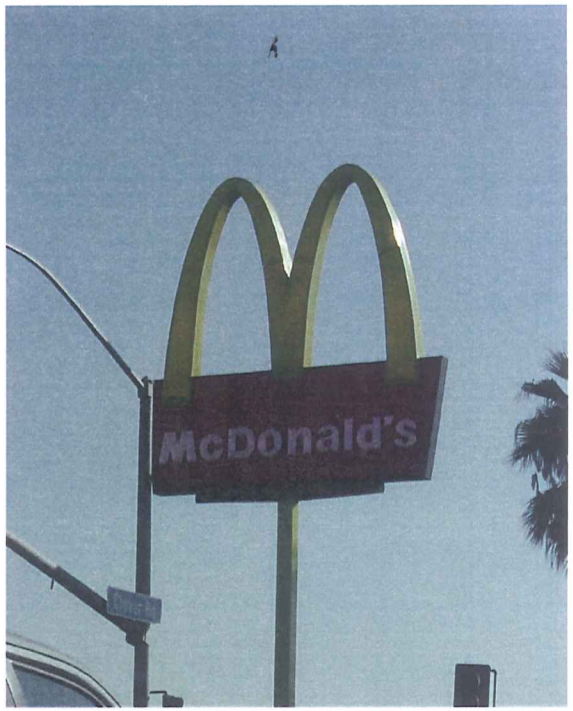
ARCO
ampm
ARCO
Tracy Blvd
EC unleaded
369 9/10
EC unleaded plus
38
39
self serve gasoline

TRACY PLAZA
Microtel Inns & Suites
SHRI PARAMHANS ADVAIT MAT
HINDU TEMPLE
श्री आनन्दपुर सत्सग आश्रम


Wendy's
OLD FASHIONED
HAMBURGERS
ALL NATURAL LEMONADE
AND
WILD BERRY LEMONADE

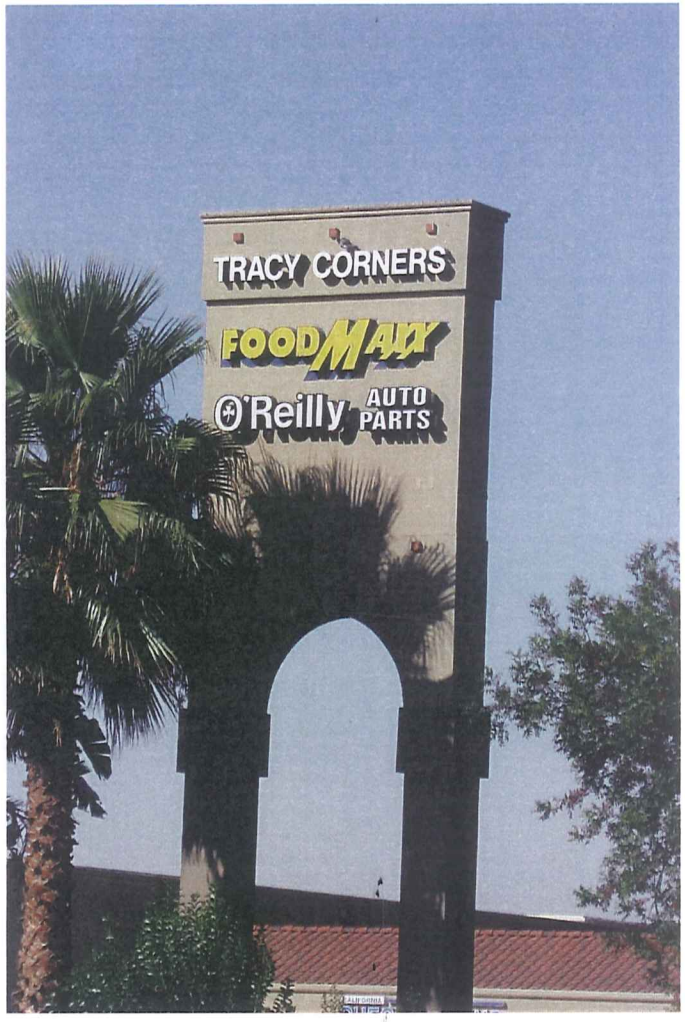

IN-N-OUT
BURGER

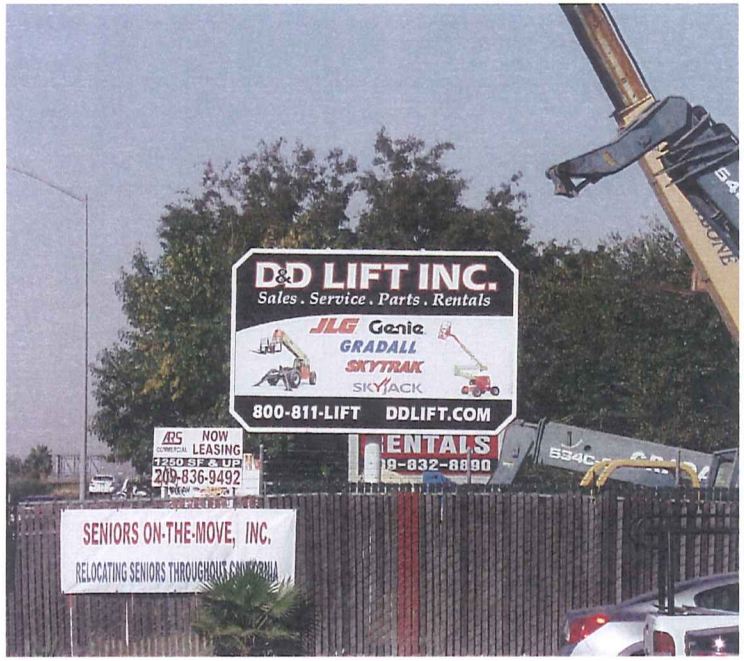

NATION'S
GIANT
ARCO

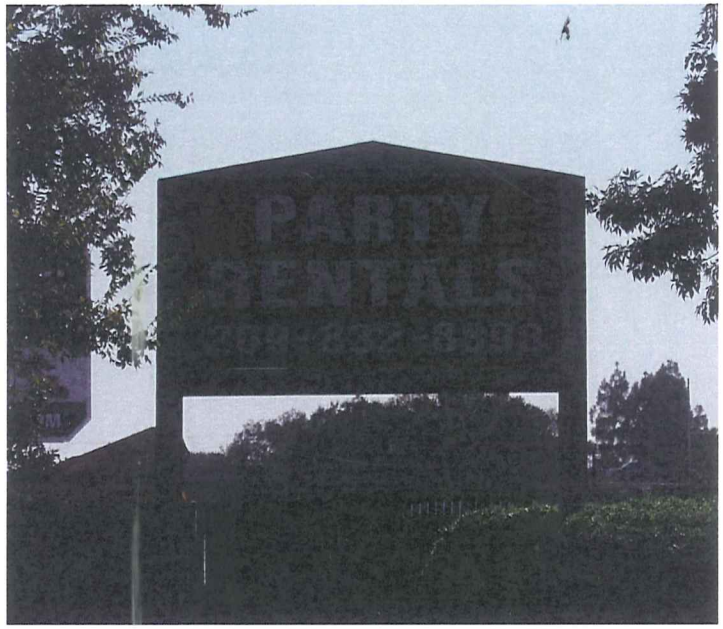

McDonald's

CVS/pharmacy
TRACY FURNITURE

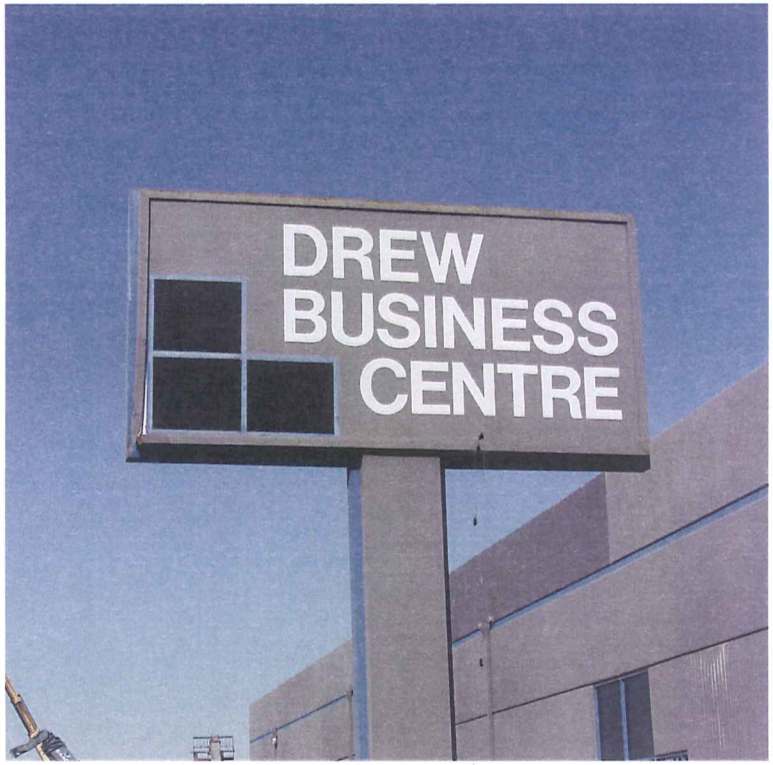
Scrambl'z
KOUNTRY KITCHEN
...a fun place to eat.


TRACY CORNERS
FOODMAXX
O'Reilly AUTO PARTS


D&D LIFT INC.
Sales . Service . Parts . Rentals
JLG Genie
GRADALL
SKYTRAK
SKYJACK
800-811-LIFT DDLIFT.COM
NOW LEASING
1250 SF & UP
209-836-9492
SENIORS ON-THE-MOVE, INC.
RELOCATING SENIORS THROUGHOUT CALIFORNIA


PARTY
RENTALS

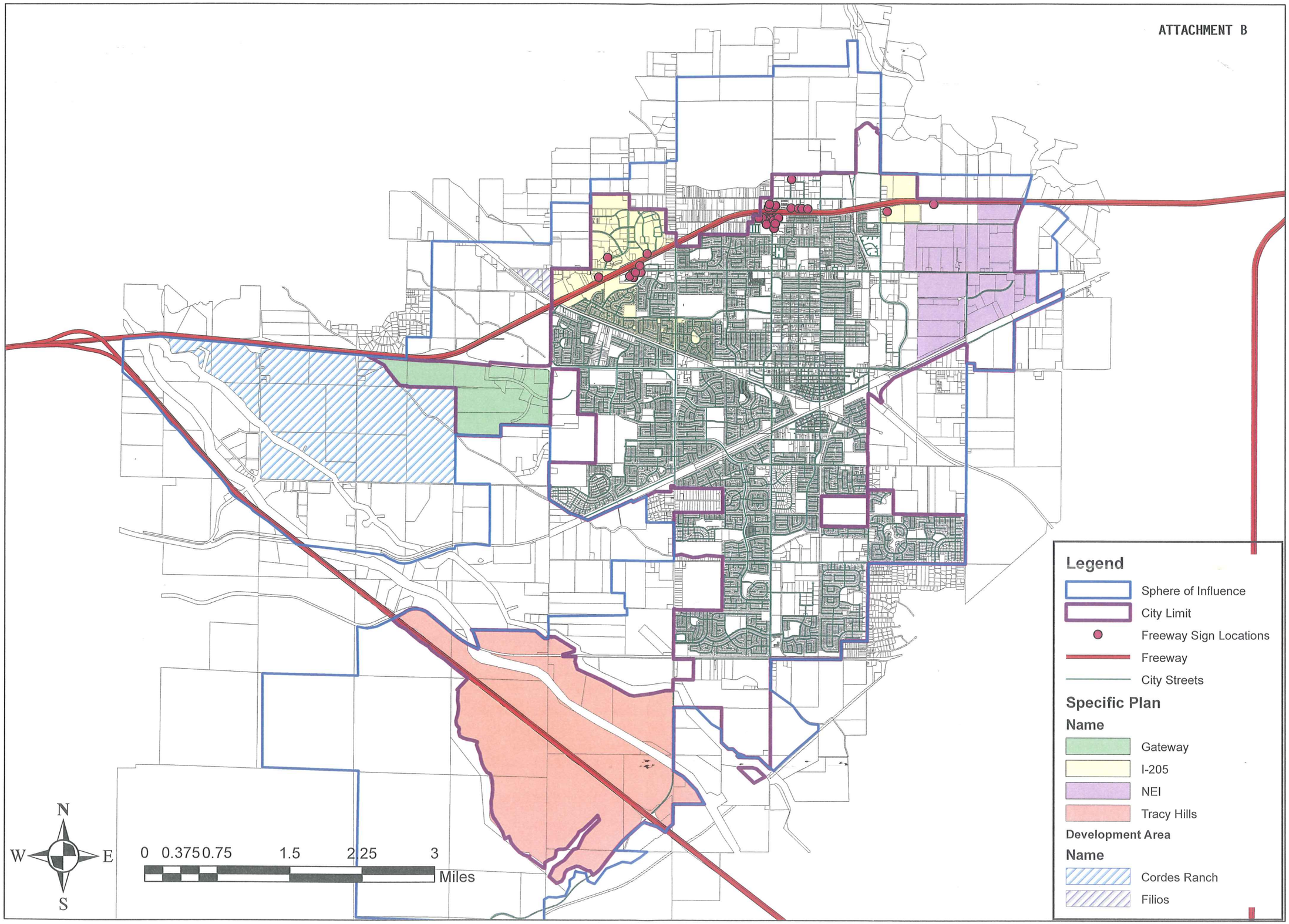
Public Storage
800·44·STORE


DREW
BUSINESS
CENTRE

YRC

TRACY
OUTLETS

ATTACHMENT B



Community Marketing Partners, LLC

A Division of Lakeside Capital

January 29, 2010

Mr. Andrew D. Malik
Director Development and Engineering Services
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

RE: Off Site Freeway Advertising Signs

Dear Andrew:

I could like to let you know that Lakeside Capital, though its division Community Marketing Partners LLC ("CMP"), is still very interested in developing offsite advertising displays in the City of Tracy. We are interested in construeting two signs in Tracy.

Sign # 1: This would be located on the City owned parcel behind the Mall. While CMP originally contemplated incorporating a local community advertising program with this sign, it has become clear that a greater community benefit would be to incorporate advertising for the automobile dealers in the auto mall. This location is quite important to us since it would also be used to advertise events and corporate sponsorship for the race tack facility Jeff Maey has been planning. This sign would be a two sided sign consisting of a 14' x 48' electronic message center (EMC) and individual signs for each automobile dealer approximately 4' x 10' (6.6' x 10' for multiple brands).

Sign #2 CMP would like a second location to incorporate its community advertising program, to provide greater awareness local merchants and businesses. This sign would consist of a 14' x 48' EMC and a 10' x 24' Tri-vision or single panel sign. One time segment each minute on the EMC would be sold to local merchants and businesses. Note there would be 6 to 8 time slots per minutes, so this represents 12% to 18% of the ad time. We have not focused on the best location for this sign, though it eould go across from the Mall site.

Ideally we would like to utilize City owned property if possible, as this would enhance the City's profit participation in this business. We realize that the City has to go through the appropriate approval process for establish a new sign program for the City. We would like to discuss how we might constructively work with the city to accomplish these goals.

Sincerely;

Melvin T. Andrews
President

3500 West Olive Avenue, Suite 650, Burbank, CA 91505
818-973-1702, Fax 818-841-8072

Tracy Auto Group

Tracy Ford
3500 Auto Plaza Wy.
Tracy, CA 95304
209-879-4700

HYUNDAI
Tracy Hyundai
3480 Naglee Rd.
Tracy, CA 95304
209-820-3550

CHRYSLER
Jeep
DODGE
Tracy Chrysler
Jeep Dodge
3460 Naglee Rd.
Tracy, CA 95304
209-820-1800

www.tracyautogroup.com

RECEIVED
OCT 12 2011
CITY OF TRACY
D.E.S.

October 6, 2011

To The Honorable City Council of Tracy:

We request the opportunity to place a full color LED freestanding sign on the city owned property adjacent to Interstate 205 and to Corral Hollow Road with the express primary purpose to advertise the Auto Dealers in the city of Tracy to the passing public. It is well known that the Auto Dealers are not visible to the passing motorists and the necessity of this display to reach the target market of the Auto Dealers is necessary and will benefit the city of Tracy with increased sales tax revenue.

We will also make advertising available to other city of Tracy businesses and to the goods and services available in the city of Tracy.

We are anxious to enter into a lease with the city with the express purpose of placing a full color LED display on the city property to be viewed by the public on Interstate 205. Kindly respond to our request.

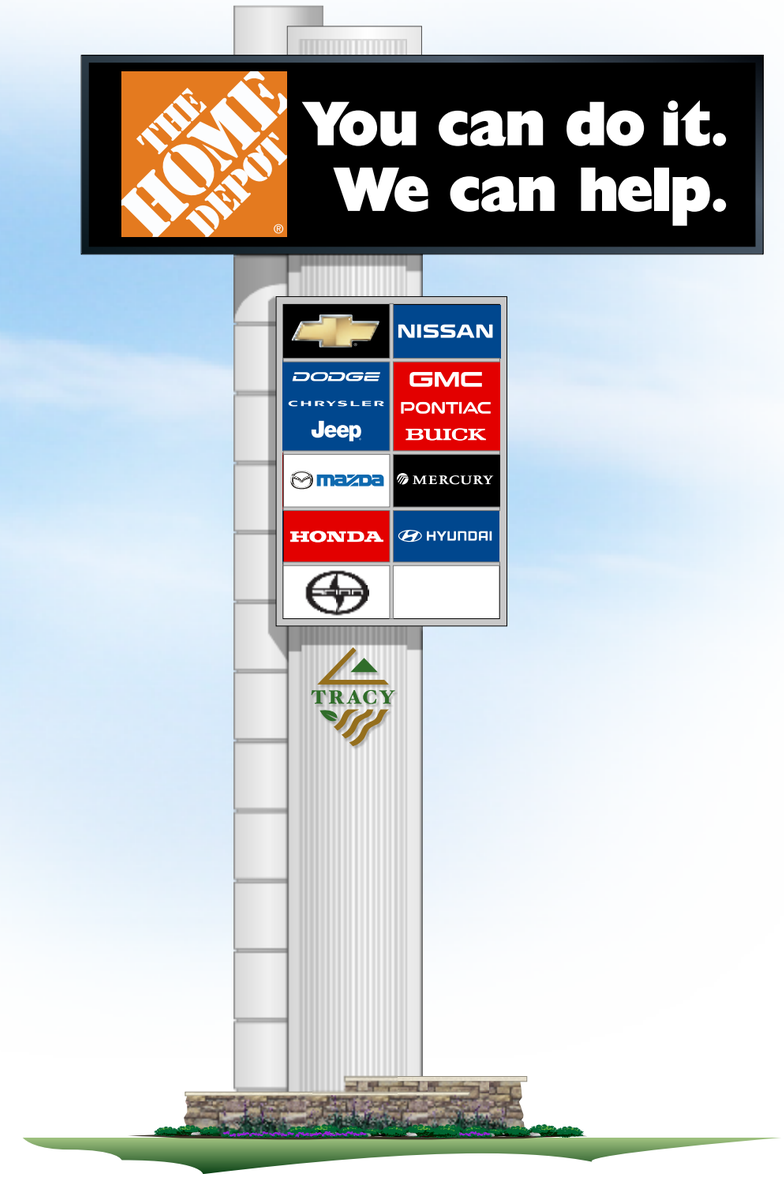
Cordially,

Thomas Nokes
Tracy Hyundai
Tracy Ford
Tracy Chrysler Jeep Dodge

CITY OF TRACY
D.E.S.

B SIGN ELEVATION

SCALE: 3/32" = 1'-0"



B REVERSE ELEVATION

SCALE: 3/32" = 1'-0"

Arrow Sign Company
1051 46th Avenue
Oakland, CA 94601-4436
P 510.5337693
F 510.533.0815
www.arrowsigncompany.com

Lakeside Capital
Tracy, Ca
Date: 4-20-09
Sales: Mike Magee / Bob Knollmiller
Design: Charlie Stroud
2009/L/Lakeside Capital EMC

This drawing is a representation of colors and may not accurately depict final color of product. Always refer to actual paint chips or material samples for color reference.

Rev.	Date	Description
A	4-27-09	Change height, const.
B	4-30-09	Revise size, message
C	8-25-09	Add tenant cabinet, omit display

Customer Approval

This is an original unpublished drawing prepared for you by Arrow Sign Co. in a sign program designed for your business. It is not to be shown to anyone outside of your organization nor to be reproduced, copied or exhibited in any fashion.

Sheet 3

90291

B SIGN ELEVATION SCALE: 3/32" = 1'-0"

B REVERSE ELEVATION SCALE: 3/32" = 1'-0"

Arrow Sign Company
1051 46th Avenue
Oakland, CA 94601-4436
P 510.5337693
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www.arrowsigncompany.com

Lakeside Capital
Tracy, Ca
Date: 4-20-09
Sales: Mike Magee / Bob Knollmiller
Design: Charlie Stroud
2009/L/Lakeside Capital EMC

This drawing is a representation of colors and may not accurately depict final color of product. Always refer to actual paint chips or material samples for color reference.

Rev.	Date	Description
A	4-27-09	Change height, const.
B	4-30-09	Revise size, message

Customer Approval

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Sheet 3

90291

A **SIGN ELEVATION** SCALE: 3/32" = 1'-0"

A **REVERSE ELEVATION** SCALE: 3/32" = 1'-0"

Arrow Sign Company
1051 46th Avenue
Oakland, CA 94601-4436
P 510.5337693
F 510.533.0815
www.arrowsigncompany.com

Lakeside Capital
Tracy, Ca
Date: 4-20-09
Sales: Mike Magee / Bob Knollmiller
Design: Charlie Stroud
2009/L/Lakeside Capital EMC

This drawing is a representation of colors and may not accurately depict final color of product. Always refer to actual paint chips or material samples for color reference.

Rev.	Date	Description
A	4-27-09	Change height, const.

Customer Approval

This is an original unpublished drawing prepared for you by Arrow Sign Co. in a sign program designed for your business. It is not to be shown to anyone outside of your organization nor to be reproduced, copied or exhibited in any fashion.

Sheet 2

90291

February 1, 2010

To The Honorable City Council of Tracy;

We request the opportunity to place a full color LED freestanding sign on the city owned property adjacent to Interstate 205 and to Corral Hollow Road with the express primary purpose to advertise the Auto Dealers in the city of Tracy to the passing public.

It is well known that the Auto Dealers are not visible to the passing motorists and the necessity of this display to reach the target market of the Auto Dealers is necessary and will benefit the city of Tracy with increased sales tax revenue.

We will also make advertising available to other city of Tracy businesses and to the goods and services available in the city of Tracy.

We are anxious to enter into a lease with the city with the express purpose of placing a full color LED display on the city property to be viewed by the public on Interstate 205.

Kindly respond to our request.

Cordially,

Thomas Nokes

A **D/F ILLUMINATED PYLON SIGN W/ FULL COLOR LED DISPLAY** Scale: 3/16" = 1'- 0"

Manufacture & Install one (1) double faced internally illuminated pylon sign w/ a Full Color LED display, as shown.

AD ART SIGN COMPANY
5 THOMAS MELLON CIRCLE, SUITE 260
SAN FRANCISCO, CA 94134
T 415.869.6460
F 415.869.6480
CA STATE CONTRACTORS LICENSE #826051

TRACY AUTO MALL

LED PYLON SIGN

TRACY, CA

SALES: TERRY LONG
JOB #:
DATE: 6-24-09
DESIGNER: JASON OBERBECK
FILENAME: 2009/T/TRACY AUTO MALL

SALES APPROVAL

CUSTOMER APPROVAL

LANDLORD APPROVAL

Revision	Date	Description

CONCEPTUAL DRAWING ONLY:
Dimensions are approximate & may change due to construction factors or exact field conditions. Colors shown are as close as printing will allow; always follow written specifications.

ALL RIGHTS RESERVED:
This design has been created for you in connection with a project being planned for you by AD ART. It may not be shown to anyone outside your organization, and may not be reproduced in any manner without prior consent.

D/F INTERNALLY ILLUMINATED PYLON SIGN - W/ 20MM FULL COLOR LED DISPLAY

Scale: 3/16" = 1'- 0"

Manufacture and Install one (1) double faced internally illuminated pylon sign w/ a 20mm (12' x 20') Full Color LED display.

AD ART SIGN COMPANY
5 THOMAS MELLON CIRCLE, SUITE 260
SAN FRANCISCO, CA 94134
T 415.869.6460
F 415.869.6480
CA STATE CONTRACTORS LICENSE #826051

TRACY AUTO MALL
LED PYLON SIGN
TRACY, CA

SALES: TERRY LONG
JOB #:
DATE: 6-24-09
DESIGNER: JASON OBERBECK
FILENAME: 2009/T/TRACY AUTO MALL

SALES APPROVAL

CUSTOMER APPROVAL

LANDLORD APPROVAL

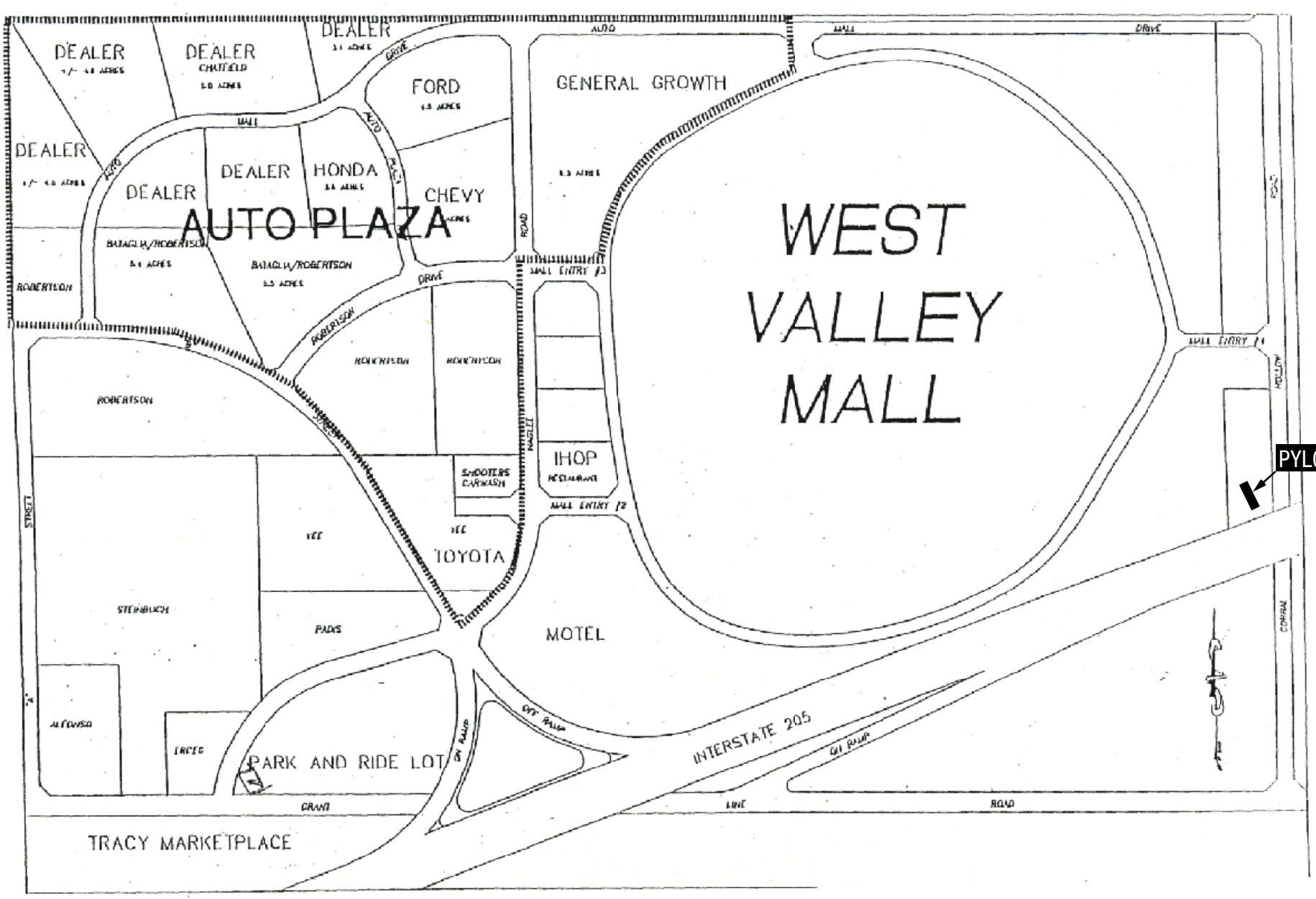
Revision	Date	Description

CONCEPTUAL DRAWING ONLY:
Dimensions are approximate & may change due to construction factors or exact field conditions. Colors shown are as close as printing will allow; always follow written specifications.

ALL RIGHTS RESERVED:
This design has been created for you in connection with a project being planned for you by AD ART. It may not be shown to anyone outside your organization, and may not be reproduced in any manner without prior consent.

SITE MAP

Not to Scale



SITE PLAN

Not to Scale

AD ART SIGN COMPANY
5 THOMAS MELLON CIRCLE, SUITE 260
SAN FRANCISCO, CA 94134
T 415.869.6460
F 415.869.6480
CA STATE CONTRACTORS LICENSE #826051

TRACY AUTO MALL

LED PYLON SIGN

TRACY, CA

SALES: TERRY LONG
JOB #:
DATE: 6-24-09
DESIGNER: JASON OBERBECK
FILENAME: 2009/T/TRACY AUTO MALL

SALES APPROVAL

CUSTOMER APPROVAL

LANDLORD APPROVAL

Revision	Date	Description

CONCEPTUAL DRAWING ONLY:
Dimensions are approximate & may change due to construction factors or exact field conditions. Colors shown are as close as printing will allow; always follow written specifications.

ALL RIGHTS RESERVED:
This design has been created for you in connection with a project being planned for you by AD ART. It may not be shown to anyone outside your organization, and may not be reproduced in any manner without prior consent.

ATTACHMENT D

		Maximum Distance from Freeway (for the business to be advertised)	Maximum Area of Sign Face	Maximum Height of Sign	Minimum Ground Clearance of Sign	Entitlements Required	Maximum Number of Signs	Other		
Existing Regulations	Tracy Municipal Code	350 feet	300 square feet	15 feet above the crown of the freeway or 45 feet - whichever is less	8 feet	Conditional Use Permit	One per parcel, and no business may be advertised on more than one freeway sign in the City			
Existing Regulations	Northeast Industrial Area	350 feet	300 square feet	15 feet above the crown of the freeway or 45 feet - whichever is less	8 feet	Conditional Use Permit	One per parcel, and no business may be advertised on more than one freeway sign in the City	The NEI Concept Development Plan follows the same regulations as the TMC for freeway signs, though none in the area have been proposed		
Existing Sign	West Valley Mall	Must be on the mall property	300 square feet	Existing Sign	None listed	Preliminary and Final Development Plan (PDP/FDP)	One for the Mall, and one allowed for the theater marquee	Only Mall sign exists, no theater marquee was built		
Proposed Addition	Tracy Marketplace	Must be on the Marketplace Property	321 square feet is currently proposed (200 square feet is existing)	15 feet above the crown of the freeway or 45 feet - whichever is less	None listed or proposed	Preliminary and Final Development Plan (PDP/FDP)	One			
Existing Sign	Tracy Outlets	Existing sign is about 425' from freeway, furthest business in outlets is about 850' from freeway	Existing sign is 600 square feet	Existing sign is 70 feet tall	None listed	Preliminary and Final Development Plan (PDP/FDP)	One	They may want to move their sign to a more visible location		
Proposed	Auto Plaza	2 locations specified: Toyota property or Tracy Pavilion (Home Depot) property	300 square feet	15 feet above the crown of the freeway or 45 feet - whichever is less	None listed	Conditional Use Permit	One - to be placed on one of the two specific locations	Digital blinking/changing sign is proposed		
Informally Proposed	Toste Property	To be placed on the Toste property, which is adjacent to I-205	Not Specified	Not Specified	Sign is proposed to clear the Caltrans soundwall adjacent to the site	To be determined	One proposed			
Proposed	Filios Property	To be placed on the Filios property, which is adjacent to I-205	1,200 square feet	85 feet	Not Specified	To be determined	One proposed			
Proposed	Cordes Ranch	Freeway adjacent Proposed	1,260 square feet	70 feet	Not Specified	To be determined	Two are proposed			
Proposed	Tracy Blast	Off-Site Freeway Sign proposed (project site is not adjacent to freeway)	Not Specified	Not Specified	Not Specified	To be determined	One proposed	Digital blinking/changing sign is proposed		

Did that billboard
just change?
588-6535
LAMAR

A resolution that
Coke
tastes great.

UNDEFEATED...BUT NOT FOR LONG
IBRAGIMOV
BROCK
JUNE 24

LIBERTY
LEASE
$159
24 Mos.
'07 FUSIONS
500 Available
Ford
LibertyFord.com

RED CEDAR CROSSING
$130s
Van Buren Rd.
West of
Fowlerville Rd
(EXIT 129)
866-243-5422

TAPOUT
TAPOUT.COM

HE SHOOTS. HE SCORES.
HE FLIES WITH US.
AirTran.com

YES
BILLBOARD
608-3888
YES

November 1, 2011

AGENDA ITEM 11

REQUEST

THE ADOPTION OF A LOTTERY PROCESS FOR THE SELECTION OF NON-PROFIT ORGANIZATIONS TO OBTAIN A SAFE AND SANE FIREWORKS SALES PERMIT

EXECUTIVE SUMMARY

Chapter 3.04 entitled Fireworks of the Tracy Municipal Code allows for the sale and discharge of fireworks within the City of Tracy. Eligible non-profit organizations are selected for permit eligibility via a lottery process determined by resolution of the City Council. Council had previously established a resolution to determine the process by which to conduct the lottery, however; it was specific to July 4, 2011. The proposed item would establish a similar lottery process that would be used from this date forward without requiring staff to return to Council annually.

DISCUSSION

The number of Safe and Sane Fireworks Sales Permits issued to non-profit organizations is determined by the resident population of the City of Tracy. The "Fireworks" ordinance specifies one Safe and Sane Fireworks Sales Permit per 10,000 residents or fraction thereof. With the City's current population in excess of 80,000 residents, nine such permits will be issued to non-profit organizations in Tracy. Due to the number of non-profits exceeding the number of permits available, it is necessary to determine an equitable, objective lottery process by which eligible non-profits may be eligible to receive the Safe and Sane Fireworks Sales Permit.

Section 3.04.050 "Maximum Number of Safe and Sane Fireworks Permits Issued" of the Tracy Municipal Code, states City Council shall provide the process, by City Council resolution, for selection of non-profit organizations that will be eligible to apply for permits to sell and store Safe and Sane Fireworks. The existing resolution was specific only to July 4, 2011. Staff proposes a new lottery process that will allow staff to process the lottery without the need to come before Council on an annual basis. The proposed lottery process identifies specific days and months in which lottery activities will occur but is not specific to a standing date each year. For example, the proposed resolution would state "the first Thursday in December" in lieu of "December 8". This will prevent staff from returning to Council when a standing date in any given year occurred on a weekend.

The proposed lottery process includes applicants submitting completed applications with supporting required documentation, application screening, and conducting the lottery itself. This lottery process is the same as the previously adopted resolution with the exception of date specificity. The City Clerk or designee conducts the lottery in a public forum with applicants in attendance. A number is assigned and drawn for each eligible applicant regardless of the number of available permits. Drawing all numbers ensures each applicant was represented and had an equal opportunity to be drawn. The numbers drawn equaling the number of available permits are awarded permit eligibility. In addition, three alternates are selected for eligibility in the event one of the other

awardees does not meet permitting requirements. There will be a two year limit for each non-profit organization if they are drawn in subsequent years, after which they will have to sit out a year before submitting another Safe and Sane Fireworks lottery application.

FISCAL IMPACT

The fiscal impact is limited to the staff time required in reviewing applications, determining eligibility and conducting the lottery process. The $225 fee associated for a Safe and Sane Fireworks Sales Permit includes $50 identified for "lottery processing". The fees associated with the "Fireworks" ordinance are included in the City's Master Fee Schedule.

RECOMMENDATION

Staff recommends that Council adopt the proposed lottery process for the selection of non-profit organizations to obtain a Safe and Sane Fireworks Sales Permit.

Prepared by: David A. Bramell, Fire Division Chief

Reviewed by: Alford Nero, Fire Chief

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

ADOPTING A LOTTERY PROCESS FOR THE SELECTION OF NON-PROFITS TO OBTAIN A SAFE AND SANE FIREWORKS SALES PERMIT

WHEREAS, The City adopted an ordinance of the Tracy Municipal Code Chapter 3.04 entitled “Fireworks”; and

WHEREAS, The fireworks ordinance limits the number of non-profit organizations eligible to receive a Safe and Sane Fireworks Sales Permit to one per 10,000 population or fraction thereof; and

WHEREAS, The number of non-profit organizations exceed the available number of Safe and Sane Fireworks Sales permits available; and

WHEREAS, Council desires a process which provides equal opportunity for non-profit organizations to receive a Safe and Sane Fireworks Sales permit; and

WHEREAS, Council, by resolution, previously determined a lottery process that was specific to July 4, 2011; and

WHEREAS, This resolution shall set forth the lottery process to be used for 2012 and subsequent years in accordance with section 3.04.050 of the Tracy Municipal Code;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby adopts the following lottery process for the selection of non-profit organizations to obtain Safe and Sane Fireworks Sales Permits:

	Action	Process
1.	Submit Application: • Applications for the Safe and Sane Fireworks Sales Permit Lottery may be filed during normal business hours from the beginning of November of each year up to and including the first Thursday of December of the same year, at which time the filing period for that year will close.	Completed Applications must include: a. Proof of compliance with Section 3.040.060 of the Tracy Municipal Code entitled Fireworks b. Hold Harmless Agreement
2.	Application Screening and Assignment of Lottery Numbers:	a. All applicants are notified whether or not their application has qualified b. Qualifying applicants are assigned a specific lottery number and numbers representing applicants are placed into a secure container.

3.	Conduct Lottery Drawing: • The lottery drawing will be held on the second Thursday of January each year	a. Qualifying applicants to attend meeting at a City facility to draw eligible non-profits b. City Clerk, or designee, will draw all eligible numbers from the container until empty and record the order in which each number was drawn. c. The selected non-profits will be declared in accordance to the number of permits to be issued d. The next three sequentially drawn numbers after the allowable number of permits to be issued will be selected as alternates.
4.	Selected Awardees Complete Permitting Process: • No applications for sales permits will be accepted after the last business day in April of each year • If an alternate is selected, they will have until the last business day of the second week of May to submit necessary documentation	The awardees whose number was selected must show proof of: a. Completed Fireworks Sales Permit Application b. Temporary Sales Permit from the State Board of Equalization c. Proof of possession of a California Fire Marshal Fireworks Retail License d. City of Tracy Temporary Use Permit e. City of Tracy Business License f. Proof of Permission to locate and operate from the property owner g. Pay the fireworks sales permit fee If one or more of the selected awardees fails to complete the permitting process, one or more of the selected alternates will be contacted on this date
5.	Operator Safety Seminar:	Provided by the Tracy Fire Department a. Date and location to be determined each year b. All permitees must have a minimum of two persons attend the seminar
6.	Safe and Sane Fireworks Sale Permit issued:	Permits will be issued upon the permittee meeting all requirements and prior to the opening of business at each sales stand.

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The foregoing Resolution _____ was adopted by the Tracy City Council on the 1st day of November, 2011 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

November 1, 2011

AGENDA ITEM 13.A

REQUEST

APPOINTMENT OF CITY COUNCIL SUBCOMMITTEE TO INTERVIEW APPLICANTS FOR TWO VACANCIES ON THE PARKS AND COMMUNITY SERVICES COMMISSION

EXECUTIVE SUMMARY

Request appointment of subcommittee to interview applicants for two vacancies on the Parks and Community Services Commission.

DISCUSSION

There are two vacancies on the Parks and Community Services Commission due to the resignation of Commissioners Winchell and Atkins. The vacancies have been advertised and the three week recruitment period will close on November 1, 2011. As of October 26th, three applications have been received.

In accordance with Resolution 2004-152, a two-member subcommittee needs to be appointed to interview the applicants and make a recommendation to the full Council.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

That Council appoints a two-member subcommittee to interview applicants for the vacancies on the Parks and Community Services Commission.

Prepared by: Carole Fleischmann, Assistant City Clerk
Reviewed by: Maria Hurtado, Assistant City Manager
Approved by: Leon Churchill, Jr., City Manager