



City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376  
CITY MANAGER'S OFFICE

MAIN 209.831.6000  
FAX 209.830.6120  
[www.cityoftracy.org](http://www.cityoftracy.org)

September 12, 2024

Honorable Gus C. Barrera II, Presiding Judge  
San Joaquin County Superior Court  
180 East Weber Ave, Suite 1306J  
Stockton, CA 95202

Re: 2023-2024 San Joaquin County Civil Grand Jury Report:  
City of Tracy: Public Trust Still Not Restored  
Case No. 0323

Honorable Judge Barrera:

This letter responds to the above-referenced Grand Jury Report in accordance with California Penal Code sections 933 and 933.05. The Tracy City Council has reviewed and thoughtfully considered the Grand Jury's Report. The responses contained in this letter were approved by the Tracy City Council on August 27, 2024.

For additional context to the City Council's responses found below, the City Council approved attachments which include a Public Legal Memorandum from Patrick T. Donegan of Best Best & Krieger, LLP and individually prepared letters and declarations from Mayor Pro Tempore Eleassia Davis, City Councilmember Mateo Bedolla, and City Councilmember Dan Evans, to be included as a part of this response.

## **1.0 CITY COUNCIL**

### **Findings**

***F1.1 Through their unprofessional behavior and inability to work cohesively, members of the Tracy City Council have been unable to govern effectively.***

**The City Council disagrees partially with this finding.**

The City Council has adopted a Code of Conduct and Meeting Protocols to facilitate a professional and productive Council Meeting. *The Code of Conduct, Section 3.6: Code of Conduct Compliance and Enforcement*, provides the framework for the Council to address actions by fellow Councilmembers and/or Commissioners that may be considered unprofessional or prohibit the City Council's ability to govern effectively.

For meetings where four of the five Councilmembers were in attendance, the four City Councilmembers worked very well together. Although they disagreed on some items, they worked well and made great progress working together. This Council has demonstrated its ability to govern effectively.

Some examples of good governance are the rectification of unusable shelter units, addressing homelessness, expanding housing for the unsheltered, and ensuring safety at El Pescadero Park by adopting legislation that ensures safe use of parks by youth through adopting a sensitive use policy. Other examples of good governance include the acceptance of 16 acres of land for the Aquatic Center; Council established the first ambulance service in the City; as well as approved funding for the first regional fire training facility within the City.

***F 1.2 Tracy City Council has violated the Brown Act in multiple ways: discussing personnel issues in an open meeting and posting personnel issues on an open Council agenda.***

**The City Council disagrees wholly with this finding.**

The City of Tracy, like all employers, is restricted in what information it can and should share regarding personnel matters. The City takes seriously its responsibility to respect the privacy rights of its current and former employees. The Brown Act affords certain protections pertaining to personnel matters. In addition, any written allegations of Brown Act violations have been formally addressed by the City Council.

***F 1.3 Some Tracy City Councilmembers have created a toxic work environment within City Hall by spreading accusations of corruption and alleged illegal activities by upper management, staff and other Council members.***

**The City Council disagrees wholly with this finding.**

To the extent that there is a perception of a toxic work environment, the City Council disagrees that more than one member created such an environment.

The City of Tracy, like all employers, strives to foster a safe, respectful, and dignified workplace for its employees. It prides itself on having responsive and ethical professional staff. Staff will work to ensure that additional and appropriate workplace training occurs.

***F 1.4 Tracy City Council's behavior has resulted in poor morale within City Hall.***

**The City Council disagrees wholly with this finding.**

The Council disagrees that the behavior of the Council body as a whole has resulted in poor morale within City Hall. There were multiple actions attributed to one member of the City Council that may have resulted in poor morale. There are repeated reports, videos, and minutes that support the Council's position.

The City of Tracy strives to foster a workplace environment of dignity, respect, professionalism, and community. The City Council has adopted a Code of Conduct and Meeting Protocols to facilitate a professional and productive working environment for all city staff. *The Code of Conduct, Section 4.1: Relationship/Communications with Staff*, provides the framework for Council and staff interactions. In addition, *Section 3.6: Code of Conduct Compliance and Enforcement*, provides the framework for the Council to address actions by fellow Councilmembers and/or Commissioners that may be considered unprofessional.

***F 1.5 The City Council created a void in city administration and leadership through the resignation of another City Manager. It should be noted that there have been six city managers and four city attorneys in the past five years.***

**The City Council disagrees wholly with this finding.**

The City Council did not create a void in city administration and leadership, as it appointed an Interim City Manager immediately following the resignation of the prior City Manager. The Interim City Manager at that time had served the City of Tracy for more than 25 years and subsequently was permanently appointed by the City Council as City Manager.

This Council, on which the investigation is focused, has been intact since 2022, less than two years. Any references to previous Councils would be reflective of conduct not associated with this Council body. Only two City Managers have served under this Council body. No Council body should be expected to be responsible for any former City Councils' actions.

The City of Tracy continues to work to recruit and retain professional staff committed to the City and its workforce.

***F 1.6 The unprofessional Council behavior during Council meetings has negatively impacted the City's reputation, affecting new business development and recruitment of potential city employees.***

**The City Council disagrees partially with this finding.**

The City Council disagrees partially as just one member has consistently demonstrated unprofessional behavior and has negatively impacted the City's reputation, affecting new business development, and recruitment of potential city employees. This is in part due to untrue accusations of racism against their fellow Councilmembers and the City.

The City recognizes that the public deserves to see and be served in a professional and dignified way. The City Council has adopted a Code of Conduct and Meeting Protocols to facilitate a professional and productive Council Meeting. *The Code of Conduct, Section 3.6: Code of Conduct Compliance and Enforcement*, provides the framework for the Council to address actions by fellow Councilmembers and/or Commissioners that may be considered unprofessional or prohibit the City Council's ability to govern effectively. The City endeavors to establish a thriving and growing community that attracts new businesses and employees.

***F 1.7 Members of the City Council attempted to undermine the ordinance requiring a supermajority vote to remove the City Manager to a simple majority vote.***

**The City Council disagrees wholly with this finding.**

The legislative body has a duty to act in the best interest of the community. It is clear that there were alliances between some Councilmembers, staff, and developers that would make it all but impossible to achieve a supermajority vote for dismissal.

As a general law city, ordinances are adopted on a simple majority vote, unless a supermajority vote is otherwise required by State law.

***F 1.8 There are no established measurable performance goals and objectives for the City Manager and City Attorney; therefore, the City Council cannot conduct effective annual evaluations.***

**The City Council disagrees partially with this finding.**

This current City Council was not made aware of a standardized City practice developed under any past City Council. Established measurable performance goals

and objectives are preferred and ideal, however, the lack of them does not prohibit a member of the Council body from effectively evaluating performance.

Prior to the publication of the Grand Jury report, the City Manager and City Attorney began working with a consultant and the Council body to develop respective performance goals and objectives to ensure a positive working relationship with clear expectations on both sides is established going forward.

***F 1.9 Serving as Parliamentarian for Council meetings puts the City Attorney in a conflicting situation. Each decision by the Parliamentarian can be seen as partial to one side or the other.***

**The City Council disagrees wholly with this finding.**

The City Attorney is a neutral party serving at the pleasure of the Council. The City Attorney's duties as a parliamentarian provide legal guidance. The City Attorney serves in an advisory capacity, cannot vote, and has no authority over any member of the Council.

Per the *League of California Cities: Understanding Your City's Departments*, "The city attorney also may serve as the council's parliamentarian." The City Attorney is governed by the State Bar of California Rules of Professional Conduct, requiring attorneys to provide unbiased legal advice to their clients. The City is not aware of a structure in which the City Attorney is not the parliamentarian of the council body.

## **Recommendations**

***R1.1 By October 1, 2024, members of the City Council need in-depth and continuous training on the understanding and the effective utilization of the City of Tracy Code of Conduct, City of Tracy Council Meeting Protocols and Rules of Procedures, and Rosenberg's Rules. Members of the City Council and the City Attorney should refer to the League of California Cities: Counsel and Council: A Guide to Building a Productive City <http://www.calcities.org/>.***

**This recommendation has been implemented.**

The City Council receives ongoing and continuous training on these practices and no additional training is required by October 1, 2024.

More specifically, during this City Council's term, they have received in-depth and continuous training on the understanding and the effective utilization of the City of Tracy Code of Conduct, City of Tracy Council meeting Protocols and Rules of Procedures,



and Rosenberg's Rules. In addition, new and existing City Councilmembers are encouraged to take training with the League of California Cities, including the Mayor and Council Academy and the Annual Conference.

The City Council reviews its Code of Conduct, Meeting Protocols, and Rosenberg's Rules during its biennial Strategic Retreats. The City Council may request reviews between these regularly scheduled trainings, as needed. For example, the City Council as a body recently completed a comprehensive review of the Code of Conduct and Meeting Protocols in May 2023. The City Council had previously requested a review of the Meeting Protocols and Code of Conduct to return in September 2024.

**R1.2-R1.6 By October 1, 2024, members of the City Council need in-depth and continuous training in understanding the requirements of the Brown Act.**

**This recommendation has been implemented.**

The City Council receives ongoing and continuous training on these practices and no additional training is required by October 1, 2024.

More specifically during this City Council's term, the Council body has completed the required training on understanding the Brown Act. In addition, new and existing City Councilmembers have access to and are encouraged to take additional training with the League of California Cities and other associations, including Brown Act and AB1234 training.

***R1.7 By October 1, 2024, the City Council should approve an ordinance requiring a supermajority vote to modify any ordinance requiring a 4/1 vote. Additionally, a 90-day public notice to change this vote requirement should be mandatory.***

**The City Council will not implement this recommendation.**

As a general law city, the authority for the City's powers are granted by State law, including the ability to adopt ordinances. Absent on point authority to the contrary, divesting this Council or a future Council of its power to legislate pursuant to the prescribed powers in the Government Code is legally tenuous and may be subject to challenge. The Council retains its right to change a super majority to a simple majority.

***R1.8 By October 1, 2024, the employment contracts for the City Manager and the City Attorney should require individual performance goals and objectives established within 90 days of hire. These goals and objectives should be evaluated annually.***

**This recommendation has been implemented.**

Prior to the publication of the Grand Jury report, the City Manager's and City Attorney's employment contracts already included the language to require individual performance goals and objectives and the requirement for an annual evaluation.

***R1.9 By October 1, 2024, if a Parliamentarian is deemed necessary at City Council meetings, the position should be held by an independent third party.***

**The City Council will not implement this recommendation.**

Per the League of California Cities: Understanding Your City's Departments, "The City Attorney also may serve as the Council's Parliamentarian." Staff is not aware of a structure in which the City Attorney is not the parliamentarian of the council. The City Attorney is advisory only.

## **2.0: City Attorney**

### ***Findings***

#### **2.0 CITY ATTORNEY**

***F2.1 Employees reported the work backlog created by updating past practices has negatively impacted the public because of delays in residential and/or commercial agreements with the City.***

**The City Attorney partially disagrees with this finding.**

The City Attorney has an ethical and professional duty to the City of Tracy to follow and promote the rule of law. The City Attorney consistently has implemented this duty by providing representation that encourages a culture of compliance with legal requirements. For the past year, the City Attorney's Office has closely collaborated with multiple departments, especially the City Manager's Office, to improve various forms as well as internal and external review and approval processes. The underlying desire, Citywide, has been to incorporate best practices while providing quality customer service to City applicants. As with all change management, there was a temporary

transition period that created some difficulties, and City staff worked with relevant stakeholders throughout the process. Overall, these improvements positively serve the public (and the City) as they create clarity in expectations between the City and applicants, more enforceable documents, and greater certainty in deadlines for implementing public infrastructure.

With respect to any perceived backlog, as noted below, there is no significant backlog in the City Attorney's Office at this moment. The current City Attorney commenced her employment with the City of Tracy on April 25, 2022. Since that date, the City Attorney's Office has reviewed and executed more than 900 documents, which is nearly double the number of documents that had been executed on behalf of the City the two years preceding her arrival. The City Attorney's Office is committed to providing timely and quality legal services to all City teams.

***F2.2 The City Attorney's difficulty in delegating and prioritizing the workload has caused a delay in the timely processing of City work product.***

**The City Attorney wholly disagrees with this finding.**

The City Attorney meets with staff within the City Attorney's Office on a weekly basis to assign, delegate, and distribute work as appropriate. In addition to these formal meetings, she has multiple impromptu meetings and calls with staff to discuss and resolve pending matters. The City Attorney also engages outside counsel, as needed, to assist with various litigation matters and special counsel assignments, to ensure that timely and expert legal services are being rendered to all City teams.

As noted above, as of the date of this Response, the City Attorney's Office has no significant backlog with respect to documents/ agreements that have been submitted by City staff for legal review, as the prior backlog has been diligently cleared. In addition to these document reviews, the City Attorney also ensures that the numerous deadlines for court filings and agenda publications (the City Attorney's Office reviews every item being published on agendas of the City Council, standing committees, and Planning Commission) are met. The City Attorney's Office has also resolved dozens of outstanding municipal code citations, many of which predated the arrival of the current City Attorney. The City Attorney strives to utilize available resources to timely meet the City's legal needs, in the most cost-efficient manner possible.



***F2.3 Interviews with former employees indicated that the Tracy City Attorney's office is understaffed compared to cities of similar population.***

The City Attorney agrees with this finding.

***F2.4 The current Code of Conduct limits the hiring of outside legal counsel to only the City Attorney. This ties the hands of the City of Tracy when the City Attorney is not available to meet the duties of her office.***

The City Attorney wholly disagrees with this finding.

The City of Tracy is a general law city and its powers derive from those granted by the State legislature. Government Code 41801 expressly states: "The city attorney shall advise the city officials in all legal matters pertaining to city business." This basic legal requirement is codified in the Tracy Municipal Code under Section 2.10.010, which states:

The City Attorney shall serve as legal counsel to the City government and all officers, departments, boards, commissions, and agencies thereof and shall have such other powers and duties as may be prescribed by state law and by ordinance or resolution of the City Council. In situations where the City Attorney determines there is a conflict in representation by that office, the City Council may authorize the retention or other legal counsel to represent one of the conflicting parties. The City Attorney shall appoint all other members of the City Attorney's Office.

To the extent that there is a conflict of interest, the City Council retains the power to engage other legal counsel. This limited power cannot practically nor legally be delegated to individual City departments.

***F2.5 Reported unprofessional behavior by the City Attorney in dealing with city staff has led to low morale and staff resignations.***

The City Attorney wholly disagrees with this finding.

While the City has 500+ employees, the City Attorney has direct supervisory and hiring authority over only the four positions within the City Attorney's Office that report to her. Unless legal issues arise, the City Attorney has no involvement in the supervision or employment status of any other employee position in the City. As to employees within the City Attorney's Office, the reasons for resignations and/or separations from the City are confidential personnel matters that cannot be discussed in this public document.

The City has a robust Human Resources Department, and all employees are encouraged to discuss their grievances with the Human Resources Department.

As discussed above, for the last year, there has been a collaborative effort at the executive level to incorporate best practices across disciplines by improving forms as well as internal and external review and approval processes. As with all change, this period of transition has created stress for certain employees, and the City Attorney has worked closely with the City Manager's Office to assist in managing these changes to the extent possible. The stress was further exacerbated by the period of instability that existed in the City Manager's position during 2023. Within this broader context, it appears speculative to link employee departures to any one particular reason.

***R2.1 By October 1, 2024, an outside legal firm should be engaged to help expedite the current work backlog in the City Attorney's office.***

**The recommendation has been implemented.**

As noted above, the City Attorney engages outside counsel, as needed, to assist with various litigation matters and special counsel assignments, to ensure that timely and expert legal services are being rendered to all City teams. The City Attorney's Office expects to issue a statewide Request for Proposals (RFP) for on-call legal services by the end of August 2024, as the prior RFP was done several years ago. This RFP will allow the City Attorney's Office to have access to more law firms practicing in the State, across various practice areas relevant to the needs of the City. The RFP will also request proposals from law firms seeking to serve as an outside Assistant City Attorney, in the event that a suitable in-house attorney is not found to fill the vacant position through the normal recruitment process.

***R2.2 By October 1, 2024, the office of the City Attorney should develop and utilize standardized agreements to streamline the review and approval processes.***

**The recommendation has been implemented.**

The City Attorney strongly believes in the efficiencies that stem from having standardized agreements. To this end, the City Attorney has created templates for various agreements that are routinely used by the City, such as professional service agreements, airport leases, and improvement agreements. These forms are now in the process of being converted to fillable PDF documents, to further streamline the review and approval processes. The City Attorney's Office will continue to develop additional templates, as appropriate. In addition to creating templates, the City Attorney has

implemented a new procedure in which templated agreements (as long as no changes are being proposed to such forms) no longer have to come to the City Attorney's Office for initial "document review". This new procedure will greatly streamline internal approval processes.

***R2.3 By October 1, 2024, the City of Tracy should budget for and hire additional City Attorney staff.***

**The recommendation requires further analysis.**

In recent history, the City Attorney's Office has had 3 legal positions (City Attorney, Assistant City Attorney, and Deputy City Attorney) and 1 administrative position (Legal Secretary). In addition to improving forms and processes to help with the workload, in the Fall of 2023, the City Attorney recommended that the City Council create a new Paralegal position in the office. The City Council agreed with the recommendation, and this position is now filled by a paralegal with decades of experience. The addition of the new paralegal has provided significant assistance to the office. As there is currently a vacancy in a key position (Assistant City Attorney), the decision to budget for and hire additional staff is best determined once this key position is filled again. The City anticipates being able to make that decision within the next 6 months.

***R2.4 By October 1, 2024, the Code of Conduct regarding the hiring of outside counsel should be amended to allow other city officials to hire outside counsel if the City Attorney is unable to perform their duties, or if the legal issue being addressed gives the appearance of a potential conflict of interest.***

**This recommendation will not be implemented.**

As noted in Finding 2.4, the State has tasked the City Attorney of a general law city to provide all requisite legal services to all city officials and that requirement has been codified in the Tracy Municipal Code. To the extent that a conflict exists, the City Council, as a body, retains the power to engage separate legal counsel with respect to those specific matters in which a conflict exists. The City Council has exercised this power in the past.

Further, the determination of whether the City Attorney is "able to perform their duties" is a contractual matter between the City Council and the City Attorney. The City Attorney has an employment contract with the City. This contract articulates the responsibilities of the City Attorney and the process by which the City Council, the other contracting party, may determine the City Attorney is failing to perform such responsibilities. Other City officials should not be involved in this contractual relationship.

Finally, granting other city officials the ability to hire outside counsel would create grave legal risks to the City. Precedence and consistency are critical in the implementation of legal practices. Multiple attorneys that are separately engaged and managed (outside of the City Attorney's Office) would result in inconsistent agreements and legal practices on behalf of the City. The City Attorney's essential responsibility of selecting and managing outside counsel is also identified by the League of Cities in its Counsel and Council Guide.

***R2.5 By October 1, 2024, the City Attorney should be given training in personnel management. The Attorney's actions should be consistent with the League of California Cities: Counsel and Council Guide: <https://www.calcities.org/docs/default-source/city-attorneys/cc-counsel-council-2022-ver4.pdf> in particular Principal 5: "The city attorney should conduct himself/herself at all times in a profession and dignified manner, interacting with all elected officials, city staff, members of the public, and the media with courtesy and respect."***

**This recommendation has not yet been implemented.**

The City Attorney embraces opportunities to improve personnel management skills, especially as such training is not typically provided to practicing attorneys. The City Attorney will work with the Human Resources Department to identify suitable courses and begin to implement the recommended action by October 1, 2024 (to the extent such courses are available by then).

### **3.0 COUNCIL HIRED STAFF**

#### ***Finding***

***F3.1 The City of Tracy does not have a clear process for filing complaints against council hire-hired staff.***

**The City wholly disagrees with this finding.**

The City has several methods of receiving formal, informal, and anonymous complaints. It strives to respond to such complaints expeditiously. The City has an established process for employee complaints against all employees, including council-hired staff, through its Whistleblower Administrative Policy. In addition, the City of Tracy's "Whistleblower Hotline and Employee Protection Line" is monitored by a third-party vendor. Notwithstanding, the City will endeavor to provide additional employee training on the processes available.

**Recommendation**

***R3.1 By December 31, 2024, the City of Tracy shall establish a confidential process for employee complaints against council-hired staff. The process should include a third-party vendor to assure complete confidentiality.***

**The recommendation has been implemented.**

As noted above, the City has several methods of receiving formal, informal, and anonymous complaints. It strives to respond to such complaints expeditiously. The City has an established process for employee complaints against all employees, including council-hired staff, through its Whistleblower Administrative Policy. In addition, the City of Tracy's "Whistleblower Hotline and Employee Protection Line" is monitored by a third-party vendor. However, the City will endeavor to provide additional employee training on the processes available.

Thank you for providing the City of Tracy the opportunity to comment on this important report. Please let us know if additional information is required or if you have any questions.

Sincerely,



Midori Lichtwardt, City Manager



Bijal Patel, City Attorney

Enclosures:

- Attachment 1- Public Legal Memorandum from Patrick T. Donegan
- Attachment 2- Letter from Eleassia Davis, Mayor Pro Tempore
- Attachment 3- Declaration of Mateo Bedolla, Council Member
- Attachment 4- Letter from Dan Evans, Council Member



## **ATTACHMENT 1**

### **Public Legal Memorandum from Patrick T. Donegan**



Patrick T. Donegan  
(310) 220-2172  
Patrick.Donegan@bbklaw.com

## Public Legal Memorandum

VIA E-MAIL

**To:** City of Tracy, City Attorney's Office  
**From:** Patrick T. Donegan (PD)  
**Date:** August 19, 2024  
**Re:** Grand Jury Response

### INTRODUCTION

The purpose of the below memorandum is to opine on the assertions of law and legal authority (*i.e.*, State law, City of Tracy Municipal Code, case law, *etc.*) contained in the City of Tracy's response to the Grand Jury Report titled, "City of Tracy: Public Trust Still Not Restored 2023-2024 Case No. 0232" ("2023-2024 Grand Jury Report"). This office was engaged by the City Attorney of the City of Tracy ("City") for this role. This office conducted no independent investigation into any of the factual allegations or conclusions found in the 2023-2024 Grand Jury Report. Thus, each and every "Discussion," "Finding," and "Recommendation" found in the 2023-2024 Grand Jury Report is not addressed.

Instead, only the portions germane to the legal role and authority of the various parties discussed in the 2023-2024 Grand Jury Report are addressed. Failure to substantively discuss any of the other portions of the 2023-2024 Grand Jury Report and City response(s) does not indicate agreement or endorsement of any of these portions. Further, in-depth opinions on management style, relationships between Council members, and relationships between various City staff are beyond the scope of this memorandum. With the caveat that all applicable codes of conduct, professional rules of conduct, state and local law, contractual provisions, any pertinent employee handbooks and/or memorandums of understanding, and any other applicable standards of conduct should be adhered to. If the City Council so desires a formal change, amending one of the aforementioned sources is the correct course of action to effectuate such a change.

## ANALYSIS

### Finding F1.7, Recommendation R1.7, and Response

*F1.7: Members of the City Council attempted to undermine the ordinance requiring a supermajority vote to remove the City Manager to a simple majority vote*

*R.1.7: By October 1, 2024, City Council should approve an ordinance requiring a supermajority vote to modify any ordinance requiring a 4/1 vote. Additionally, a 90-day public notice to change this vote requirement should be mandatory.*

*City Response: As a general law city, the authority for the City's powers are granted by State law, including the ability to adopt ordinances. More research is required to verify if this recommendation is suitable for the City of Tracy.*

The California Constitution grants a city broad discretionary power to “make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.” Cal. Const., article XI, section 7. State law does the same. Govt. Code section 37100 (“The legislative body [of a city] may pass ordinances not in conflict with the Constitution and laws of the State or United States.”) As a general law city, the City has only those powers expressly conferred upon it by the California Constitution and California statutes, and those powers incidental to the object and purposes of the City’s powers. *See Irwin v. City of Manhattan Beach* (1966) 65 Cal 2d 13, 20. The City Council’s power to conduct government business by a vote, at a minimum, of the majority of the City Council sitting in quorum (e.g., to hire/fire a City Manager) derives from state law. *See e.g.* Gov. Code § 36810.

Government Code section 36936 states:

“Resolutions, orders for the payment of money, and all ordinances require a recorded majority vote of the total membership of the city council.” [emphasis added]

However, Government Code section 36813 states that a city council “may establish rules for the conduct of its proceedings.”

What a city cannot do is divest itself or future councils of the very power to legislate. As explained by the California Supreme Court, “[i]t is a familiar principle of law that no legislative board, by normal legislative enactment, may divest itself or future boards of the power to enact legislation within its competence.” *City and County of San Francisco v. Cooper* (1975) 13 Cal. 3d 898, 929; see also *People's Advocate, Inc. v. Superior Court* (1986) 181 Cal. App. 3d 316, 328; *Thompson v. Board of Trustees* (1904) 144 Cal. 281, 283. In these precedents, the legislative body ran afoul of this principle by attempting to restrict itself from exercising the power to legislate. *Cooper*, 13 Cal. 3d at 929 (school board could not preclude itself from revising or altering salary resolution without approval of the certificated employee council); *People's Advocate*, 181 Cal. App. 3d at 328-29 (California state legislature could not limit content of future budget legislation). However, this office is not aware of any directly on-point legal authority ruling on the validity of what is being recommended: an ordinance that via its own adopted language that can only be amended by a supermajority vote.

Read together, all of the aforementioned authority supports the idea that a City Council can, via ordinance, subject certain actions or provisions to a supermajority vote (i.e., terminating a City Manager requires a 4/5 vote). However, whether or not that very ordinance can only be changed or modified by a supermajority vote is unclear and thus may be subject to challenge. The plain text of Government Code section 36963 states that an ordinance requires a recorded majority vote of the total membership of the City Council (not a supermajority). Government Code section 36813 states that a city council has discretion to establish rules for the conduct of meetings which, while broadly read could lend some support for this idea of requiring 4/5 votes to change an ordinance. However, because section 36963 is more specific to the adoption of ordinances, it is likely the more conservative approach to rely upon this language than the more generalized language found in section 36813. In essence, trying to limit this Council's or future City Council's ability to legislate based on the simple majority found in State law, absent any authority<sup>1</sup> directly on-point, may be subject to challenge.

Practically, this approach does avoid the possible incongruous result where multiple ordinances are passed (possibly conflicting) via the simple recorded majority vote of the total membership because some ordinances cannot be changed unless by supermajority. This could result in the City being forced to deal with and implement conflicting ordinances. While an ordinance dealing with the firing of a City Manager is relatively straightforward, other topics are much more nuanced and interact with other provisions of the municipal code. Thus the supermajority vote requirements for just select provisions could result in inconsistent or ridiculous results.

#### **Finding F1.9, Recommendation R1.9, and Response**

*F1.9: Serving as Parliamentarian for Council meetings puts the City Attorney in a conflicting situation. Each decision by the Parliamentarian can be seen as partial to one side or the other.*

*R1.9: By October 1, 2024, if a Parliamentarian is deemed necessary at City Council meetings, the position should be held by an independent third party.*

*City Response: Per League of California Cities: Understanding Your City's Departments, "The city attorney also may serve as the council's parliamentarian." Staff is not aware of a structure in which the City Attorney is not the parliamentarian of the council. More research is required to verify that this finding is applicable to the City of Tracy.*

---

<sup>1</sup> Note that a recent decision examining a California city's municipal ordinance requiring a supermajority vote of a city council to overturn a planning commission decision was upheld. *Lateef v. City of Madera* (2020) 45 Cal. App. 5th 245. The ordinance stated: "A five-sevenths vote of the whole of the Council shall be required to grant, in whole or in part, any appealed application denied by the Commission." *Id.* at 252. The court was asked to interpret the statute, ultimately ruling that the "whole of the Council" meant the seven-member council, regardless of the actual number of voting councilmembers. *Id.* at 258. As part of its analysis, the court reviewed the ordinance's legislative history. The court noted that the ordinance had been modified by the city council to increase the supermajority requirement from four-fifths to five-sevenths following the expansion of the city council from five to seven members in 2012. *Id.* at 256. At no time, however, did the court question or even criticize the basic propriety of such a requirement in a municipal ordinance. However, the court did not address the issue here, of whether or not a provision of the ordinance also requiring a supermajority to amend it was valid.

The City follows Rosenberg's Rules of Order, which is the more simplified and straightforward Rules of Order compared to Robert's Rules of Order. Substantively, Rosenberg's Rules of Order consist of only six (6) pages and can be readily read and understood.

This office is not aware of any local municipality that hires an independent third party to solely serve as the governing board's parliamentarian. Often, this parliamentarian role is filled in part by more than just the City Attorney with the City Clerk and presiding officer also providing some parliamentarian type roles.<sup>2</sup> The position, however, is one of impartiality and advisement to the City Council. It should not be viewed as a role that favors one side or the other or necessitates the hiring of an independent third party.

Further, the City Attorney's role during a meeting extends past just this parliamentarian role as other legal authority must also be taken into account. For example, while Rosenberg's Rules of Order may provide a certain level of straightforward rules on making decisions as a body, there are numerous other local and State laws that must be adhered to. These include various local and State laws that require a different vote total than just a majority of a quorum or ensuring/advising the City Council that decision on land uses decisions are based on evidence in the record that comports with the required findings and other legal guardrails such as constitutional protections. Thus, a broad and holistic understanding of numerous different sources is required to advise the City Council to ensure its decisions are valid and not subject to legal challenge.

Introducing a new, independent third party to serve as the parliamentarian in order to increase efficiency and remove any allegations of partiality may have the unintended consequence of actually increasing both. That is, scenarios could be envisioned where this independent parliamentarian is advising the City Council on just Rosenberg's Rules of Order where the City Attorney and/or other City staff are providing other advice possibly in conflict or in tension with the advice given by this third party parliamentarian based on other statutory or constitutional authority. This would result in the City Council having to weigh and address (increased inefficiency) competing advice and then seemingly decided which advice to follow (increasing the sense of partiality).

In sum, this office does not believe that the solution to the issue of partiality in decisions or advice given regarding the City's Rule of Order is the introduction of another third party. Instead, training and understanding of the relatively straight forward Rosenberg's Rules of Order and the City's Code of Conduct will provide the City Council as a whole with a more substantive knowledge set pertaining to the procedure at its meetings. Further, such rules and any advice or guidance given should be just that – neutral, consistent advice to the City Council irrespective of who is asking or what policy topic is being discussed.

Rules of Order are meant to establish order at the meetings and enforce the will of the majority while protecting the rights of the minority. They should not be viewed nor used in a partisan way to effectuate a desired policy or outcome. It is incumbent on existing City staff and the City Council to ensure that these ideals are both understood and implemented appropriately.

---

<sup>2</sup> For example, often times the presiding officer would ask the City Clerk who seconded a motion or how many motions are on the floor. Other times the presiding officer will deny a motion being made if there are already three motions on the floor (the maximum allowed under Rosenberg's Rules of Order).



### **Finding F2.1, Recommendation R2.1 and Response**

*F2.1 Employees reported the work backlog created by updating past practices has negatively impacted the public because of delays in residential and/or commercial agreements with the City.*

*R2.1 By October 1, 2024, an outside legal firm should be engaged to help expedite the current work backlog in the City Attorney's office.*

*(City's Response to Finding F2.1) The City Attorney has an ethical and professional duty to the City of Tracy to follow and promote the rule of law. The City Attorney consistently has implemented this duty by providing representation that encourages a culture of compliance with legal requirements. For the past year, the City Attorney's Office has closely collaborated with multiple departments, especially the City Manager's Office, to improve various forms as well as internal and external review and approval processes. The underlying desire, Citywide, has been to incorporate best practices while providing quality customer service to City applicants. As with all change management, there was a temporary transition period that created some difficulties, and City staff worked with relevant stakeholders throughout the process. Overall, these improvements positively serve the public (and the City) as they create clarity in expectations between the City and applicants, more enforceable documents, and greater certainty in deadlines for implementing public infrastructure.*

*With respect to any perceived backlog, as noted below, there is no significant backlog in the City Attorney's Office at this moment. The current City Attorney commenced her employment with the City of Tracy on April 25, 2022. Since that date, the City Attorney's Office has reviewed and executed more than 900 documents, which is double the number of documents that had been executed in the City the two years preceding her arrival. The City Attorney's Office is committed to providing timely and quality legal services to all City teams.*

*(City's Response to Recommendation F2.2) As noted above, the City Attorney engages outside counsel, as needed, to assist with various litigation matters and special counsel assignments, to ensure that timely and expert legal services are being rendered to all City teams. The City Attorney's Office expects to issue a statewide Request for Proposals (RFP) for on-call legal services by the end of August 2024, as the prior RFP was done several years ago. This RFP will allow the City Attorney's Office to have access to more law firms practicing in the State, across various practice areas relevant to the needs of the City. The RFP will also request proposals from law firms seeking to serve as an outside Assistant City Attorney, in the event that a suitable in-house attorney is not found to fill the vacant position through the normal recruitment process.*

As noted above, this office did not conduct any independent investigation into the inner workings of the City. Outside counsel are often utilized by city attorneys across the state to help manage the ebbs and flows of workflow. In addition to the above mentioned recommendations, developing internal deadlines for submittal to the City Attorney's office with an expected turnaround time could create more consistency and reliability when conducting standard City business. Now what

these deadlines and turnaround times are depend on policy and judgment calls on behalf of the City Attorney and various City staff. But having a known and set deadline (e.g., staff reports and resolutions to be submitted to the City Attorney's office X days before agenda posting, City Attorney shall provide edits/comments X days after submittal, etc.) could possibly avoid the scenario where certain departments receive a plethora of documents to review in a small period of time which leads to a "fire drill" type mentality.

#### **Recommendation R2.2 and Response**

*R2.2 By October 1, 2024, the office of the City Attorney should develop and utilize standardized agreements to streamline the review and approval processes.*

*As noted above, as of the date of this Response, the City Attorney's Office has no significant backlog with respect to documents/ agreements that have been submitted by City staff for legal review, as the prior backlog has been diligently cleared. In addition to these document reviews, the City Attorney also ensures that the numerous deadlines for court filings and agenda publications (the City Attorney's Office reviews every item being published on agendas of the City Council, standing committees, and Planning Commission) are met. The City Attorney's Office has also resolved dozens of outstanding code enforcement citations, many of which predated the arrival of the current City Attorney. The City Attorney strives to utilize available resources to timely meet the City's legal needs, in the most cost-efficient manner possible.*

*(City's Response to Recommendations R2.2) The City Attorney strongly believes in the efficiencies that stem from having standardized agreements. To this end, the City Attorney has created templates for various agreements that are routinely used by the City, such as professional service agreements, airport leases, and improvement agreements. These forms are now in the process of being converted to fillable PDF documents, to further streamline the review and approval processes. The City Attorney's Office will continue to develop additional templates, as appropriate. In addition to creating templates, the City Attorney has implemented a new procedure in which templated agreements (as long as no changes are being proposed to such forms) no longer have to come to the City Attorney's Office for initial "document review". This new procedure will greatly streamline internal approval processes.*

The creation and implementation of standardized or template agreements is a key tool to ensuring timely review of City business. Further, this avoids the process of creating documents from scratch for each and every project, contract, etc. The only additional comment would be to possibly create a standard process for when these template agreements are requested to be changed. Different vendors, property owners, or others that interact with the City could have disparate reasons for requesting a change from the City's template agreements. It may be beneficial to have the pertinent City staff member try and compile the requested reasons/justifications for any proposed change and then establish a typical timeframe for the City Attorney's office to review requested changes.

#### **Finding F2.4, Recommendation R2.4 and Response**

*F2.4 The current Code of Conduct limits the hiring of outside legal counsel to only the City Attorney. This ties the hands of City of Tracy with the City Attorney is not available to meet the duties of her office.*

*R2.4 By October 1, 2024, the Code of Conduct regarding the hiring of outside counsel should be amended to allow other city officials to hire outside counsel if the City Attorney is unable to perform their duties, or if the legal issue being addressed give the appearance of a potential conflict of interest.*

*(City's Response to Finding F2.4) The City of Tracy is a general law city and its powers derive from those granted by the State legislature. Government Code 41801 expressly states: "The city attorney shall advise the city officials in all legal matters pertaining to city business." This basic legal requirement is codified in the Tracy Municipal Code under Section 2.10.010, which states:*

*"The City Attorney shall serve as legal counsel to the City government and all officers, departments, boards, commissions, and agencies thereof and shall have such other powers and duties as may be prescribed by state law and by ordinance or resolution of the City Council. In situations where the City Attorney determines there is a conflict in representation by that office, the City Council may authorize the retention or other legal counsel to represent one of the conflicting parties. The City Attorney shall appoint all other members of the City Attorney's Office."*

*To the extent that there is a conflict of interest, the City Council retains the power to engage other legal counsel. This limited power cannot practically nor legally be delegated to individual City departments.*

*(City's Response to Recommendation R2.4) As noted in Finding 2.4, the State has tasked the City Attorney of a general law city to provide all requisite legal services to all city officials and that requirement has been codified in the Tracy Municipal Code. To the extent that a conflict exists, the City Council, as a body, retains the power to engage separate legal counsel with respect to those specific matters in which a conflict exists. The City Council has exercised this power in the past.*

*Further, determination of whether the City Attorney is "able to perform their duties" is a contractual matter between the City Council and the City Attorney. The City Attorney has an employment contract with the City. This contract articulates the responsibilities of the City Attorney and the process by which the City Council, the other contracting party, may determine the City Attorney is failing to perform such responsibilities. Other City officials should not be involved in this contractual relationship.*

*Finally, granting other city officials the ability to hire outside counsel would create grave legal risks to the City. Precedence and consistency are critical in the implementation of legal practices. Multiple attorneys that are separately engaged and managed (outside of the City Attorney's Office) would result in inconsistent agreements and legal practices on*

*behalf of the City. The City Attorney's essential responsibility of selecting and managing outside counsel is also identified by the League of Cities in its Counsel and Council Guide.*

The Tracy Municipal Code and Code of Conduct both provide some guidance on the retention of outside counsel and do not appear to provide individual staff members the ability to hire and retain their own legal counsel for City-related matters. This is consistent with practices by other jurisdictions to avoid multiple legal opinions solicited by various City staff. That is, a situation where a planning department (or individual planner) hires their own independent counsel who provides a legal opinion that may differ or be at odds with the legal opinion of the City Attorney is a scenario that must be avoided. As discussed above, outside legal counsel may have a role in providing the City necessary legal services. However, it is best practice for legal counsel to provide this in cooperation and conjunction with the City Attorney's office; not a scenario where two different attorneys (or sets of attorneys) are providing competing legal advice to the City and its decision makers that must then weigh each separate legal analysis.

The City Council serves as the ultimate City decision maker. As such, the City Council does retain the ultimate decision on who represents the City in its legal matters subject to relevant legal authority and any applicable contractual obligation. Should the City Council desire outside legal counsel on any particular matter, that is a discussion to be had by the City Council as a whole in a publicly noticed meeting. During this time it would be appropriate for the City Council to make its positions known (as a body) and then provide the pertinent direction to City staff to ensure the Council's position is effectuated provided it comports with existing authority. Delegating this authority to individual staff members, as the 2023-2024 Grand Jury Report states, would require amending, at the very least, the City's Code of Conduct and could lead to a culture of forum shopping for a legal opinion. However, this is within the City Council's authority if it so desired and if the City Council modified the relevant authority.

As has been somewhat of a theme of this memorandum, the City has the required roles filled as it pertains to legal services (sans possible understaffing for supporting attorneys in the City Attorney's office as stated in the 2023-2024 Grand Jury Report). To my understanding, this is not a function of a lack of funds or budgetary constraints so the City is in a relatively favorable position compared to another possibility where funds simply aren't there for the required legal services. There is a possibility that the introduction of a policy where individual staff members can hire outside counsel to provide their own independent legal advice on City related matters may further contribute to the dysfunction and inefficient City governance instead of helping to resolve the problem. The City's efforts may be better used in trying to train the already existing pertinent City staff members and rehabilitate the strained relationships between the City Attorney's office and other departments instead of creating an environment where individual departments or staff members have the authority to hire outside legal counsel at their discretion.

## CONCLUSION

Ultimately, the 2023-2024 Grand Jury Report details and describes very important issues and challenges facing the City. The above analysis is not meant to replace or vitiate any of the issues and recommendations by the Grand Jury. Instead, it is meant to provide the City a more nuanced level of legal analysis pertaining to some of the issues and options posited by the Grand Jury so that the City Council and relevant City staff can be fully apprised of possible options.

## **ATTACHMENT 2**

### **Declaration of Eleassia Davis, Mayor Pro Tempore**





# LEASSIA DAVIS

August 20, 2024

## Grand Jury Response

I adamantly disagree with the very pointed and blatant mischaracterization of the majority of our council by the Grand Jury. During a publicly noticed meeting, Mayor Young announced that she would file a Grand Jury report and publicly admitted to a news source that she had. Based on what I can surmise from this entire ordeal, the Mayor's word was taken as fact by the Grand Jury, a Grand Jury that I believe is stacked with friends and associates of her and Council Member Arriola, who undoubtedly had an unfair and unjust influence over this investigation.

At a minimum, this is an undermining and miscarriage of justice to this Council, our City, and the citizens of Tracy. At a maximum, it is an ominous indicator of how far politics goes up the ladder—as we experience what appears to be the weaponization of our legal system and our media sources, allowing pay-to-play politics, whisper, and shadow campaigns that unfairly influence the outcomes of our local elections to go unchecked in San Joaquin County.

While we have all been elected to serve the people and vested with the power and authority to deliberate objectively and independently in the best interest of our city, the mayor initiated this Grand Jury complaint based on differences in perspective, primarily on developer issues.

The citizens of Tracy need to know that over years of service, Mayor Young and Council Member Arriola have taken thousands of dollars from developers who owe you millions of dollars in infrastructure, schools, and amenities, including an aquatic center, which is long overdue. And nearly every vote they've made in their 12 and 6 years of

serving on this Council, respectively, has been against the Community's interest and in favor of developers. It needs to be said that this is why Tracy has thousands of homes, millions of square feet of warehousing looming, no major street, road, or interchange improvements, and hundreds of thousands of dollars of illegal mailers, surveys, social media ads, and more without a single investigation or mention by the Grand Jury. That is the crux of the matter. We tend to vote very differently on DEVELOPER items, but there is every conceivable combination of votes on almost all other issues. The Mayor's horrible behavior as Chair, and neither Arriola's complicity with her actions, is ever addressed. The Mayor has behaved condescendingly; She has constantly berated staff and Council Members, violated the First Amendment rights of citizens during public meetings and repeatedly violated the Code of Conduct to the point the Council censured her. She held a rally with Council Member Arriola and went on national television news and called me, Evans and Bedolla, and the Tracy community racists. I believe that Mayor Young is at the center of any division on this current Council, and the same is true of the previous Council, where a Grand Jury complaint was filed under similar circumstances. Yet, these facts were not taken into consideration by the Grand Jury.

I believe Mayor Young and Council Member Arriola's relationship with developers is why they have done everything in their power to try and terminate the City Attorney, a land-use expert who has worked diligently to ensure that the City of Tracy and its residents are finally receiving the benefits due; protecting the City by ensuring our developer agreements are being fulfilled when it comes to agreed-upon infrastructure and amenities. Before the City Attorney Davis, Evans, and Bedolla began working towards mutually beneficial solutions for developers and our community, there was no developer accountability for the promised infrastructure and amenities. The push for this accountability has been met with fierce resistance, hence the negative campaigning and media we've all seen since the election of 2022.

This Council did not attempt to undermine the Grand Jury's finding-we attempted to exercise democracy under the authority vested in us by the State of California. We swore an oath to serve Tracy's best interests, and despite the fake news, that's exactly what we have been doing. Differences of opinion among a council reflect democracy in action, not undermining. In the United States, the majority rules, and there is no wrongdoing by members of this Council for exercising their legal right to vote their conscience.

While protected by the First Amendment, opinions are merely opinions, not laws. I disagree with the Grand Jury's recommendations, as I believe they are grossly and unjustly biased in the Mayor and Council Member Arriola's favor. Every American citizen

and every local voter should be concerned when a disgruntled elected official can weaponize the legal system not just to slander those who are working to protect their community but also attempt to restrict the powers and authorities vested in us by the State of California, and the Constitution of the United States, not a Grand Jury of peers, (predominately recommended for appointment by their elected official friends), who cannot possibly know the full context and complex nuances of challenges facing those who are elected to make the decisions we come to.

I believe the Grand Jury's report is skewed, lacks objectivity, and did not go far enough into the real issues facing the Tracy City Council-cronyism, nepotism, and serious conflicts of interests at the staff and council levels that have interfered with the progress in this City for years. I am now calling on the San Joaquin County District Attorney's Office-Public Integrity Unit, the Federal Bureau of Investigations-Elections Fraud, and the California Fair Political Practices Commission to conduct full and impartial investigations into the members of the Grand Jury associated with the Mayor and Council Member Arriola and this Grand Jury investigation, AND an investigation into the City of Tracy, its staff and the Council-body, especially Mayor Young and Council Member Arriola and their ties to local developers and their affiliates and the whisper campaign of 2022, and the current whisper campaign of 2024- that appears to be inextricably intertwined with those developers, who have greatly benefitted from the favorable votes at the expense of the residents and taxpayers of Tracy.

This is my response to the Grand Jury's report.

Respectfully,

A handwritten signature in black ink, appearing to read 'Eleassia Davis', with a long horizontal flourish extending to the right.

Eleassia Davis, Mayor Pro Tem  
City of Tracy

## **ATTACHMENT 3**

### **Declaration of Councilmember Mateo Bedolla**

## **Declaration of Mateo Morelos Bedolla, Council Member, City of Tracy**

### **Introduction**

My name is Mateo Bedolla, and since my election to the Tracy City Council in December 2020, I have remained steadfast in promoting transparent and accountable governance, working diligently to root out corruption and restore integrity to our administration. This declaration is not merely a recount of events, but a definitive setting of the record straight, addressing the manipulation and corruption that have challenged the integrity of our city's administration, while reaffirming my commitment to serving Tracy with the utmost humility and integrity. Several supporting documents relevant to this matter have been withheld due to attorney-client privilege or other legal restrictions; however, many of these documents are a matter of public record.

### **1. Gifts and Corruption: A Disheartening Revelation**

In early 2023, I discovered deeply troubling information regarding a former city employee. Through public records requests 23-95 and 23-102, which were part of the former city employee's compliance with the Public Records Act, I found evidence pointing to gifts being sent to the former city employee's residence, along with communications about accepting entrance to a 49ers game. These gifts were provided by Bubba Paris, a representative for a city vendor to the city and the then-President of the Tracy Community Connections Center (TCCC), who has notable affiliations with the 49ers. These actions raised serious ethical concerns, as they directly created a conflict of interest, particularly for a non-elected official tied to a lucrative city contract worth hundreds of thousands of dollars, accepting gifts from a city vendor. This was a significant breach of public trust.

Adding to this concern, Guy McIntyre, who is now the President of TCCC and the current Director of Alumni Relations for the 49ers, is running against me for a seat on the City Council. It's curious that he has stepped into the exact role that Bubba Paris once held, almost like a 'same for same' replacement. Had Bubba Paris lived within the city limits, it's likely he would have run against me himself, but as it stands, this broader effort seems designed to undermine my work in exposing and addressing these unethical actions.

### **2. The January 2023 Meeting: A Breach of Trust**

In January 2023, Mayor Nancy Young, along with Council Member Dan Arriola, held a private meeting with representatives from Integral Communities/Tracy Hills, Surland Communities/Ellis, and Prologis. While the meeting took place at Prologis headquarters on January 23, 2023, with Prologis serving as a neutral venue, the real agenda was far from neutral. Prologis, having no pending legal issues with the city, was strategically used as cover to mask the true intent of the gathering: a calculated effort by the developers to critique and undermine the City Attorney's office without legal oversight. The developers insisted on meeting without their



attorneys, a move designed to pressure the City into aligning with their interests while skirting legal protocols—classic ‘good ol’ boys’ politics aimed at influencing key city decisions behind closed doors.

Mayor Young manipulated the situation by involving both the former city employee and the City Attorney under misleading pretenses, and the former city employee brought along the Assistant City Manager who would later become the Interim City Manager and is now the permanent City Manager—further validating our decision to bring ethical leadership to Tracy.

At the outset, the City Attorney, recognizing the irregularity of the situation, made a formal statement clarifying that no legal matters would be discussed without the appropriate legal counsel present, as is required under California law. However, after the meeting, the City Attorney, alarmed by the legal and ethical breaches, sent a detailed memo to the City Council outlining the serious issues that had arisen. In response, Mayor Young sent an unprofessional and angry email to the City Attorney, copying the entire Council. Shortly thereafter, the former city employee issued a sanitized memo downplaying the gravity of the situation.

While the location at Prologis may have seemed innocuous, the real aim of this meeting was a covert attempt by Integral/Tracy Hills and Surland/Ellis to influence city policies outside of formal, transparent channels. Mayor Young’s proposal to hold monthly “accountability meetings” between the developers and city staff was another attempt to bend the rules in favor of the developers, further eroding the ethical standards of our governance. These actions, combined with the corruption revealed later, only strengthened my resolve to push for reforms that would restore accountability and integrity in our city’s leadership.

### **3. Shelter Project Setbacks: Addressing Mismanagement and Achieving Success**

During the previous city administration, Tracy’s homeless shelter project faced significant setbacks when repurposed shipping containers, sourced from Texas and approved by the highest operational city staffer, failed to meet California building codes, resulting in severe water damage. Despite attempts to repair the units, the city was ultimately forced to absorb a \$590,000 loss and seek alternative solutions to ensure the shelter could be completed. The city was failing its most vulnerable residents—those who had nothing, not even shelter.

After these failures, coupled with other unethical actions—gifts given to city employees, the clandestine January meeting, and the waste of nearly \$600,000—it became clear that reform was urgently needed. These accumulated events represented the professional equivalent of the straw that broke the camel’s back. Following this turning point, I was appointed to the Homeless Advisory Committee and soon made Vice Chair. In this role, I pushed for recommendations to secure better solutions, despite resistance from both the committee and some council members.

In my first year on the Committee, we successfully leveraged \$1.2 million in grant funding from the Health Plan of San Joaquin to secure 38 new shelter units. By the end of 2023,

87 total beds, including accommodations for pets, were made available at the low-barrier temporary housing facility located at 370 W. Arbor Road. This marked a significant success for our city, the shelter, and, most importantly, for our most vulnerable residents. With this progress, we demonstrated that, through ethical leadership and collaboration, we could overcome past mismanagement and provide the much-needed support our residents deserve.

#### **4. Research and the Ordinance: Pursuing Accountability**

In April 2023, I began researching the possibility of changing the City Manager termination requirement from a supermajority to a simple majority. This was not a move to wield power indiscriminately, but rather an effort to restore accountability within our leadership. My investigation revealed that a similar change had been considered by former Council Member Veronica Vargas and Mayor Nancy Young in October 2021 (See Attachment: Staff report, ordinance, and minutes), with the intent of pressuring both the former City Attorney and the City Manager to take actions perceived as favorable to them, potentially for personal gain. These efforts were part of a broader attempt to influence city decisions during a period of growing public scrutiny.

As I continued my work, disinformation campaigns emerged in retaliation for my commitment to integrity. Entities like TransparentTracy.com consistently spread misinformation, while groups like Tracy Account distributed flyers and maintained social media accounts, aiming to discredit my efforts. Tracy Concerned Citizens for an Aquatic Center, along with other similar 'Concerned Citizens' groups, have mailed misleading materials to residents. These efforts appear to be calculated attempts to undermine my work and mislead the public.

With careful planning and compelling evidence, I worked diligently to convince my colleagues that the proposed change was necessary for the good of our city. To the extent that any technical Brown Act or personnel matter concerns were alleged to have occurred, the City Council effectively addressed these during the May 30, 2023, special council meeting, under Item 7, titled 'Report of Final Action for Agenda Item 5.A.' This ensured that any potential issues were resolved in compliance with applicable legal standards.

Throughout this process, my actions, and those of my colleagues, have been guided by expert legal advice to ensure adherence to the highest ethical standards. We have worked collaboratively as a Council, always ensuring that our decisions comply with both legal and ethical requirements. It is important to emphasize that I cannot, and do not, act alone on matters requiring a vote.

#### **5. Post-July 2023 Developments: The Aquatic Center and Renewed Opposition**

After July 2023, the situation escalated when I brought back an item to have the council accept the 12-13 acres for the aquatic center that the developer did not want us to accept. The developer's strategy was to use the land as leverage, promising a better aquatic center in

exchange for more building permits, thereby delaying the project. This was all a calculated dance to keep the city council in a perpetual state of inaction. The developer's continued delays were designed to perpetuate a cycle of inaction, keeping the city council gridlocked and preventing any meaningful progress on critical city projects. I put a stop to this game, and we now have \$55 million secured to move forward with the aquatic center—a huge win for the residents and a blow to the 'business as usual' mentality that I was elected to break.

Late Summer/Fall 2024, staff will return to the council to report on the previous direction to work with an architectural consultant to price the amenities identified by the community as priorities for the aquatic center. The council will then have the opportunity to choose within our \$55 million secured funds, made possible through Measure V sales tax.

#### **6. Accusations and Defamation: Staying Focused**

In May and June 2023, Mayor Young publicly accused me of racism for my efforts to correct corruption within our city, organizing a rally and calling in the media to tarnish my reputation. These accusations were unfounded and hurtful, but I chose not to respond in kind because I am committed to maintaining professionalism and focus. Despite these accusations, no credible evidence was provided to substantiate such claims, further illustrating the baseless nature of these attacks on my character. The reality is that I have supported Mayor Young in the past, even assisting her with organizing and translating materials for the first Tracy Connect event in 2021. My focus remains on serving Tracy with integrity, not on engaging in destructive political battles.

#### **Conclusion**

This declaration represents the final time I will address these matters. The events and decisions I have outlined are supported by documented evidence and a deep commitment to the principles of good governance. They did not break my will to serve, and I remain standing, stronger and more resolved than ever. Tracy deserves leadership that is humble, accountable, and free from corruption. I remain committed to the values that inspired me to serve: transparency, ethical leadership, and unwavering dedication to the people of Tracy. Together, we will continue to fight for a city that prioritizes the needs of its residents over political gamesmanship. While I may not have been the council member that some expected, I am the one that Tracy needs, and I will continue to serve with the humility and dedication that have guided me from the beginning—forward, always.

August 27, 2024

*Date*

  
\_\_\_\_\_  
*Tracy City Council Member Mateo Bedolla*

## **ATTACHMENT 4**

### **Letter from Councilmember Dan Evans**

August 27, 2024

Hon. Gus C. Barrera II  
San Joaquin County Civil Grand Jury  
180 E. Weber Ave.  
Stockton, CA 95202

Subject: Response to Grand Jury Report dated June 17, 2024

When I was sworn into service as an elected official on December 13, 2022 I took an oath to uphold the Constitution of the United States and I made a commitment to serve the residents of Tracy. I have done so diligently from that moment onward. I will continue to do so regardless of the pressures placed upon me by those that serve interests other than the interests of our Tracy community. Through death threats that began shortly after starting my work, mistreatment by one member of council that has difficulty treating others with simple respect, I have conducted myself with respect and dignity. I will continue to conduct myself with respect and dignity. I have worked through other members of council telling the public things they want cannot be done, only to discover that they can be done once an elected official actually shows the will, strength and interest to get it done.

The moment Mayor Young levied what seemed to be a threat from the dais towards three members of the council, of a Grand Jury investigation, I felt confident we would find ourselves at this moment; A moment where this council is responding to a Grand Jury report, in an election year under considerably suspicious circumstances. With this letter I have included nine documents and records, that I am asking to have included as part of our response to the San Joaquin County Grand Jury Report. I believe that any reasonable person will be led to at least question the objectivity of this Grand Jury towards three members of our current City Council.

I am compelled to state for the record that I have serious concerns about several members of the Grand Jury that wrote the referenced report.

Below is a list of the nine documents attached to this letter-

1. Nancy Young's signed 460 document reflecting Laverne Jackson, member of the San Joaquin County Grand Jury as her Treasurer, dated 2/22/23.
2. A social media comment from an account called Nancy Young for Tracy Mayor where Laverne Grant (AKA Laverne Jackson) stated she was speaking on behalf of Mayor Nancy Young.
3. A social media comment from an account called Nancy Young for Tracy's Mayor where Laverne Grant-Jackson stated she was speaking on behalf of Mayor Nancy Young.
4. A social media post reflecting Mayor Young presenting an award to Gary Cooper, current President of the Grand Jury Executive Team.
5. Three social media posts reflecting Nancy Young with Mary Kennedy-Bracken, a known Nancy Young supporter and member of the San Joaquin County Grand Jury.
6. Tracy Press article dated 7/26/24 in which Nancy Young has admitted that she sent a letter to the San Joaquin County Grand Jury.
7. A snippet from the San Joaquin County Grand Jury web page showing that Gary Cooper is the President of the Executive Team.
8. A snippet from the San Joaquin County Grand Jury web page showing the Grand Jury roster.
9. A page from Dan Arriola's campaign disclosure, dated 10/4/2022 reflecting \$9,600 in contributions from the President and Vice President of Surland Company on that page alone.

In light of a highly funded mailer and social media campaign, that is currently itself under investigation, that is targeting the same three City Council Members, and the City Attorney, it feels as though this report was part of a targeted attack set up to provide a narrative for that campaign. It also seems clear that this narrative was set up for

social media pages that either cannot be traced back to an actual person, or trace back to someone that lives in Oakland not Tracy.

It's disappointing that the Grand Jury chose to provide what I feel is a deceptive narrative about our current City Council instead of investigating what appears to me to be clear cases of quid-pro-quo (pay-to-play) occurring right now in the City of Tracy. Surely the San Joaquin County Grand Jury must be aware that Council Member Dan Arriola and Mayor Nancy Young both accepted considerable campaign contributions from the Surland Company and subsequently voted not to accept the land from that developer to build the long promised Aquatic Center. This land was to be transferred to the city per the developer agreement between the city and the developer.

When I ran my campaign in 2022, I not only ran on a platform of change, but also a platform of bringing transparency to the public about what is truly happening at Tracy's City Hall, and why our City is falling so far behind other cities in our region. I have held to that promise and will not be intimidated into doing anything less for our residents.

Respectfully,



Council Member Dan Evans  
City of Tracy, CA

# Recipient Committee Campaign Statement Cover Page

COVER PAGE

CALIFORNIA  
FORM 460

Page 1 of 7

For Data on Use Only

Date Stamp

Statement covers period

from January 1, 2023

through February 29, 2023

Date of election if applicable:  
(Month, Day, Year)

November 8, 2022

SEE INSTRUCTIONS ON REVERSE

## 1. Type of Recipient Committee: All Committees - Complete Parts 1, 2, 3 and 4.

- ☒ Offholder Candidate Controlled Committee  
☐ State Candidate Election Committee  
☐ Recall  
☐ General Purpose Committee  
☐ Sponsored  
☐ Small Contributor Committee  
☐ Political Party/Central Committee
- ☐ Primarily Formed Ballot Measure Committee  
☐ Controlled  
☐ Sponsored  
☐ Primarily Formed Candidate/Officeholder Committee

## 2. Type of Statement:

- ☐ Preliminary Statement  
☐ Semi-annual Statement  
☒ Termination Statement  
☐ (Also file a Form 470 Termination)  
☐ Annual Report (Explain below)

- ☐ Quarterly Statement  
☐ Special Odd Year Report

## 3. Committee Information

COMMITTEE NAME OR CANDIDATE'S NAME AND

Nancy Young for Tracy Mayer 2022

ID NUMBER

111890

## Treasurer(s)

NAME OF TREASURER

Laverne Jackson

MAILING ADDRESS

STREET ADDRESS, ROOM, BOX

Tracy

STATE

CA

ZIP CODE

95376

AREA CODE PHONE

[REDACTED]

NAME OF ASSISTANT TREASURER (IF ANY)

Neccha Salinas

MAILING ADDRESS

Tracy

STATE

CA

ZIP CODE

95376

AREA CODE PHONE

[REDACTED]

GENERAL FAX CALLING ADDRESS

Tracy

STATE

CA

ZIP CODE

95376

## 4. Verification

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 02-22-2023 Date

By [REDACTED] Signature

Executed on 02-22-2023 Date

By [REDACTED] Signature

Executed on [REDACTED] Date

By [REDACTED] Signature

Secretary of California Office for Candidate Statement Preparation

San Jose, California 95133-0001

FPPC Form 460 (Jan/2016)

FPPC Advice: advice@fppc.ca.gov (866/275-3772)

www.fppc.ca.gov





Author

Nancy Young for Tracy's Mayor

In 2024 or 2026 we, the residents of Tracy, should consider increasing the term of our Mayor to 4 years. My (Laverne Grant-Jackson a Tracy resident) thoughts are 2 years isn't enough time for any Mayor to complete projects that takes years to complete. Mayor Young and our newly elected City Council inherited a City of Tracy - Local Government that was in a complete lock down due to the covid-19 pandemic and the unknown. Mayor Young, our City Council, City Manager and the residents of Tracy came together to keep our city afloat #TeamTracy was



Nancy Young for Tracy Mayor's post



right here? Again, would love to discuss this with you in person. Show me the way because the one you tell doesn't follow through.

14h Like Reply



Nancy Young for Tracy Mayor  
Author

Zunaeb Wahid you are not talking to Mayor Young. My name is Laverne Grant and you are conversing with me. I manage Nancy Young for Tracy Mayors Facebook page. Tracy's next city council meeting is Tuesday April 18th at 7pm

14h Like Reply



**Nancy Young**

Nov 20, 2023 · 🌐

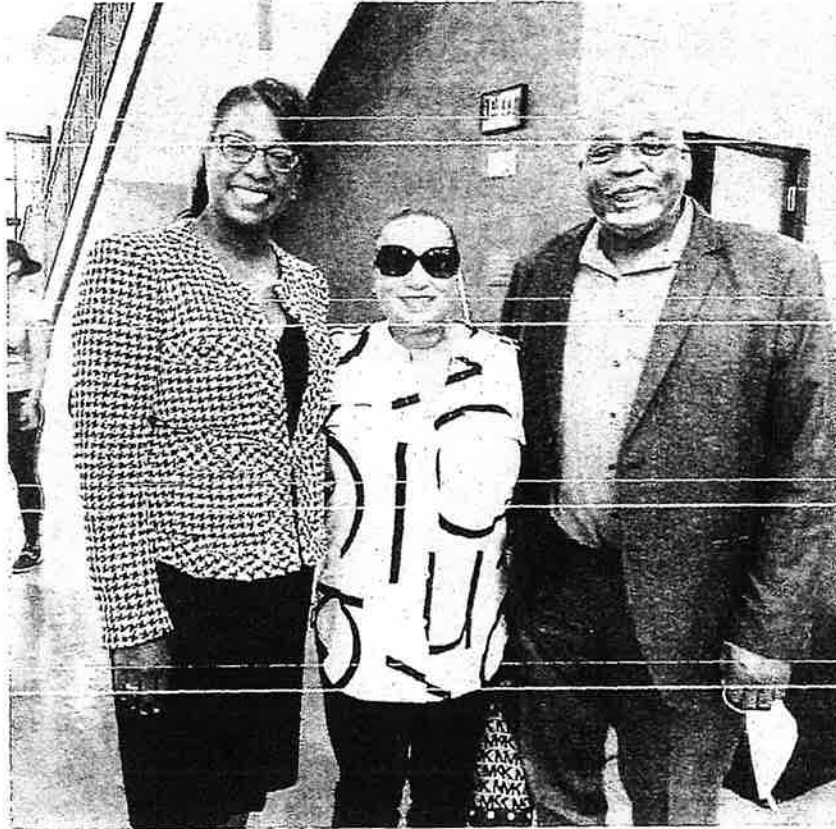
**NAACP Freedom Fund Awards Gala  
11/18/23 - Honored to be a part of this  
event honoring all of the award  
recipients of San Joaquin County this  
year. A special congratulation  
Tracy's own, Gary Cooper! "Bringing  
Community Together!" Elect Dr Nancy  
Young for SJC Board of Supervisor  
District 5 2024**





# Nancy Young is with Mary Kennedy-Bracker at Grand Theatre Center for the Arts.

Sep 29, 2021 • Tracy •



9:55



Mary Kennedy-Bracken



Posts

Photos



Nancy Young is with Mary Kennedy-Bracken. ...

Feb 25, 2021 · 🌐



 Add friend

 Message



Home



Video



Friends



Marketplace



Notifications



Menu



## Nancy's post



003



Like



Comment



Copy



Share

[https://www.ttownmedia.com/tracy\\_press/legality-of-anonymous-flier-targeting-council-members-unclear/article\\_17f86bdc-4abc-11ef-8878-dbea97a39863.html](https://www.ttownmedia.com/tracy_press/legality-of-anonymous-flier-targeting-council-members-unclear/article_17f86bdc-4abc-11ef-8878-dbea97a39863.html)

## **Legality of anonymous flier targeting council members unclear**

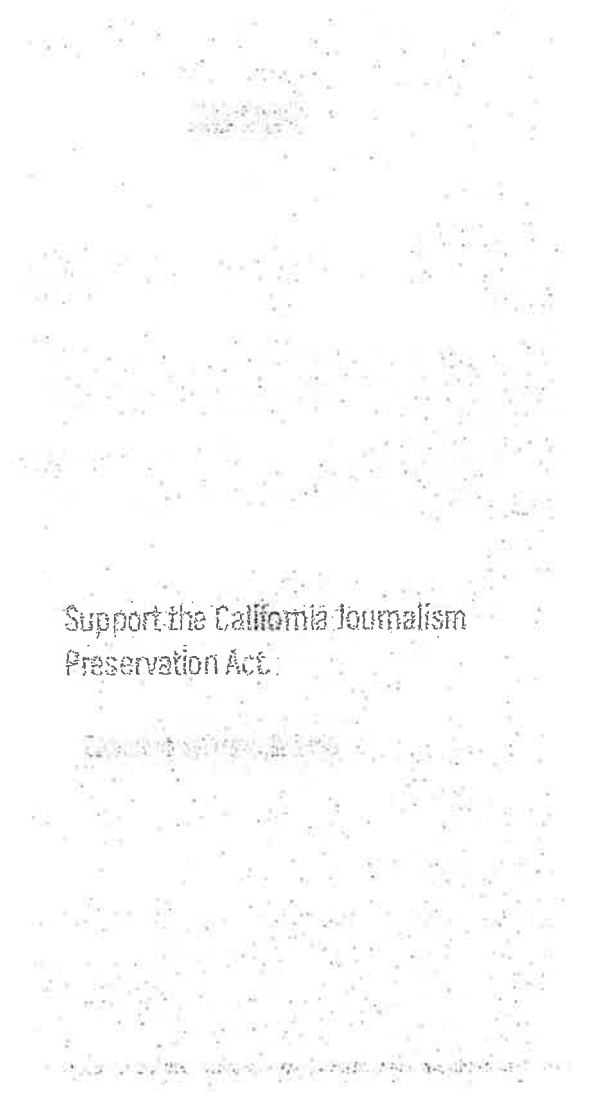
By Bob Brownne  
Jul 26, 2024

With the official candidate filing period now open for the Nov. 5 election the campaign flyers advocating or opposing candidates won't be far behind.

A flyer that reached Tracy residents' mailboxes in the past week takes aim at three Tracy City Council members and the city attorney, including two council members who are running for office, but the origin of the flyer remains a mystery and the legality of it is unclear.

Under the headline, "San Joaquin County Civil Grand Jury Demands Tracy City Council Reform," the flyer identifies Mayor Pro Tempore Eleassia Davis and council members Mateo Bedolla and Dan Evans as the majority in a "3/2 voting block" that has made the current council ineffective.





Support the California Journalism  
Preservation Act.

It also provides a QR code and web link address for the full Grand Jury report, which leads to a page that contains the same information as the flyer, but is not the official website for the San Joaquin County Civil Grand Jury.

The flyer does not contain any information on who paid for the flyer, nor does it offer any information that would indicate if any local individuals, businesses or political groups are responsible for the content. The flyer makes no mention of the 2024 election, though Davis is running for mayor and Bedolla is running for re-election to the council.

The Grand Jury released its report on June 17 and includes criticism of the council and city attorney. The report does not name any council members, nor does it identify the city attorney by name.

The 2024 Civil Grand Jury Report serves as a followup to the 2019 Civil Grand Jury Report, which cites a 3/2 voting block as one of the central issues plaguing the city at that time. It includes a recommendation that the council develop a Code of Conduct, and establish a rule requiring a 4/1 vote to remove the city manager or city attorney.

[REDACTED]

Young said she does not know who would have sent the flyer, noting that when she looked at it upon receiving it in the mail she searched for some kind of identifying information, but found none.

As for the content, Young said that she too comes under attack online and in council meetings, but has learned not to expect her political opponents to call out dishonesty in those attacks.

Young added that the criticisms brought forth in the Civil Grand Jury report come from an independent investigation.

"There were a lot of complaints filed that led to the investigation," she said. Young confirmed that she sent a letter to the Grand Jury last spring when the council began to make its move to [REDACTED] which would require a 4/1 vote, with that supermajority requirement a recommendation from the 2019 Grand Jury report.

"I wrote the Grand Jury a letter, letting them know that what we had changed was being undermined," Young said.

Councilman Dan Arriola, who also is running for mayor, said that the flyers do not come from his campaign, and he doesn't know who would have sent them out. He added that it's not the type of material he would send out for his political campaign.

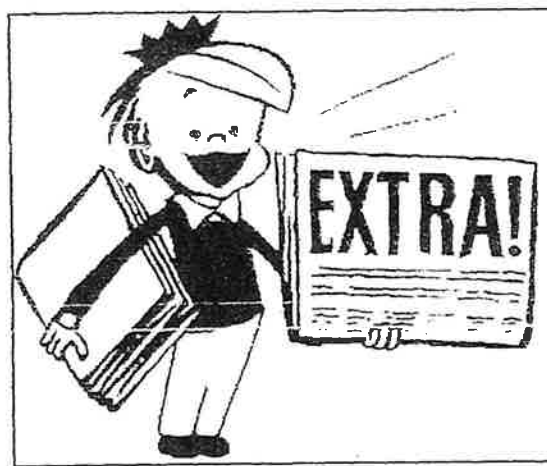
Jay Wierenga, communications director for the Fair Political Practices Commission, said that while the FPPC encourages disclosure of the people or committees behind political advertising, such disclosure is not always required.

"The specifics depend on the type of advertising, the type of committee behind the advertising, etc.," he noted, adding that he couldn't offer an opinion on whether this flyer would be in violation of any laws. He did note that the FPPC does offer a link, [fppc.ca.gov/enforcement/adwatch.html](http://fppc.ca.gov/enforcement/adwatch.html), where the public can send copies of advertisements in question and the FPPC's enforcement division will determine if an investigation is appropriate.

Davis said that she knows of several people who are inquiring with the FPPC to see if the flyer is legal.

"The election needs to be as fair as possible, and when people send out flyers without any FPPC information it's impossible to see who is influencing our elections," she said. She also released a statement on her Facebook page, <https://www.facebook.com/MayorProTemDavis>, in response to the flyer.

"Tracy residents are tired of the lies and the extreme steps some are willing to go to assassinate the character of good people. It's an intimidation tactic," she said. "They want me to quit. But, I will not stand down in this election. I will not yield; I will not surrender - no matter how many false ads are run or misleading mailers are sent."



"I've been the subject of negative campaigning in the past. I find it not only to be in bad taste, but it's ineffective," Arriola said, adding, "I have always been committed to government accountability, and I denounce anyone who fails to comply with the laws and regulations required of political campaigns."

The Tracy City Council is required to draft a response to the Grand Jury report. City Attorney Bijal Patel said that it will be up for discussion at the council's Aug. 20 meeting, and after checking with the San Joaquin County Court she confirmed that the city has until mid-September to submit its response to the report.

- Contact Bob Brownne at [brownne@tracypress.com](mailto:brownne@tracypress.com), or call 209-830-4227.

#### To make a report to the FPPC

People with questions about the legality of campaign materials can send copies of those materials to the Fair Political Practices Commission, [fppc.ca.gov/enforcement/adwatch.html](http://fppc.ca.gov/enforcement/adwatch.html), for review.

The web page for the San Joaquin County Civil Grand Jury is [www.sjcourts.org/divisions/civil-grand-jury/](http://www.sjcourts.org/divisions/civil-grand-jury/)

# Executive Team



President

Gary Cooper



Vice President

Denise Snider



[sanjoaquincountycgja.org](http://sanjoaquincountycgja.org)

---

---

► 2023-2024 Final Report

► City of Tracy: Public Trust Still Not  
Restored

► City of Stockton Crisis in Government

## Grand Jury Roster

Charles Keen

Gaye Cornell

Glen Sheets

James Hanley

Jane Butterfield

John Kimbrough

Laverne Jackson



Mary Kennedy-Bracken

Nancy Brison-Mioli

Patrick Curry

Patrick Piggott

Richard Dunne

Steven Gardner

Thomas Bowe



Amounts may be rounded to whole dollars.

NAME OF FILER DAN ARONSON for Tracy City Council 2022		CALIFORNIA FORM 497		For Official Use Only
AREA CODE/PHONE NUMBER [REDACTED]		Date Stamped OCT - 4 2022 [REDACTED]		
I.C. NUMBER (if applicable) 1409106		Date of This Filing 10/4/2022		
STREET ADDRESS [REDACTED]		Report No. 7		
		<input type="checkbox"/> Amendment to Report No. (explain below)		
CITY Tracy		STATE CA	ZIP CODE 95376	No. of Pages 1

## 1. Contribution(s) Received

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE*	IF AN INDIVIDUAL ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED
10/3/2022	Sam Serpa, [REDACTED] Tracy, CA 95376	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	Vice President, Sunland Companies	\$500 <input type="checkbox"/> Check if Loan Provide interest rate _____%
10/4/2022	Chris Long, [REDACTED] Fremont, CA 94502	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	President, Sunland Companies	\$700 <input type="checkbox"/> Check if Loan Provide interest rate _____%

\* Contributor Codes  
IND - Individual  
COM - Recipient Committee (other than PTY or SCC)  
OTH - Other (e.g., business entity)  
PTY - Political Party  
SCC - Small Contributor Committee

Reason for Amendment: \_\_\_\_\_



