

**ALL CELL PHONES AND ELECTRONIC DEVICES MUST BE
TURNED OFF IN THE COUNCIL CHAMBERS**

**A G E N D A
REEDLEY CITY COUNCIL MEETING**

7:00 P.M.

TUESDAY, August 13, 2019

**Meeting Held in the Council Chambers
845 "G" Street, Reedley, California**

The Council Chambers are accessible to the physically disabled. Requests for additional accommodations for the disabled, including auxiliary aids or services, should be made one week prior to the meeting by contacting the City Clerk at 637-4200 ext. 212.

Any document that is a public record and provided to a majority of the City Council regarding an open session item on the agenda will be made available for public inspection at City Hall, in the City Clerk's office, during normal business hours. In addition, such documents may be posted on the City's website.

Unless otherwise required by law to be accepted by the City at or prior to a Council meeting or hearing, no documents shall be accepted for Council review unless they are first submitted to the City Clerk by the close of business one day prior to said Council meeting/hearing at which the Council will consider the item to which the documents relate, pursuant to the adopted City Council Protocols.

City of Reedley's Internet Address is www.reedley.ca.gov

Frank Piñon, Mayor

Mary Fast, Mayor Pro Tem
Anita Betancourt, Council Member

Robert Beck, Council Member
Ray Soleno, Council Member

MEETING CALLED TO ORDER

INVOCATION – Russ Robertson, Public Works Director

PLEDGE OF ALLEGIANCE

ROLL CALL

AGENDA APPROVAL – ADDITIONS AND/OR DELETIONS

PUBLIC COMMENT – *Provides an opportunity for members of the public to address the City Council on items of interest to the public within the Council's jurisdiction and which are not already on the agenda this evening. It is the policy of the Council not to answer questions impromptu. Concerns or complaints will be referred to the City Manager's office. Speakers should limit their comments to not more than three (3) minutes. No more than ten (10) minutes per issue will be allowed. For items which are on the agenda this evening, members of the public will be provided an opportunity to address the Council as each item is brought up for discussion.*

NOTICE TO PUBLIC

CONSENT AGENDA items are considered routine in nature and voted upon as one item. Under a **CONSENT AGENDA** category, a recommended course of action for each item is made. Any Council Member may remove any item from the **CONSENT AGENDA** in order to discuss and/or change the recommended Course of action, and the Council can approve the remainder of the **CONSENT AGENDA**. A Council Member's vote in favor of the **CONSENT AGENDA** is considered and recorded as a separate affirmative vote in favor of each action listed. Motions in favor of the **CONSENT AGENDA** are deemed to include a motion to waive the full reading of any ordinance on the **CONSENT AGENDA**. For **adoption of ordinances**, only those that have received a unanimous vote upon introduction are considered **CONSENT** items.

CONSENT AGENDA (Item 1-9)

Motion _____ ^{2nd} _____

1. MINUTES OF THE SPECIAL MEETING OF JUNE 4, 2019. – (City Clerk)
Staff Recommendation: Approve
2. APPROVE MAYOR'S NOMINATION TO FILL ONE COMMISSION VACANCY ON THE AIRPORT COMMISSION – (City Clerk)
Staff Recommendation: Approve
3. APPROVAL OF EXPENSE REIMBURSEMENT FOR COUNCIL MEMBER FAST. – (Administrative Services)
Staff Recommendation: Approve
4. APPROVE AND AUTHORIZE THE CITY MANAGER TO SIGN A SECOND AMENDMENT TO AIRPORT GROUND LEASE AGREEMENT WITH TOM REGIER– (Community Services)
Staff Recommendation: Approve
5. APPROVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN PROVIDERS (CITY OF REEDLEY) AND COUNTY OF FRESNO REGARDING PROVISION OF MEDICAL PROPHYLAXIS IN A CLOSED POINT OF DISPENSING (CPOD) – (Fire)
Staff Recommendation: Approve
6. APPROVE AND AUTHORIZE CITY MANAGER TO EXECUTE A SUPPLEMENTARY SERVICES AGREEMENT WITH DAVID WELLHOUSE & ASSOCIATES, INC. IN AN AMOUNT NOT TO EXCEED \$1,200 FOR PREPARATION AND FILING OF CLAIMS FOR STATE MANDATED COST (SB90) REIMBURSEMENT- (Administrative Services)
Staff Recommendation: Approve

7. APPROVE AND AUTHORIZE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE FRESNO COUNTY TRANSPORTATION AUTHORITY TO ESTABLISH PROGRAM ELIGIBILITY AND FUNDING REQUIREMENTS FOR \$200,000 OF TRANSIT ORIENTED DEVELOPMENT MEASURE C EXTENSION FUNDS TO PARTIALLY OFFSET DEVELOPMENT IMPACT FEES ASSOCIATED WITH THE CONSTRUCTION OF PHASE II OF THE REEDLEY FAMILY APARTMENT PROJECT.

(Administrative Services)

Staff Recommendation: Approve

8. ADOPT RESOLUTION 2019-071 AMENDING THE 2019-20 FISCAL YEAR BUDGET TO APPROPRIATE \$14,300 IN AVAILABLE RDA BOND PROCEEDS FOR CITIZENS PARK IMPROVEMENTS. – (Community Services)

Staff Recommendation: Approve

9. ADOPT RESOLUTION 2019-073 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR PROFESSIONAL CONSULTANT SERVICES WITH MARK THOMAS TO PERFORM A ROADWAY SAFETY SIGNING AUDIT AT VARIOUS LOCATIONS THROUGHOUT THE CITY AND PREPARATION OF CONSTRUCTION DOCUMENTS. –

(Engineering)

Staff Recommendation: Approve

WORKSHOP

10. PRESENTATION AND DISCUSSION OF GENERAL FUND FORECAST, FISCAL YEARS 2020-2025. – Administrative Services

ADMINISTRATIVE BUSINESS

11. ADOPT RESOLUTION NO. 2019-059 APPROVING THE SUBDIVISION MAP IMPROVEMENT AGREEMENT AND FINAL MAP FOR PHASE ONE OF VESTING TENTATIVE SUBDIVISION MAP 6196. - Report, discussion and/or other Council action to approve, modify, and/or take other action as appropriate. – (Community Development/Engineering)

Staff Recommendation: Approve

12. APPROVE AND AUTHORIZE CITY MANAGER TO EXECUTE A CONSULTANT AGREEMENT WITH DAVID TAUSSIG & ASSOCIATES, INC. IN AN AMOUNT NOT TO EXCEED \$10,750 FOR TRANSACTIONS AND USE TAX MEASURE ADVISORY SERVICES AND ELECTION COORDINATION. - Report, discussion and/or other Council action to approve, modify, and/or take other action as appropriate. – (Administrative Services)

Staff Recommendation: Approve

RECEIVE INFORMATION & REPORTS

These items are formal transmittals of information to the Reedley City Council. They are not voted upon by the Reedley City Council. Members of the public who have questions on these items are suggested to call City staff members during regular business hours.

13. MINUTES OF THE REGULAR MEETING OF MAY 16, 2019 OF THE REEDLEY AIRPORT COMMISSION. – (Community Services)

COUNCIL REPORTS

14. BRIEF REPORT BY COUNCIL MEMBERS ON CITY RELATED ACTIVITIES AS AUTHORIZED BY THE BROWN ACT AND REQUESTS FOR FUTURE AGENDA ITEMS.

STAFF REPORTS

15. UPDATES AND/OR REPORTS BY CITY MANAGER AND/OR STAFF MEMBERS.

CLOSED SESSION

16. GOVERNMENT CODE SECTION 54956.9(d)(2)

Conference with Legal Counsel – Anticipated litigation

Significant exposure to litigation

One potential case

RECONVENE TO OPEN SESSION

ADJOURNMENT

Dates to Remember:

August 27, 2019 – Regular Council Meeting

September 10, 2019 – Regular Council Meeting

I hereby certify under penalty of perjury, under the laws of the State of California that the foregoing revised agenda was posted in accordance with the applicable legal requirements. Dated this 8th day of August 2019.


Sylvia B. Plata, City Clerk

REEDLEY CITY COUNCIL SPECIAL MEETING – June 4, 2019

#1

A complete audio record of the minutes is available at www.reedley.ca.gov

The special meeting of the Reedley City Council was called to order by Mayor Piñon at 6:00 p.m. on Tuesday, June 4, 2019 in the City Hall Council Chambers, 845 “G” Street, Reedley, California.

ROLL CALL

Council Members

Present: Robert Beck, Anita Betancourt, Mary Fast, Ray Soleno, Frank Piñon

Absent: None.

WORKSHOP

Power-point presentation handouts available on the city’s website, located at the end of the agenda packet.

CONTINUED – PROPOSED FY 2019-20 BUDGET – No Action to be taken

The Reedley City Budget is available on the City website: www.reedley.ca.gov

BUDGET PRESENTATIONS AND DISCUSSIONS:

1. OPENING COMMENTS BY CITY MANAGER

Comments were made regarding this year’s tight budget but City Manager, Nicole Zieba felt that the city would be able to weather the storm because of the good relationship with all employee groups and that staff would continue to take prudent steps and continue to look for innovative solutions to get us through. On June 11, 2019, all budget adoption documents would be presented, including a request from Lozano Smith for a legal services fee increase, which was reasonable since they had not received an increase in a number of years and were staying in line with what other cities are paying for legal services. Lozano Smith asked for the increase to be approved during this budget session however the fees would not be increasing until the following fiscal year which was really appreciated. Next week staff would be asking for Council budget approval however if there were changes, staff could bring budget back for approval on June 25, 2019.

2. ADMINISTRATION

City Manager Nicole Zieba said her position as City Manager, City Clerk and Council were under the Administration budget and staff was not proposing any changes or additional funding.

3. ADMINISTRATIVE SERVICES DEPARTMENT

Paul Melikian, Assistant City Manager reviewed his department budget pointing out some department highlights and future plans. He explained that his department covered many internal functions as well as some external. Mr. Melikian reviewed his department budget, number of staffing, and department goals for FY 2019-20.

4. COMMUNITY SERVICES DEPARTMENT

Sarah Reid, Director of Community Services Department’s presentation was an overview of the 2019-20 proposed budget for her department. Ms. Reid stated that Community Services encompassed a variety of divisions and responsibilities with their primary goal of serving the entire community, from children to seniors through community based programing. Ms. Reid reviewed their organizational chart which reflected the transition of the transit services and the personnel changes that came with the transition as well as with the retirement of their department’s Administrative Assistant. Ms. Reid reviewed the proposed 2019-20 budget, their accomplishments and proposed projects for Building Maintenance Department, Seniors program, Recreation program and the Reedley Municipal Airport.

Break called at 7:04 p.m.

Reconvened at 7:15 p.m.

REEDLEY CITY COUNCIL SPECIAL MEETING – June 4, 2019

5. FIRE DEPARTMENT

Fire Chief Jerry Isaak provided an overview of their department's responsibilities. Chief reviewed the department's current staffing, responsibilities, and fire operations, including Code Compliance. He said that his department was still one of the busiest volunteer fire department in the State and they had an ISO rating of 3, placing them in the top 10% of departments nationwide with a Class 3 PPC or better. Chief Isaak reviewed their department's accomplishments and goals for the FY 19/20. Chief explained the department's funding and the department proposed budget.

6. POLICE DEPARTMENT

Police Chief Garza presentation was an overview of the Police Departments responsibilities in serving the community and their current staffing. He reviewed their proposed budget, explaining the department's expenditures and revenues, providing an overall budget picture for 2019-2020 fiscal year. Chief Garza provided information on their yearly crime statistics, department accomplishments and goals for fiscal year of 2019-2020.

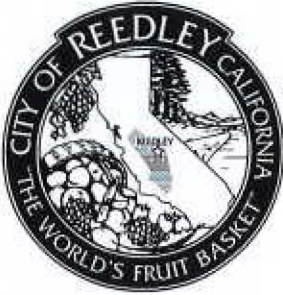
ADJOURNMENT

Mayor Piñon adjourned the special meeting at 8:25 p.m.

Frank Piñon, Mayor

ATTEST:

Sylvia B. Plata, City Clerk




REEDLEY CITY COUNCIL


- ☒ Consent Calendar
- ☐ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 2

DATE: August 13, 2019

TITLE: APPROVE MAYOR'S NOMINATION TO FILL ONE COMMISSION VACANCY ON AIRPORT COMMISSION.

SUBMITTED: Sylvia B. Plata 
City Clerk

APPROVED: Nicole R. Zieba 
City Manager

RECOMMENDATION

That Reedley City Council approve Mayor Piñon's nomination to fill the vacancy on the Airport Commission with the resignation of former Commissioner David Richey.

BACKGROUND

The current vacancy is due to resignation of former Commissioner David Richey which had a term expiration of October 2020. The vacancy was published in the Reedley Exponent and one application was received from Mark S. Cacioppo. Mayor Piñon has reviewed the application and is recommending the appointment of Mr. Cacioppo to complete the term of former Commissioner Richey. If appointed, Mr. Cacioppo will complete the remaining term vacated by Mr. Richey which has a term expiration date of October 2020. There is no residency requirement for the Airport Commission.

FISCAL IMPACT

No Fiscal Impact

ATTACHMENTS

One (1) application

Motion: _____ Second: _____

Rec 6/13/19

CITY OF REEDLEY
COMMISSION/COMMITTEE APPLICATION FORM

I hereby request that I be considered for appointment to the following Commission or Committee:

PLEASE TYPE OR PRINT IN BLACK INK
CHECK ONE ONLY— USE SEPARATE APPLICATION FOR EACH COMMISSION

- ☒ Airport Commission
- ☐ Commission on Aging
(Must reside within 2 miles of City limits)
- ☐ Community Services Commission
(Must reside within City limits)
- ☐ Planning Commission
(Must reside within City limits)
- ☐ Traffic Safety Commission
(Must reside within City limits)
- ☐ Streetscape Maintenance Committee
(Must be a business owner within Downtown Streetscape Maintenance District)

NAME: MARK S. CASCIOPPO

HOME ADDRESS: 4708 W. CRESTMOOR AVE
CLOVIS, CA 93619

MAILING ADDRESS (if different from above):

HOME PHONE: [REDACTED] DAY PHONE: _____

EMAIL ADDRESS (if applicable): MSCASCIOPPO@COMCAST.NET

RESIDENT OF REEDLEY FOR _____ YEARS.

EMPLOYED BY: RETIRED

DATE: 6/12/19 SIGNATURE: [Signature]

(Additional information is required on the back of this form.)

To whom it may concern,

Please accept my application for the vacant position of Airport Commission board member.

I have been actively flying and involved with various airport communities for over 50 years.

A highlight of my experience is listed:

- 1968 Started taking flying lessons, 1969 Soloed
- 1971 Purchased my first airplane at 18
- 1971-1975 United States Air Force and California Air National Guard
- 1973-1978 United Airlines Line Mechanic, San Francisco, California
- 1988-1992 Airshow promoter for known airshow performer, secured over 1 million in sponsorships in 4 years
- 2011-2013 Sat as advisory member on the Modesto Airport Commission

Ideas of examples to promote activities for Reedley Airport;

Local involvement with possible local scouts for merit badges for community service and possibly aviation related services to maintain and assist in upkeep of Reedley Airport with community service merit to local participating groups.

Put on fly - in functions and car shows, including contest, spot landing, flower bombing and BBQ functions for community and surrounding areas around airport.

Possibly develop camping area for out of town pilots wanting to visit the area such as King Canyon National Park or surrounding blossom trail activities, local wineries, merchants and townships.

As a member I would do my best to promote the experience of the airport aviation community and make it a positive memory for all who pass through, attend or want to visit our great recreation, agricultural and mountainous regions surrounding Reedley.

I have also enclosed my resume for my personal background outside of my aviation life.

Thank you,

Sincerely

Mark S. Cacioppo

Mark S. Cacioppo
4708 N. Crestmoor Ave
Clovis, Ca 93619
MSCacioppo@comcast.net

Cell Phone 209-402-3022

- Currently** I am currently retired and looking for part time work providing great customer service or mentoring in customer service field.
- Objective** Utilize my personal sales skills and experience in passing on fast track processes for building and establishing business. I have personally and effectively utilized these skills for increased profitability as a fast track achiever. Successfully developed employee teams and mentoring programs for passing on work ethic and skills. Top performer, strong team player and mentor, I consistently exceed profitability, productivity, and sales objectives. I have accomplished key successes in business development with solid relationship building skills and providing outstanding customer service and employee interaction.
- Professional Experience**
- 2008 to 2014. **PHI Air Medical**
Membership Sales
Establish entirely new marketing strategies, goals and objectives for marketing and sales of air ambulance services and membership program. Built a non familiar area of air ambulance into a business mode of air medical membership and services, have established relationships with major area employers and ems agencies. Personally, grew population for new air ambulance membership members from zero to 2000 in less than 2 years. I have personally established sales training program for PHI Air Medical sales outside membership sales team and air medical crew members in sales building, cold calling, marketing and relationship building.
- 2002-2008 **Property Development and Sales**
Developer Modesto, Ca
Sought out and purchased property for subdividing into home lots. Responsible for all aspects of property development, handled county meetings, traffic studies, engineering, road work, power contracts and sold off all properties by owner/developer.
- 1997 -2003 **Regional Sales Manager / Sales Engineer**
Precision Manufacturing Co. Redondo Beach, California
Personally, specialized in outside sales B2B developing accounts throughout the United States selling manufacturing services for medical, aerospace, defense and golf industries. I personally secured over 2 million in contract sales from new clients in first year.
- 1984 - 1996 **Associate Regional Director**
Money Matters San Diego, California
Outside sales calling on prospective clients of high net worth individuals. Estate planning, tax favored retirement accounts and deferred compensation programs. New sales of 1.5mm placed me in the top 1% producer nationwide.

1980 - 1984

Sales Representatives

Herff Jones Company Fresno, California

Primary responsibilities included marketing and cold calling, high schools, colleges and professional sports teams. Personally, grew territory to one of the largest dollar producing territories in the United States.

1978 - 1980

Life Agent

American National Insurance Fresno, California

Prospected and established clients for personal and corporate insurance needs. Products and services included life insurance as well as tax sheltered annuities. I received numerous industry awards and recognition as top rookie of the year internationally in 1977 and 1978.

1973 - 1978

United Airlines

Line Mechanic San Francisco, California

Mechanic systems troubleshooter on mechanical actuated components of DC-10 and 747 aircraft. Repaired aircraft as necessary and certified Aircraft for return to service airworthiness.

Education

1971-1999

AA Fresno City College / Insurance Industry Schools LUTC/CFP/CLU
University of Louisiana Extension course sales and marketing offered through UCLA.

1971-1977

USAF Aircraft Maintenance Specialist Jet Fighters and United Airlines Line mechanic

1971- 1972

Fresno City College Fresno, California
Airframes and Power Plants and Private Pilots license.

1971

Clovis High School Clovis, California

US Armed Forces Military Experience

1971-1975

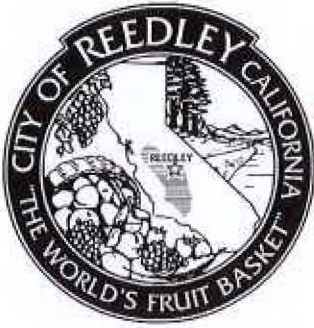
USAF Jet aircraft maintenance specialist one and two engine fighter jets. Top Secret security clearance for additional skills on Broken Arrow protocol.

1975-1977

US Army 185th Infantry Battalion, Expert long-range marksman, sharpshooter and pyrotechnic specialist. Top Secret Security Clearance.

Hobbies

Owner pilot of personal airplane perform maintenance on personal plane, Travel, 8th Air Force history and Travel.



REEDLEY CITY COUNCIL

- ☒ Consent
- ☐ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 3

DATE: August 13, 2019

TITLE: APPROVAL OF EXPENSE REIMBURSEMENT FOR COUNCILMEMBER FAST

SUBMITTED: Paul A. Melikian, Assistant City Manager

APPROVED: Nicole R. Zieba, City Manager

RECOMMENDATION

Request the City Council approve a mileage expense reimbursement request from Councilmember Fast for miles driven for official City business.

EXECUTIVE SUMMARY

Councilmember Fast submitted a mileage reimbursement form on June 24, 2019, for miles driven for official City business. Upon review, several of the dates fall outside of the 30 calendar day submission requirement as set forth in Section 5 of the *Expense Reimbursement and Travel/Conference Policy for Elected and Appointed Legislative Body Officials* that was adopted in December 2018. The dates range from January 17, 2019 to June 20, 2019. Out of the 269 miles driven for City business during this time period, 165 miles, representing \$95.70 at the 2019 IRS mileage rate, fall outside of the 30 day requirement.

Section 5 of the policy states: *"Officials must submit their expense reports within thirty (30) calendar days of an expense being incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation. Any expenses submitted after 30 days of being incurred will be required to be approved by a majority of the City Council at a regularly scheduled Council meeting. Expenses not approved by the majority of Council shall be borne by the official who incurred the expense."*

FISCAL IMPACT

No new appropriations are needed for this reimbursement as mileage reimbursements for elected officials are included in the annual City budget.

ATTACHMENT

City of Reedley Councilmember Mileage Log dated June 24, 2019

City of Reedley Mileage Log

Employee: MARY FAST *Mary Fast* Date: 6.24.2019

Month : JAN 2019 - JUN 2019

[illegible]

Department Head Approval _____



REEDLEY CITY COUNCIL

- ☒ Consent
- ☐ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 4

DATE: August 13, 2019

TITLE: APPROVE AND AUTHORIZE THE CITY MANAGER TO SIGN A SECOND AMENDMENT TO AIRPORT GROUND LEASE AGREEMENT WITH TOM REGIER

SUBMITTED: Sarah Reid, Community Services Director

APPROVED: Nicole R. Zieba, City Manager

RECOMMENDATION

Approve and authorize the City Manager to sign a Second Amendment to Airport Ground Lease Agreement with Tom Regier, revising the method and frequency in which rent increases are calculated, and providing for automatic renewal of remaining available extension terms unless either party notifies in writing of its intent to terminate the Agreement.

EXECUTIVE SUMMARY

On February 1, 2019 Tom Regier (Lessee) initiated an option to extend the Ground Lease Agreement at the Reedley Municipal Airport for an additional five years. If approved this will leave the option to extend the Agreement for two more five-year terms. Staff conducted a market rate study with the same Airports that were used in 2017. Since 2017 the price per square foot at surveyed airports has increased substantially. Under the method stipulated in the current Lease Agreement, the Lessee's rent would increase from \$.23 cents per square foot to \$.56 per square foot. Using this method of comparing like airports leaves too much room for assumptions as no two airports are alike or have the same amenities. After meeting with Lessee, staff is recommending that the language listed in the Ground Lease Agreement for rent calculation, as revised in the First Amendment in 2009, be returned to its original wording. The calculation for the remaining available extension terms would come from the percentage change of the Consumer Price Index (CPI) for San Francisco-Oakland-San Jose CMSA, published by the United States Bureau of Labor Statistics.

The Lessee is in good standing with the City and has met all obligations of the Agreement. The attached Second Amendment also calls for the rent to be reviewed for a possible increase every three (3) years instead of five (5) for the remainder of the lease, and the automatic renewal of remaining available extension terms unless either party requests termination in writing at least 120 days prior to expiration of the current term.

BACKGROUND

The City of Reedley entered into a ground lease agreement with Tom Reiger (Lessee) in June of 1999 for a ten-year period. At that time Lessee had constructed hangars at the Airport and has maintained the hangars since. Lessee has the option to extend this lease for up to five (5) additional and successive five-year terms, for a total possible lease term of 35 years. In June of 2009 the First Amendment to Airport Ground Lease Agreement was approved. One of the main changes to the Agreement was the method used to calculate the rent during the extension periods, which staff is now recommending to revise to a more standard calculation of using the percentage change in the CPI.

FISCAL IMPACT

The current annual rent of \$3,146.40 will increase to \$3,252.43.

COMMITTEE/COMMISSION REVIEW/ACTIONS

On July 18, 2019 the Airport Commission voted 4-0 to recommend this item move forward to the City Council.

PRIOR COUNCIL ACTIONS

Airport Ground Lease Agreement was approved by City Council on June 1, 1999.

First Amendment to Airport Ground Lease Agreement was approved by City Council on June 1, 2009.

ATTACHMENTS

Second Amendment to Airport Ground Lease Agreement

SECOND AMENDMENT TO AIRPORT GROUND LEASE AGREEMENT

This Second Amendment to Airport Ground Lease Agreement ("Second Amendment") is entered into by and between the City of Reedley ("Lessor") and Tom Regier ("Lessee"), and is effective as of July 23, 2019 ("Effective Date").

WHEREAS, Lessor and Lessee entered into that certain Airport Ground Lease Agreement dated June 1, 1999 ("Agreement") with an initial term of ten (10) years, and revised by the First Amendment to Airport Ground Lease Agreement dated June 1, 2009, which are incorporated herein by reference; and

WHEREAS, Lessee has requested, and Lessor has granted, two (2) five-year extensions of the lease term in accordance with Section 3 of the Agreement, as revised by the First Amendment to Airport Ground Lease Agreement dated June 1, 2009; and

WHEREAS, Lessor and Lessee desire to amend the Agreement as set forth in this Second Amendment.

NOW, THEREFORE, in view of the above recitals, and in consideration for the mutual promises set forth herein, Lessor and Lessee agree that the Agreement shall be amended as follows:

1. Section 29, entitled "AMENDMENT OF AGREEMENT," is added to the Agreement to read in its entirety as follows:

29. AMENDMENT OF AGREEMENT

Neither this Agreement nor the terms of the Lease may be modified or amended in any way except in writing signed by both parties hereto.

2. Section 3 of the Agreement, entitled "LESSEE'S OPTION TO EXTEND TERM," is amended to read in its entirety as follows:

3. LESSEE'S OPTION TO EXTEND TERM

Lessee shall have an option to extend this lease for up to five (5) additional and successive five-year terms (each an "Extended Term") which will automatically renew unless Lessee or Lessor request in writing not less than 120 days prior to expiration of the current term or any Extended Term. Lessor is not obligated to approve any extension but said approval shall not be unreasonably withheld. As of the effective date of this Second Amendment, two (2) of the available five (5) five-year Extended Terms have been exercised, leaving up to three (3) five-year extensions available.

If Lessee exercises this option, the rent payments for the upcoming Extended Term shall be set in the following manner: Commencing with the effective date of the third successive five-year Extended Term, and every three years afterwards, the average percentage change of the Annual Consumer Price Index (All Urban Customers) (base years 1982-1984 = 100) for San Francisco-Oakland-San Jose CMSA, published by the United States Department of Labor, Bureau of Labor Statistics ("Index"), which is published most immediately preceding the date the extended term commences ("Extension Index"), for the last three years published most immediately preceding the date the term commences ("Beginning Index") shall be used to determine the percentage change to the rental payments.

If the Extension Index has increased over the Beginning Index, the annual rent payable shall be set by multiplying the annual rent set forth in paragraph 4 of this lease by a fraction, the numerator of which is the Extension Index and the denominator of which is the Beginning Index. As soon as the annual rent is set, Lessor shall give Lessee notice of the amount of annual rent for the next three years. If the average percentage change to the Annual Consumer Price Index as defined in this section is negative, no adjustment shall be made to rent payments.

If the Index is changed so that the base year differs from that used as of the month most immediately preceding the date the term commences, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

4. LEASE PAYMENTS

Lessee hereby agrees to pay to Lessor, without deduction or offset, at the City Hall, Reedley, California, or at such other place as Lessor may designate, annual rent in the amount of Three Thousand Two Hundred Fifty-two and 43/100 dollars (\$3,252.43) for each year during the initial three year of the extension of this Lease. The annual rent shall be paid in equal monthly installments. Monthly lease payments shall be due on the 1st day of each month. Monthly lease payments received after the 15th day of any month shall be subject to a delinquency fee of \$5.00 per day. The annual rent amount for each Extended Term shall be determined in accordance with the terms of Section 3 of this Agreement.

3. All Other Terms Remain in Effect. Except as otherwise expressly provided herein, all other terms and conditions of the Agreement shall remain in full force and effect, and shall be interpreted so as to give full force and effect to this Second Amendment.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Second Amendment as of the Effective Date set forth above.

LESSOR:

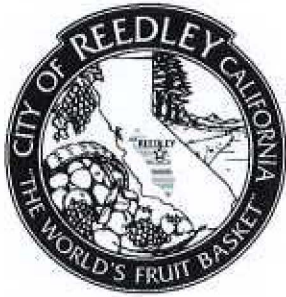
LESSEE:

By: _____
Nicole R. Zieba, City Manager

By: _____
Tom Regier

ATTEST:

By: _____
Sylvia Plata, City Clerk



REEDLEY CITY COUNCIL

- ☒ Consent
- ☐ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 5

DATE: August 13, 2019

TITLE: APPROVE AND AUTHORIZE THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN PROVIDERS (CITY OF REEDLEY) AND COUNTY OF FRESNO REGARDING PROVISION OF MEDICAL PROPHYLAXIS IN A CLOSED POINT OF DISPENSING (CPOD)

SUBMITTED: Jerry Isaak, Fire Chief 

APPROVED: Nicole R. Zieba, City Manager 

RECOMMENDATION

Approve and authorize the City Manager to execute a Closed POD Memorandum of Understanding (MOU) between the City of Reedley (Provider) and County of Fresno.

EXECUTIVE SUMMARY

Points of dispensing (POD) are community locations at which state and local agencies dispense and administer medical countermeasures (MCMs) to the public. MCMs such as vaccines, antiviral drugs, antibiotics, antitoxins, and chemical antidotes are used to effectively prevent, mitigate, or treat adverse health effects of an intentional, accidental, or naturally occurring public health emergency.

To aid in rapidly dispensing MCMs, the local public health department will plan on using two types of PODs, open and closed. Open PODs are typically located at public locations such as arenas, community centers, or schools. These locations are often operated by local public health agencies and are where they dispense or administer MCMs to the public. Closed PODs are sites staffed and managed by organizations and agencies (both public and private) to dispense MCMs only to their own populations; which, for the City of Reedley, would enable first responders and other essential employees to continue to provide critical public services and sustain operations during a public health emergency.

The proposed MOU is for a Closed POD that the City will initiate upon being notified by the Fresno County Department of Public Health of a local or statewide health emergency. The Closed POD will utilize trained City staff members to rapidly and safely dispense countermeasures to City employees and immediate family members. To ensure that the operations plan for Reedley's Closed POD is kept current, the Citywide Safety Committee will oversee an annual review process and mock drill, which has already been conducted to determine feasibility of becoming a Closed POD provider.

FISCAL IMPACT

Minor costs for general supplies will be absorbed within the existing budget.

ATTACHMENTS

Memorandum of Understanding between Providers and County of Fresno

**Memorandum of Understanding (MOU)
between Providers and the
County of Fresno
Regarding
Provision of Medical Prophylaxis in a Closed Point of Dispensing (CPOD)**

Definitions:

1. Point of Dispensing (POD): A mass dispensing site that is capable of providing prophylactic medications to protect the population from biological threats. Prophylactic medications are dispensed to persons who may have been exposed to a pathogen, but who do not display symptoms. Routine medical care is not provided in a POD.
2. Closed POD (CPOD): A CPOD that is operated by a government agency, non-profit organization, private business or other entity for its own members, employees, clients, contractors and their respective family members, etc., and is not open to the general public.
3. Strategic National Stockpile (SNS): A national repository of medicines and medical supplies designed to supplement and re-supply state and local public health agencies in the event of a national emergency anywhere and at anytime within the U.S. or its territories.
4. Provider: Organization serving as a CPOD.
5. Prophylaxis: A measure taken to maintain health and prevent the spread of disease. For the purposes of this MOU, prophylaxis are prophylactic medications provided by COUNTY for dispensing at a CPOD.
6. Provider Population: PROVIDER'S members, employees, contractors and clients associated with PROVIDER'S facility/facilities located within Fresno County.
7. PREP Act: The Public Readiness and Emergency Preparation Act
8. PREP Declaration: A Declaration issued by the U.S. Secretary of Health and Human Services that authorizes the release of medications from the SNS for distribution, and provides immunity, except in the case of willful misconduct, from legal liability to persons and entities involved in the distribution, administration, and dispensing of SNS medications.

I. Purpose

This Memorandum of Understanding (MOU) is made and entered into by and between the County of Fresno, a political subdivision of the State of California, hereinafter referred to as "COUNTY", and its CPOD partners, hereinafter referred to singularly as "PROVIDER" and identified more particularly in Exhibit A, attached hereto and by reference incorporated herein, as it relates to the deployment and dispensing of prophylactic medications and medical supplies made available from the Centers for Disease Control and Prevention's (CDC) Strategic National Stockpile (SNS), through the California Department of Public Health (CDPH), or prophylactic medications and medical supplies already within the control of CDPH.

WHEREAS, the COUNTY's Department of Public Health intends to utilize this MOU only in the event of a duly proclaimed State of Emergency or Local Emergency as defined in Government Code §8558(b) & (c) where distribution of medical prophylaxis has been determined to be an appropriate response to a particular public health emergency; a duly declared Local Health Emergency as defined in

Health and Safety Code §101080; and/or a PREP Declaration has been issued by the U.S. Secretary of Health and Human Services; and

WHEREAS, the COUNTY's Department of Public Health will receive prophylactic medications and/or medical supplies following a particular public health emergency from the CDC SNS and/or directly from CDPH; and,

WHEREAS, the COUNTY's Department of Public Health will provide resources, which include medications and medical supplies, to the PROVIDER in the County of Fresno, CA; and,

WHEREAS, the COUNTY intends to transfer a pre-determined quantity of the aforementioned medication and/or medical supplies to the PROVIDER, as needed, to respond to a particular public health emergency, in accordance with the COUNTY Department of Public Health policies and procedures and PROVIDER Mass Prophylaxis Dispensing Plan; and,

WHEREAS, the PROVIDER will use the medical prophylaxis for internal distribution to its members, employees, contractors, and their family members, as part of the activation of the CPOD; and,

WHEREAS, the COUNTY wishes to join forces with the PROVIDER to enhance its ability to respond to a catastrophic biological incident or other public health emergency requiring mass dispensing of medications and/or medical supplies.

NOW THEREFORE, the parties understand and mutually agree to the extent possible, with consideration to available resources, current federal, state, and local laws, PROVIDER policies, regulations, and procedures, to provide assistance in accordance with the provisions of this Agreement.

II. Liability

Under the Public Readiness and Emergency Preparedness (PREP) Act, the Secretary of Health and Human Services is authorized to issue a PREP Declaration in the event of a public health emergency which requires the manufacture, distribution, and dispensing of certain medical countermeasures (MCM). Among the provisions of a PREP Declaration is authorization for the distribution of MCM from the Strategic National Stockpile (SNS) to local agencies for dispensing to the public. Under the PREP Act, persons and organizations involved in the distribution and dispensing of medications pursuant to PREP Declaration, such as those contemplated by this MOU, are given immunity from liability for claims of loss caused by or arising from their actions, except in the case of willful misconduct. As used in the PREP Act, loss includes death, or physical or emotional injury.

It is understood that none of the parties to this agreement waive any of their sovereign or statutory immunities that are otherwise available under United States or California law, or provide any liability protections or indemnification to one another under this agreement.

III. Scope

For planning purposes, it is assumed the PROVIDER will disclose to COUNTY the number of its members, employees, clients and/or contractors affiliated with the PROVIDER. The PROVIDER population will be calculated by taking that number and multiplying by 5 to give a reasonably accurate provider population number which now includes family members.

IV. Responsibilities

A. COUNTY

Planning

1. **COUNTY** will supply draft protocols and supporting documents for planning, activation, pickup/delivery, and dispensing operations to support the development of the PROVIDER response plans.
2. **COUNTY** will meet with the PROVIDER to review prophylactic medication receipt and dispensing plans.
3. **COUNTY** will notify the PROVIDER of any state or Federal planning changes that would affect developed plans.
4. **COUNTY** will participate in mass dispensing drills and exercises as requested by the PROVIDER, as deemed feasible by COUNTY.

Activation and Operation

1. **COUNTY** will coordinate the request and receipt of SNS prophylactic medications from the CDC.
2. **COUNTY** will notify the PROVIDER of the decision to provide medical prophylaxis to an exposed population. COUNTY will request confirmation of current PROVIDER population, designated receiving agent, and pickup/delivery location.
3. **COUNTY** will determine the apportionment based on: current and expected supply levels, pre-defined or updated PROVIDER population numbers, and the prevailing epidemiology and medical directives as prescribed by the COUNTY Health Officer.
4. **COUNTY** will provide any updated scenario information and coordinate pickup/delivery of medications and supporting information and forms to the designated PROVIDER location as identified on Exhibit A, Provider Information Sheet.

Recovery

COUNTY will coordinate with the PROVIDER for pickup/delivery of remaining materials.

B. PROVIDER

Planning

1. The PROVIDER will provide the COUNTY with the population estimates at the time of execution and at least annually thereafter.

2. The PROVIDER will plan for a safe and efficient method to pick up medical prophylaxis materials from a secure location designated by the COUNTY and transport them back to PROVIDER's premises.
3. The PROVIDER will designate and plan for a secure location to receive and store medical prophylaxis materials received from the COUNTY on PROVIDER's premises while it is being dispensed.
4. The PROVIDER will develop plans and identify internal resources to support the dispensing of emergency medical prophylaxis to the populations outlined in the information sheet.
5. PROVIDER shall ensure that a sufficient number of its employees are trained and prepared to carry out the dispensing plan in the event that a CPOD is activated.
6. The PROVIDER will follow all appropriate laws, regulations, and policies applicable to it.

Activation and Operation

1. The PROVIDER will provide for the proper receipt and storage of prophylactic medications from COUNTY.
2. The PROVIDER will dispense medications consistent with current directives from the COUNTY Health Officer and consistent with agreed upon plans and protocols, inclusive of providing the appropriate patient information and screening.
3. Upon request from COUNTY, the PROVIDER will provide reports of: the number of prophylactic regimens that have been dispensed, the amount of remaining supplies, and any expected resupply needs.
4. In the event PROVIDER is unable to pick up medical prophylactic materials from the designated location, the PROVIDER will grant COUNTY access to deliver emergency prophylactic materials, upon mutual agreement at the time of the event. Given the nature and scope of such an event, each situation is unique and will require consideration and approval on a case-by-case basis.

Recovery

The PROVIDER will notify COUNTY of completion of operations and of the on-hand remaining materials. The PROVIDER will package the remaining materials for pickup and will store them in an appropriate and secure environment until materials can be returned to COUNTY.

C. Mutual Agreement

It is mutually agreed that:

1. The confidentiality of patients and patient information will be maintained as written and enforced by the Health Insurance Portability and Accountability Act (HIPAA), as applicable, and any applicable State law.
2. This Memorandum will not supersede any laws, rules, or policies of either party.
3. Activation of the PROVIDER CPOD as described in this MOU will go into effect only at the request and direction of the COUNTY.

4. The PROVIDER will be considered a CPOD in that it will not dispense medications to the "general public" but to PROVIDER population as outlined in the PROVIDER Mass Prophylaxis Dispensing Plan.
5. It is understood that the PROVIDER participation is completely voluntary, and that CPOD activation may not be available/utilized at the time of a public health emergency. If a CPOD is not used, prophylactic medications may be made available to PROVIDER employees and members of their households under the same terms as they are made available to the general public.
6. The PROVIDER will follow the dispensing directives of COUNTY during Mass Dispensing Operations.

V. Points of Contact for County

- **Fresno County Department of Public Health**

Primary Point of Contact:

Name: Darrel Schmidt

Title: Public Health Emergency Preparedness Coordinator

Office: (559) 600-3473

E-mail: dschmidt@fresnocountyca.gov

Alternate Point of Contact:

Name: Naomi Wooten

Title: Staff Analyst

Office: (559) 600-3473

E-mail: nwooten@fresnocountyca.gov

After Business Hours Contact:

Fresno County Sheriff's Dispatch: (559) 600-3111

VI. Duration of the MOU

The effective period of this MOU begins on the date of execution and shall renew automatically for continuous one-year periods, unless written notice of nonrenewal is given by either PROVIDER or COUNTY or COUNTY'S DPH Director, or designee, not later than sixty (60) days prior to the close of the current MOU term.

This MOU may be terminated by COUNTY or COUNTY'S DPH Director, or designee, or PROVIDER upon giving sixty (60) days advance written notice of an intention to terminate to the other party.

VII. Modification, Change, Amendment, or Termination

Any modifications, changes, or amendments to this MOU must be in writing, and are contingent upon approval by both the COUNTY and PROVIDER. Either party may request review of the MOU at any time, if so desired.

VIII. Miscellaneous

This MOU is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law or otherwise by any party against the parties, their parent agencies, the United States, or the officers, employees, agents or other associated personnel thereof.

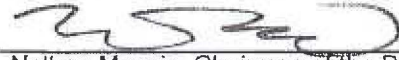
This MOU is not an obligation or commitment of funds, nor a basis for transfer of funds, but rather is a basic statement of the understanding between the parties hereto of the tasks and methods for performing the tasks herein. Unless otherwise agreed in writing, each party shall bear its own costs in relation to this MOU. Expenditures by each party will be subject to its budgetary processes and to the availability of funds and resources pursuant to applicable laws, regulations, and policies. The parties expressly acknowledge that this in no way implies that the United States Congress will appropriate funds for such expenditures.

IX. Concurrence

It is agreed that this written statement embodies the entire agreement of the parties regarding this affiliation, and no other agreements exist between the parties except as expressed in this document. All parties to this MOU concur with the level of support and resource commitments that are documented herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of
the day and year first hereinabove written.

COUNTY OF FRESNO

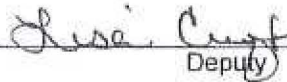


Nathan Magsig, Chairman of the Board of
Supervisors of the County of Fresno

ATTEST:

Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By:



Deputy

FOR ACCOUNTING USE ONLY:

ORG No.:

Account No.:

Requisition No.:

PROVIDER INFORMATION SHEET

Provider Name: _____ Date: _____

Signature: _____

Printed name and title of signee:

Address:

Phone number:

Cell number:

Email address:

Closed POD Location (if multiple locations exist, please attach separate sheets with the same information listed below for each location)

Name of facility:

Address:

Number of staff being served: ____ x 5 = estimated total medication regimens to be supplied: _____

Primary Point of Contact for CPOD:

Name:

Title:

Office number:

Mobile number:

Email:

Alternate Points of Contact:

Name:

Title:

Office number:

Mobile number:

Email:

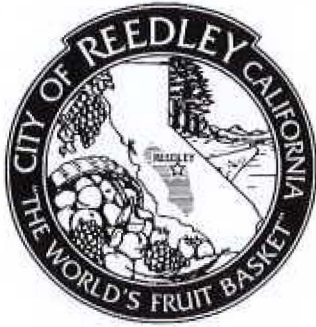
Name:

Title:

Office number:

Mobile number:

Email:



REEDLEY CITY COUNCIL

- ☒ Consent
- ☐ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 6

DATE: August 13, 2019

TITLE: APPROVE AND AUTHORIZE CITY MANAGER TO EXECUTE A SUPPLEMENTARY SERVICES AGREEMENT WITH DAVID WELLHOUSE & ASSOCIATES, INC. IN AN AMOUNT NOT TO EXCEED \$1,200 FOR PREPARATION AND FILING OF CLAIMS FOR STATE MANDATED COST (SB 90) REIMBURSEMENT

SUBMITTED: Paul A. Melikian, Assistant City Manager *PM*

APPROVED: Nicole R. Zieba, City Manager *NZ*

RECOMMENDATION

Request Council approve and authorize the City Manager to execute the attached supplementary consulting agreement with David Wellhouse & Associates, Inc. in an amount not to exceed \$1,200 for preparation and filing of claims for State mandated cost reimbursements for fiscal years 2016-17 and 2017-18, pertaining to newly reimbursable State mandate.

EXECUTIVE SUMMARY

State law (SB90) provides for reimbursement of costs incurred by local agencies for various State-mandated laws and requirements, such as procedures related to Domestic Violence Arrests & Victim Assistance and Rape Victims Counseling Center Notices. A majority of claims historically submitted by the City have been for mandates under the purview of the Police Department. The City has historically paid \$4,500 to David Wellhouse & Associates for the preparation and filing of SB 90 reimbursement claims on the City's behalf.

The State Controller's Office has recently issued claiming instructions for the preparation and filing of a mandate that has not previously been claimed before; specifically for the preparation and filing of the U Visa 918 Form, Victims of Crime: Nonimmigrant Status. This mandate requires local agencies, upon request of a victim of a qualifying criminal activity seeking temporary immigration benefits under the Federal U Visa program and willing to assist law enforcement with investigation or prosecution of the criminal activity, to complete and certify forms and to submit annual reports about the certifications to the State Legislature.

Staff at David Wellhouse & Associates, Inc. have estimated, based on the activity levels of other cities, that the City's claims would be minimum of \$2,000 up to about \$3,500 per year for these claims. The actual amount of reimbursable time will not be known until staff gathers the amount of time for each reimbursable activity. As with other claims handled by David Wellhouse & Associates, Inc., if the cost to file the claims exceeds the value of the future reimbursement, City staff will have the ability to skip filing the claims, and no fee will be charged. Going forward this supplementary service agreement would be rolled into the primary agreement that the Council considers annually.

FISCAL IMPACT

No new appropriations are needed for this Agreement. The City has historically paid \$4,500 for the consultant to prepare and file the annual claims. This amount, and the supplementary fee of \$1,200, is paid annually from an offset of prior year SB 90 claims received during the fiscal year. Typically, reimbursement revenue from prior year claims is more than sufficient to cover the cost of filing current year claims, resulting in net new revenue to the General Fund. As an example, last fiscal year (2018-19), the City received \$30,723 in reimbursements and paid \$4,500 to file new claims, for a net benefit to the General Fund of \$26,223.

The total remaining amount of claims the State owes the City is \$532,999 as of June 30, 2019.

ATTACHMENT

Agreement with David Wellhouse & Associates, Inc.

AGREEMENT BETWEEN THE CITY OF REEDLEY AND DAVID WELLHOUSE & ASSOCIATES, INC. FOR PREPARATION AND FILING OF CLAIMS FOR STATE MANDATED COST REIMBURSEMENT

This agreement by and between the **CITY OF REEDLEY**, a municipality of the State of California, hereinafter referred to as "**CITY**", and **DAVID WELLHOUSE & ASSOCIATES, INC.**, a California corporation, hereinafter referred to as "**CONSULTANT**".

Whereas, CITY desires to engage the services of a consultant to prepare and file claims for State Mandated Cost Reimbursement, and CONSULTANT has been selected to perform said services, now, therefore, it is agreed by CITY and CONSULTANT as follows:

1. **Claims To Be Filed** CONSULTANT shall prepare and file with the State Controller's Office on behalf of CITY, the following state mandated cost (SB 90) claims.

A. **U Visa 918 Form, Victims of Crime: Nonimmigrant Status - Program No. 372**

Chapter 721, Statutes of 2015

Actual Claims

Fiscal Years 2016/2017, 2017/2018

CITY acknowledges that CONSULTANT does not warrant that claims will be filed for all of the mandates listed in this Section 1. CONSULTANT shall only prepare and file claims for those mandates listed in Section 1 in which the CITY has reimbursable costs. **If the CITY does not have reimbursable costs for both fiscal years the CITY can choose to not file claims and no fee will be charged or if the CITY has reimbursable costs for one fiscal year the fee will be reduced at the CITY'S option.**

The claims and services described in this Section 1 shall hereinafter be referred to as "PROJECT".

CONSULTANT hereby designates Renee Wellhouse, or other delegated representative, to be sole contact and agent in all consultations with CITY during the performance of services as stated in PROJECT.

2. **Time For Performance** CONSULTANT shall file all claims in accordance with the State Controller's claim filing deadline contained in the applicable State Controller Claiming Instructions.

3. **Compensation** CITY agrees to pay CONSULTANT a fixed fee in the amount of \$1,200.00 for services provided under Section 1A. of PROJECT, upon receipt of CONSULTANT'S invoice, after submission of claims as required by the State Controller's Claiming Instructions.

4. **Method Of Payment** CITY agrees to pay said fixed fee for services provided under Sections 1 of PROJECT upon receipt of CONSULTANT'S invoice, after submission of claims as required by the State Controller's Claiming Instructions. City further agrees to pay CONSULTANT'S invoice within 15 days of receipt.

5. **City Assistance** CITY shall assign a staff coordinator to work directly with CONSULTANT in the performance of this agreement. CITY shall provide CONSULTANT with requested information in a timely manner, pursuant to PROJECT. CITY represents and warrants that all financial documents and other information provided are accurate and correct. CONSULTANT shall not be liable for claims that are not filed or incorrectly filed due to inaccurate or untimely data.

6. **Disposition Of Documents** CONSULTANT shall furnish to CITY copies of all claims filed with the State within 30 days after filing. CONSULTANT shall, upon written request, make copies of work papers available to CITY. CITY acknowledges that all such workpapers are the property of CONSULTANT, and may not be disclosed to any third party, provided however that such workpapers may be disclosed to appropriate governmental authorities for audit purposes. CONSULTANT shall be entitled to retain copies of all data prepared.

7. **Not Obligated To Third Parties** CITY shall not be obligated or liable hereunder to any party other than CONSULTANT.

8. **Insurance** CONSULTANT shall carry, maintain and keep in full force and effect, a policy of comprehensive general liability and automotive liability insurance in an amount not less than \$1,000,000 aggregate applying to bodily injury, personal injury, and property damage.

9. **Independent Contractor** CONSULTANT is, and shall be, acting at all times in the performance of this agreement as an independent contractor. CONSULTANT shall secure at its expense, and be responsible for, any and all payments of taxes, social security, state disability insurance compensation, unemployment compensation and other payroll deductions for CONSULTANT and its officers, agents and employees.

10. **Consultant Assistance If Audited** Upon notice of audit, CONSULTANT shall make available to CITY and state auditors claim file information, and provide assistance to CITY in defending claims submitted.

11. **Consultant Liability If Audited** All work required hereunder shall be performed in a good and workmanlike manner. Any disallowance of claims by the State Controller's Office or other state agencies is the responsibility of CITY.

12. **Indirect Costs** CONSULTANT shall make every effort to prepare departmental Indirect Cost Rate Proposals for claims submitted, provided CITY financial information and departmental costs support such rates. CONSULTANT may utilize the ten percent (10%) indirect cost rate allowed by the State Controller if financial information and departmental costs do not support a higher rate.

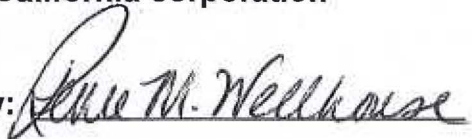
13. **Termination Of Agreement** CITY may terminate CONSULTANT'S services hereunder with cause, whether or not services under PROJECT are fully complete. CITY shall do so by giving written notice to CONSULTANT, specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination.

14. **Return of Signed Agreement** CONSULTANT shall be under no obligation to prepare and file claims unless the executed Agreement or a fax informing us of the City's intention to continue

our services is received by CONSULTANT by August 5, 2019. CONSULTANT may extend this deadline on a case by case basis.

15. **Entirety** The foregoing set forth the entire Agreement between the parties.

CONSULTANT:
DAVID WELLHOUSE & ASSOCIATES, INC.,
a California corporation

By: 

Date: July 8, 2019

Renee M. Wellhouse
President

CITY:
CITY OF REEDLEY,
a municipality of the State of California

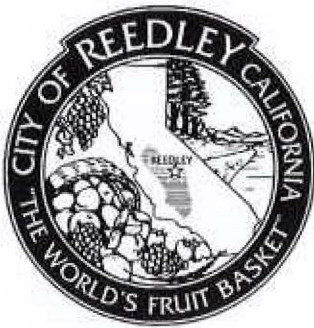
By: _____

Date: _____

Name: _____

Title: _____

Phone: _____



REEDLEY CITY COUNCIL

- ☒ Consent
- ☐ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 7

DATE: August 13, 2019

TITLE: APPROVE AND AUTHORIZE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE FRESNO COUNTY TRANSPORTATION AUTHORITY TO ESTABLISH PROGRAM ELIGIBILITY AND FUNDING REQUIREMENTS FOR \$200,000 OF TRANSIT ORIENTED DEVELOPMENT MEASURE C EXTENSION FUNDS TO PARTIALLY OFFSET DEVELOPMENT IMPACT FEES ASSOCIATED WITH THE CONSTRUCTION OF PHASE II OF THE REEDLEY FAMILY APARTMENT PROJECT

SUBMITTED: Paul A. Melikian, Assistant City Manager *Paul A. Melikian*

APPROVED: Nicole R. Zieba, City Manager *Nicole R. Zieba*

RECOMMENDATION

Request that the City Council approve and authorize the City Manager to execute the attached Agreement with the Fresno County Transportation Authority (FCTA) to establish program eligibility and funding requirements for a \$200,000 grant under the "Transit Oriented Infrastructure for In-fill" subprogram derived from Measure C Extension funds, to partially offset Development Impact Fees associated with the construction of Phase II of the Reedley Family Apartments Project.

EXECUTIVE SUMMARY

In February 2019, a proposed Project funding request was submitted to the FCTA for a \$200,000 grant under the "Transit Oriented Infrastructure for In-fill" (TOD) subprogram, derived from Measure C Extension funds, to partially offset Development Impact Fees associated with the construction of Phase II of the Reedley Family Apartments Project. The purpose of the TOD program is to provide funding to support planning and incentives generally intended to support increased demand for transit facilities. In April 2019, City staff presented the project to the TOD scoring committee and received the highest ranking of all projects submitted. In June 2019, the City received confirmation that the project was awarded at the requested funding amount.

BACKGROUND

Constructed in 2014, Phase I of the Reedley Family Apartments, consists of 48 low to moderate income apartment units and community facilities located at 1110 South I Street in Reedley. Phase I was partially funded by a long term (55 year) loan of \$750,000 from the former Reedley Redevelopment Agency's Low and Moderate Income Housing Fund. The project developer is currently working towards California Tax Credit Allocation Committee approval of a low income housing tax credit program application for Phase II, consisting of 32 additional units. The City has agreed to contribute \$125,000 to the Project and waive all Development Impact Fees, calculated at \$351,552. The requested TOD funding will partially offset the Development Impact Fees, mitigating the impact to City infrastructure funds and strengthening the viability of the Project.

FISCAL IMPACT

No new appropriations are needed to execute this Agreement with the FCTA and accept the grant funds.

ATTACHMENT

Agreement to Establish Program Eligibility and Funding Requirements

MEASURE C
AGREEMENT TO ESTABLISH PROGRAM ELIGIBILITY
AND FUNDING REQUIREMENTS
Environmental Enhancement Program
Transit Oriented Development (TOD) Subprogram
Cycle VII
(Reedley Family Apartments – Phase II)

This Program Eligibility and Funding Agreement (“**Agreement**”) is made and entered into on _____, **2019**, by and between the City of Reedley ([hereinafter alternatively referenced as “**Grantee**” [or “**Responsible Agency**”]]) and the Fresno County Transportation Authority (“**Authority**”).

RECITALS

WHEREAS, passage of the Measure C Extension created within the Environmental Enhancement Funding Allocation Program a subprogram entitled “Transit Oriented Infrastructure for In-fill” (TOD), the purpose of which was to provide funding to support planning and incentives generally intended to support increased demand for transit facilities; and

WHEREAS, in accordance with the Measure C Extension Expenditure Plan (“Expenditure Plan”) and most notably Appendix F thereto, the details regarding the funding and implementation of the TOD subprogram were set forth in Fresno County Measure C Transit Oriented Development Program Policies and Guidelines. These guidelines covered the first 10 years of the TOD subprogram, which were limited to specific areas and corridors within the City of Fresno urban area; and

WHEREAS, also in accordance with the Measure C Expenditure Plan, after the initial 10 years, eligibility for TOD funding was to be made available to additional agencies and no longer subject to the stringent geographical limitations applicable to the first 10 years of the TOD subprogram; and

WHEREAS, the Fresno County Measure C Transit Oriented Development Program Policies and Guidelines were revised and adopted by the Authority Board in August 2017 to reflect these new eligibility criteria (the “2017 TOD Guidelines,” attached as Appendix 1 hereto and incorporated by this reference as though set forth in full); and

WHEREAS, as recommended in the Expenditure Plan and as described in the Measure C Extension Strategic Implementation Plan (SIP), Appendix K, the 2017 TOD Guidelines specify three (3) categories of projects/programs for which the TOD is available to provide competitively-based funding, which are generally characterized in the 2017 TOD Guidelines under the following respective headings: (1) Capital Improvement Program; (2) Planning Program; and (3) Housing In-Fill Incentive Program; and

WHEREAS, Grantee submitted for approval, under the Housing Infill Incentive Program category of the TOD, a "Project Application" requesting reservation from eligible Measure C Extension funds of \$200,000, which amount shall be available solely for offsetting development impact fees associated with the construction of phase II of the Reedley Family Apartment (Project); and

WHEREAS, Authority is authorized to approve funding for payment to Grantee in accordance with this Agreement, the 2017 TOD Guidelines, and the Expenditure Plan, for funding of the Grantee's proposed Project; and

WHEREAS, on June 12, 2019, based in part on the consistency of Grantee's proposed Project funding request (as described in its "Project Application" dated February 27, 2019) with the purposes of the Housing Infill Incentive Program as described in the 2017 TOD Guidelines, the Authority's Board approved the reservation of \$200,000 in TOD funding to be made available for implementation and completion of Grantee's proposed Project; and

WHEREAS, the Authority's Board further directed Authority staff to draft this Agreement, for the purpose of establishing program implementation requirements and the terms and conditions governing the rights and obligations of the respective parties hereunder; and

WHEREAS, Authority and Grantee now desire to enter into this Agreement, which serves to establish requirements for Grantee's use of the funding provided hereunder, as well as delineating the respective rights and obligations of the parties regarding use of Measure C funds as authorized for use by Grantee for the purposes specified hereunder, including but not limited to conditions and limitations on Grantee's right to receipt of payment hereunder.

NOW, THEREFORE, in consideration of the mutual promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto represent, covenant and agree as follows:

AGREEMENT

ARTICLE I

Covenants of Grantee/Responsible Agency

As a condition of the receipt of Measure C funds under the TOD subprogram, Grantee agrees to abide by the terms and conditions of this Agreement, the 2017 TOD Guidelines, the Grant Application ("the Application," a copy of which is attached hereto as Appendix 2 and incorporated by this reference as though set forth in full), and to comply with the Expenditure Plan and all adopted Policies and Procedures of the Authority as applicable, as well as any subsequent amendments, updates, or other applicable plans.

- 1.1 Project Scope, Schedule and Funding Program.** The Project scope of work, schedule and funding program, as well as any change(s) thereto may not be implemented or initiated until approved by the Authority. For purposes of this Agreement, the Project scope, schedule and funding program are defined and described in Grantee's Application.
- 1.2 Eligibility for Funding.** In order to be eligible for TOD funding hereunder, a proposed project must meet all of the requirements as set forth in the 2017 TOD Guidelines, Appendix 1 hereto. Grantee must also demonstrate that the overall Project or Project phase is fully funded before TOD funding can be obligated.
- 1.3 Compliance with California PUC Code 142257.** Grantee agrees to the following:
 - 1.3.1 Measure C funds will not be used to substitute for property tax funds, which Grantee had previously used for regional or other transportation purposes. It is hereby acknowledged by Grantee that such substitution of property tax funds is expressly prohibited by California Public Utilities Code Section 142257.
 - 1.3.2 Grantee has segregated property tax revenues from its other general fund revenues used to support the Project so that verification of non-

substitution can be proved through audit or that the non-substitution of funds shall apply to the Grantee's entire general fund.

1.3.3 Grantee shall account for Project funds received pursuant to Public Utilities Code Section 142257. Grantee shall maintain current records in accordance with generally accepted accounting principles, and shall separately record expenditures for each type of eligible purpose. Grantee shall make such records available to the Authority for inspection or audit at any time.

1.4 Compliance with Other Laws. In performance of its obligations relating to administration and completion of the Project, Grantee shall at all times comply with all federal, state and local laws, ordinances and regulations currently in force as well as those that are subsequently enacted, promulgated or amended and thereby become applicable during the term of this Agreement.

1.5 Measure C Funds Defined. For purposes of this Agreement, Measure C funds are deemed to be available under the TOD, subject to the limitations and conditions specified in this Agreement and the 2017 TOD Guidelines. Provided, however, that unless another amount receives formal advance approval by means of a subsequent written amendment to this Agreement, the total cumulative amount of Measure C funds allocated under the TOD for the Project shall not exceed the sum of \$200,000.

1.6 Maintenance of Project Records. Grantee shall maintain complete and accurate records for the project for which funding is made available hereunder. All such records shall be maintained on a generally-accepted accounting basis and be clearly identified and readily accessible. Grantee shall provide free access to the Authority at all times to such books and records. Grantee shall maintain all work data, documents, and proceedings relating to this Agreement for a period of five (5) years from the date of final audit from the Authority.

1.7 Invoices. Grantee shall submit invoices to the Authority no more frequently than monthly for activities conducted over the prior unbilled month. These documents shall include the following specified information:

1.7.1 Monitoring Expenditures and Progress Payments. Grantee will monitor expenditures and progress payments against the "not to exceed" limits specified in Section 1.5 of this Agreement.

- 1.7.2 Project Progress. If Project costs have not been invoiced for a six-month period, Grantee agrees to submit a written explanation of the absence of the Project's progress to the Authority, along with a target billing date and a target billing amount.
- 1.7.3 Direct and Indirect Costs. Grantee may include in the Project invoice, direct and indirect costs of the Project. Indirect costs (as defined by OMB Circular A-87) will be considered an eligible expense.
- 1.7.4 Copies of Invoices. Grantee shall provide the Authority with one (1) copy of appropriate source documentation to substantiate Project expenses or costs.
- 1.7.5 Eligible Project Cost Request Deadline. Invoices for eligible Project costs incurred by Grantee shall be submitted to the Authority on the approved form. The appropriation request will specify the use of the funding and the manner in which other sources of funding for the Project were applied. The Authority's Executive Director will review invoices for accuracy and sufficiency in terms of compliance with the foregoing requirements. Unsatisfactory or inadequate invoices will be returned to Grantee for correction and resubmission. Upon receipt of a proper invoice, eligible Measure C and TOD funds (as applicable) shall be provided to the Grantee within 45 days.
- 1.7.6 Use of Funds Grantee shall use Measure C and TOD funds (as applicable) consistent with the Expenditure Plan, the SIP, the provisions of this Agreement, the 2017 TOD Guidelines and the Application.

1.8 Award of Project. Grantee shall administer the Project, including but not limited to its advertisement and award of all contracts, in accordance with applicable legal requirements as provided above in Section 1.4 and in full conformity with the standards applied by Grantee in the administration of its own construction projects.

ARTICLE II

Covenants of Authority

Authority agrees to provide to the Grantee Measure C Extension funds available under the TOD, up to the maximum amount of \$200,000 approved for the Project, in accordance with the terms and conditions set forth herein, and in compliance with the Expenditure Plan, the 2017 TOD Guidelines, and all adopted Policies and Procedures of the Authority as applicable, as well as any subsequent amendments, updates, or other applicable plans.

2.1 Eligible Project Cost Payments. The Authority shall make payments to Grantee for actual incurred eligible project costs in accordance with Sections 1.1. and 1.5 of this Agreement and consistent with the SIP. To receive payments for eligible project work completed, Grantee shall comply with the following procedures:

2.1.1 Ineligible Costs. The Authority reserves the right to recover payment from Grantee if an invoice includes ineligible Project costs.

2.1.2 Payment Amount. The amount of payments to Grantee for eligible project costs shall be made pursuant to the SIP and this Agreement.

2.1.3 Suspension of Payment. Payments for eligible Project costs shall be suspended without interest when a dispute arises as to whether or not a cost item(s) is eligible for payment.

2.1.3.1 Dispute Resolution. All disputes shall be settled in accordance with the laws of the State of California. Once a dispute has occurred, the Authority and Grantee shall attempt to resolve the dispute informally in a mutually agreeable manner.

2.2 Right to Conduct Audit. The Authority shall have the right to conduct an audit of all Grantee's records pertaining to the Project at any time following completion of the eligible Project work.

2.2.1 Notice of Audit. The Authority must provide at least 30 days' advance notice to Grantee if an audit is to be conducted.

ARTICLE III

Mutual Covenants

The Authority is released from any liability to Grantee regarding the Authority's administration and issuance of the Measure C proceeds except for any breach of Authority's fiduciary duty as set forth in the Expenditure Plan and SIP.

3.1 Effective Date and Term. This Agreement shall become effective as of the date of its full execution by the parties and shall remain in full force and effect following its final approval by the Authority's Board, for a period of twelve (12) months following the date of Grantee's completion of eligible Project work, unless sooner terminated as provided in Section 3.2 or in Section 3.4 or unless the Agreement's term is extended by formal approval of a subsequent amendment hereto in accordance with Section 3.8.

3.2 Discharge. This Agreement shall be subject to discharge as follows:

3.2.1 Termination by Mutual Consent. This Agreement may be terminated at any time by mutual consent of Grantee and Authority. If this Agreement is mutually terminated by the parties, Grantee will no longer receive Measure C funds under the TOD for its proposed Project (or any phase thereof), unless a new agreement between Grantee and Authority relating to such Project is formed; and in the event of such mutual termination, those funds remaining from the originally reserved funding allocation of \$200,000 for this Project shall be returned by the Authority to the general TOD funding pool.

3.2.2 Discharge Upon Completion of Grantee's Program. Except as to any rights or obligations which survive discharge as specified in Section 3.14, upon completion of Grantee's completion of eligible project work, this Agreement shall be discharged, and the parties shall have no further obligation to each other.

3.2.3 Termination by Authority. The Authority reserves the right to terminate the Agreement at any time by giving written notice to Grantee of such termination and specifying the effective date thereof. If this Agreement is terminated by the Authority as provided herein, Grantee will be paid by the Authority for eligible Project costs incurred prior to termination of the Agreement, consistent with the requirements of the Program referenced

herein and in the 2017 TOD Guidelines. In that event, all finished or unfinished documents and other materials shall, at the option of the Authority, become its property subject to the terms and conditions of Section 1.6.

3.3 Indemnity. It is mutually understood and agreed, relative to the reciprocal indemnification of Authority and Grantee:

3.3.1 Grantee shall fully defend, indemnify and hold harmless Authority, and any officer or employee of Authority, against any and all damages, liabilities, claims and expenses, arising out of Grantee's errors, omissions, negligent acts or willful misconduct during the term of this Agreement. It is also fully understood and agreed that, pursuant to Government Code Section 895.4, Grantee shall fully defend, indemnify and hold the Authority harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by Grantee under this Agreement or in connection with any work, authority, or jurisdiction delegated to Grantee under this Agreement.

3.3.2 Authority shall fully defend, indemnify and hold harmless Grantee, and any officer or employee of Grantee, against any and all damages, liabilities, claims and expenses, arising out of Authority's errors, omissions, negligent acts or willful misconduct during the term of this Agreement. It is also fully understood and agreed that, pursuant to Government Code Section 895.4, Authority shall fully defend, indemnify and hold Grantee harmless from any liability imposed for injury as defined by Government Code Section 810.8 occurring by reason of anything done or omitted to be done by Authority under this Agreement or in connection with any work, authority, or jurisdiction delegated to Authority under this Agreement.

3.4 Limitation. All obligations of the Authority under the terms of this Agreement are expressly subject to the Authority's continued authorization to collect and expend the sales tax proceeds provided by Measure C Extension funds. If for any reason the Authority's right to collect or expend such sales tax proceeds is terminated or suspended in whole or part, the Authority shall promptly notify the Grantee, and the parties shall consult on a course of action. If, after twenty-five (25) working days, a course of action is not agreed upon by the parties, this Agreement shall be deemed terminated by mutual or joint consent; provided,

that any future obligation to fund from the date of the notice shall be expressly limited by and subject to: (i) the lawful ability of the Authority to expend sales tax proceeds for the purposes of the Agreement; and (ii) the availability, taking into consideration all the obligations of the Authority under all outstanding contracts, agreements to other obligations of the Authority, of funds for such purposes.

- 3.5** **Notices.** Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

AUTHORITY:

Mike Leonardo, Executive Director
Fresno County Transportation Authority
2220 Tulare Street, Suite 2101
Fresno, CA 93721
Ph: (559) 600-3282 Fax: (559) 600-1499

RESPONSIBLE AGENCY:

Nicole Zieba, City Manager
City of Reedley
1733 9th Street
Reedley, CA 93654
Ph: (559) 627-4200, Ext 212;
Fax: (559) 637-2139

3.5.1 Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

3.6 Additional Acts and Documents. Each party agrees to do all such things and take all actions, and to make, execute and deliver such other documents and instruments, as shall be reasonably requested to carry out the provisions, intent and purpose of the Agreement.

3.7 Integration. This Agreement represents the entire Agreement of the parties with respect to the subject matter hereof. NO representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in other contemporaneous written agreements.

3.8 Amendment. This Agreement may not be changed, modified, or rescinded except in writing, signed by all parties hereto, and any attempt at oral modification of this Agreement shall be void and of no effect.

3.9 Independent Agency. Grantee renders services under this Agreement as an independent agency under the Agreement. None of the Grantee's agents or employees shall be agents or employees of the Authority and none of the Authority's agents or employees shall be agents or employees of the Grantee agency.

3.10 Assignment. The Agreement may not be assigned, transferred, hypothecated, or pledged by any party without the express written consent of all parties hereto.

3.11 Binding on Successors. This Agreement shall be binding upon each of the parties and their respective successor(s), assignee(s) or transferee(s). Provided however that this provision shall not be construed as an authorization to assign, transfer, hypothecate or pledge this Agreement, other than as provided in Section 3.10 above.

3.12 Severability. Should any part of this Agreement be determined to be unenforceable, invalid, or beyond the authority of either party to enter into or

carry out, such determination shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect; provided that, the remainder of this Agreement can, absent the excised portion, be reasonably interpreted to give effect to the intentions of the parties.

3.13 Counterparts. This Agreement may be executed in one or more counterparts and shall become effective when one or more counterparts have been signed by all of the parties; each counterpart shall be deemed an original but all counterparts shall constitute a single document.

3.14 Survival. The following provisions in this Agreement shall survive discharge:

3.14.1 Grantee. As to the Grantee agency, the following sections shall survive discharge: Section 3.3 (Indemnity),

3.14.2 Authority. As to Authority, the following sections shall survive discharge: Section 2.2 (Right to Conduct Audit) and Section 3.3 (Indemnity).

3.15 Time. Time is and shall be of the essence of this Agreement and each and all of its provisions in which performance is a factor.

3.16 Remedies Cumulative. No remedy or election of remedies provided for in this Agreement shall be deemed exclusive, but shall be cumulative with all other remedies at law or in equity. Each remedy shall be construed to give the fullest effect allowed by law.

3.17 Applicable Law. This Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of California. The parties agree that this contract is made in and shall be performed in Fresno County, California.

3.18 Captions. The captions in this Agreement are for convenience only and are not a part of this Agreement. The captions do not in any way limit or amplify the provisions of this Agreement and shall not affect the construction or interpretation of any of its provisions.

3.19 No Continuing Waiver. The waiver by any party of any breach of any of the provisions of this Agreement shall not constitute a continuing waiver or a waiver

of any subsequent breach of the same, or of any other provision of this Agreement.

- 3.20 No Rights in Third Parties.** Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any third party, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third party to any party to this Agreement, nor shall any provision of this Agreement give any third party any right of subrogation or action over or against any party to this Agreement.
- 3.21 Attorney's Fees and Costs.** Authority and Grantee each will bear its own respective costs, including attorney's fees, in connection with any legal proceedings related to the interpretation or enforcement of this Agreement or any of the terms and conditions hereof.
- 3.23 Exhibits and Recitals.** The Recitals and Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.
- 3.24 Signator's Warranty.** Each party warrants to each other that he or she is fully authorized and competent to enter into this Agreement in the capacity indicated by his or her signature and agrees to be bound by this Agreement as of the day and year first mentioned above upon the execution of this Agreement by each other party.
- 3.25 Force Majuere.** Any party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood; acts of God; commandeering of material, products, plants or facilities by federal, state or local government; national fuel shortage; or a material act or omission by any party; when satisfactory evidence of such cause is presented to that other party, and provided further such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the day and year first written above.

FRESNO COUNTY TRANSPORTATION AUTHORITY

By _____
(Signature)

Name Ernest "Buddy" Mendes
(Typed)

Title Chair of the Authority

APPROVED AS TO LEGAL FORM:
DANIEL C. CEDERBORG,
COUNTY COUNSEL

By _____
(Signature)

Name Michael E. Rowe

Title Principal Deputy County Counsel

ATTEST

By _____
(Signature)

Name Mike Leonardo
(Typed)

Title Executive Director

APPROVED AS TO ACCOUNTING
FORM:

By _____
(Signature)

Name Oscar J. Garcia, C.P.A.

Title Auditor-Controller/Treasurer-Tax Collector

CITY OF REEDLEY

By _____
(Signature)

Name Nicole Zieba

Title City Manager

ATTEST

By _____
(Signature)

Name _____

Title City Clerk

APPROVED AS TO FORM

, City Attorney

BY: _____



REEDLEY CITY COUNCIL

- ☒ Consent
- ☐ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 8

DATE: August 13, 2019

TITLE: ADOPT RESOLUTION NO. 2019-071 AMENDING THE 2019-20 FISCAL YEAR BUDGET TO APPROPRIATE \$14,300 IN AVAILABLE RDA BOND PROCEEDS FOR CITIZENS PARK IMPROVEMENTS

SUBMITTED: Sarah Reid, Community Services Director

APPROVED: Nicole R. Zieba, City Manager

RECOMMENDATION

Adopt Resolution No. 2019-071 amending the 2019-20 Fiscal Year Budget to appropriate \$14,300 in available RDA bond proceeds for Citizens Park improvements, specifically, to remove a rubberized surface on the .48-mile walking trail that has deteriorated.

EXECUTIVE SUMMARY

Over time and with heavy use, the rubber surface on the walking trail at Citizens Park has started to come off and pull away from the cement. This has caused a maintenance concern because of the uneven ground. Staff looked into options to address the issue, and after contacting different contractors, the most cost-effective solution is to remove the rubber surface and leave the walking trail as cement. When the park was built in 2006, the existing rubberized surface cost \$50,953.88 to install. With the escalation of construction costs and general price increases over the last 13 years, it is likely that this cost would be significantly higher today. Therefore, staff is not recommending the replacement of the rubber surface since the material has a life span of about 10-12 years, and would require on-going maintenance.

Environmental Concepts provided a quote for the work which includes removal and disposal of the rubber surface. The trail would be closed for one-day while the work is performed. The quote is for \$13,000; however, staff is requesting an additional \$1,300 representing a standard 10% project contingency for unforeseen items.

BACKGROUND

Citizens Park was constructed in 2006. At that time the City received a grant from the California Department of Resources Recycling and Recovery (CalRecycle) Tire-Derived Product Grant Program which funded the rubber surface on the walking trail, under the fitness stations and in the playground area. The requested project appropriations to remove the surface was informally bid in accordance with the City's Purchasing Ordinance and participation in the California Uniform Construction Cost Accounting Act.

FISCAL IMPACT

If approved, this project would be funded by \$14,300 of available remaining 2011 RDA bond proceeds, which have previously been used to fund a portion of the recent improvements to Luke Trimble Park, among other projects.

ATTACHMENTS

1. Budget Amendment Resolution No. 2019-071
2. Project Quote from Environmental Concepts

BUDGET AMENDMENT RESOLUTION 2019-071

The City Council of the City of Reedley does hereby amend the 2019-20 Budget as follows:

SECTION I - ADDITIONS

Account Number	Account Description	Amount
080-4260.6011	Citizens Park Improvements	\$ 14,300
Total		\$ 14,300

Purpose: To remove a rubberized surface on the .48 mile walking trail at Citizens Park that has deteriorated to the point that it is becoming a safety/trip hazard.

SECTION II - SOURCE OF FUNDING

Account Number	Account Description	Amount
080-2710	Unallocated Fund Balance	\$ 14,300
Total		\$ 14,300

Impact: The requested funds are derived from unallocated fund balance from available 2011 RDA Bond Proceeds. Utilization of the proceeds for this project will have no impact on other projects funded from this source.

REVIEWED:


Assistant City Manager 8/02/2019

RECOMMENDED:


City Manager

The foregoing resolution was approved by the City Council of the City of Reedley on August 13, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

ATTEST:

Frank Piñon, Mayor

Sylvia Plata, City Clerk

Pavement Preservation Specialties, Inc dba:



July 20, 2019

PAVEMENT PRESERVATION TREATMENTS

To: City of Reedley Parks & Rec Attention: Sarah Reid email: sarah.reid@reedley.ca.gov
Phone: 559.637.4203

Project: Removal of delaminated rubberized slurry on concrete walking path with dimensions of .48mi x 3' wide

Locations: Area within City of Reedley

*****PLEASE NOTE INCLUSIONS AND EXCLUSIONS******

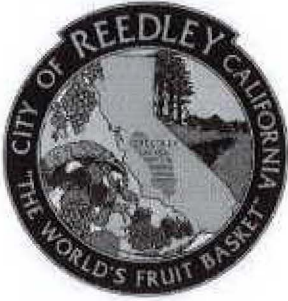
Description	Quantity	Unit Price	Total Price
REMOVAL AND DISPOSAL OF SLURRY APPROX	7600 SF		
	SUBTOTAL		\$13,000.00
			TOTAL \$13,000.00

Inclusions:

- Operated Equipment includes flat tooth skid steer/mini cold planer
- One (1) laborer for hand work in support of equipment operator
- Scrape up from concrete, sweep up, detailing/handwork, haul away, and take to dump site
- 1-day job up to 10 hours work day
- City to provide a water source for small tank holding approx. 50 gallons of water. A water hose will suffice.

Exclusions:

- Closure of walking path
- Enforcement of walking path closure
- Weed removal/spray
- Claims outside our scope of work
- Crack seal, base repairs, patching, etc.



REEDLEY CITY COUNCIL

- ☒ **Consent**
- ☐ **Regular Item**
- ☐ **Workshop**
- ☐ **Closed Session**
- ☐ **Public Hearing**

ITEM NO: 9

DATE: August 13, 2019

TITLE: ADOPT RESOLUTION NO. 2019-073 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR PROFESSIONAL CONSULTANT SERVICES WITH MARK THOMAS TO PERFORM A ROADWAY SAFETY SIGNING AUDIT AT VARIOUS LOCATIONS THROUGHOUT THE CITY AND PREPARATION OF CONSTRUCTION DOCUMENTS

SUBMITTED: John S. Robertson, City Engineer *JSR*

APPROVAL: Nicole R. Zieba, City Manager *NZ*

RECOMMENDATION

Adopt Resolution No. 2019-073 authorizing the City Manager to enter into a contract for professional consultant services with Mark Thomas to perform a roadway safety signing audit at various locations throughout the City and preparation of construction documents.

EXECUTIVE SUMMARY

In 2018 the City and Mark Thomas completed a Systemic Safety Analysis Report (SSAR) which analyzed various roadway segments and intersections throughout the City to identify potential safety projects that could receive Highway Safety Improvement Program (HSIP) funding. The results of the SSAR revealed that over half of the collisions in the City, over a 5-year analysis period, were rear end (59%) or sideswipe (19%) collisions due to unsafe speeding, improper turning or auto right of way violations. Crashes with these types of attributes occur either due to drivers not obeying or paying attention to the signage present or the lack of proper signage on the roadway. These trends generally indicate the need for an inventory and assessment of signage throughout the system.

The City submitted an application for funding from the HSIP program to perform a Roadway Safety Signing Audit (RSSA) that will analyze the City's signs along major and minor arterials. The RSSA not only evaluates the existing sign's features (i.e. retro-reflectivity, size, height, and type) but also its location and appropriateness to the existing roadway conditions. The audit will also identify missing signs or signage pollution that distracts drivers from receiving important information. Once the RSSA is completed, the consultant will prepare plans and specifications to be put out to bid for the installation, relocation, and/or removal of signs identified in the RSSA that will help improve the safety of the corridors.

The Engineering Department issued a Request for Qualifications (RFQ) and received four responses from interested consultants. The RFQ's were review and scored by a selected committee of City staff from the Engineering and Public Works Departments. The committee selected Mark Thomas as the firm most qualified to perform the required services.

FISCAL IMPACT

The negotiated fee for these consultant services is \$60,536. HSIP funds will cover up to \$32,200 of the consultant costs at the front end of the project. HSIP will cover 100% of the costs of sign construction and installation, up to \$147,800 at the next phase of the project. Any remaining HSIP funds that are not used for construction can then be used to cover the remaining amount of consultant costs that were not initially covered at the design phase of the project. Staff believes that 100% of all costs associated with this project will ultimately be covered by the HSIP funds. However, if construction costs exceed the expected amounts, Measure C flexible funds are available to cover any unreimbursed consultant design costs.

ATTACHMENTS

1. Resolution No. 2019-073
2. Draft Consultant Services Agreement

RESOLUTION NO. 2019-073

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR PROFESSIONAL CONSULTANT SERVICES WITH MARK THOMAS TO PERFORM A ROADWAY SAFETY SIGNING AUDIT AT VARIOUS LOCATIONS THROUGHOUT THE CITY AND PREPARATION OF CONSTRUCTION DOCUMENTS.

WHEREAS, the City applied for and received funds from the Highway Safety Improvement Program to prepare a Roadway Safety Signing Audit and construction documents to improve the visibility of traffic signage at various locations throughout the City; and

WHEREAS, the Engineering Department requested qualifications from and received responses from four consulting firms to perform the required services; and

WHEREAS, staff from the Engineering and Public Works departments reviewed, scored and recommended Mark Thomas as the firm most qualified to perform the requested services; and

WHEREAS, on August 13, 2019 the City held a public meeting at the City of Reedley Council Chamber, at 845 "G" Street and received a staff report, staff presentation and accepted public comments.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Reedley using their independent judgment hereby resolves as follows:

1. The above recitals are true and correct and incorporated herein by reference.
2. The City Council hereby grants authority to the City Manager to enter into a professional services contract with Mark Thomas in the amount of \$60,536.00 for the preparation of a RSSA and the required construction documents that will be put out to bid by the Engineering Department for the installation and/or modification of roadway signage at various locations throughout the City.
3. This resolution is effective upon adoption.

This foregoing resolution is hereby approved the 13th day of August, 2019, in the City of Reedley, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Frank Piñon, Mayor

Sylvia Plata, City Clerk

ATTACHMENT A
PROFESSIONAL SERVICES AGREEMENT

This Agreement, entered into this _____ day of _____, 2019, by and between the City of Reedley, hereinafter referred to as the "CITY", and _____ hereinafter referred to as the "CONSULTANT".

WITNESSETH

WHEREAS, the CITY is authorized and empowered to employ consultants and specialists in the performance of its duties and functions, and

WHEREAS, the CITY has the desire to secure certain technical and professional services to assist in the preparation and completion of the items of work described as "Scope of Services" in Exhibit "A", for the City of Reedley Roadway Safety Signing Audit hereinafter referred to as the "PROJECT"; and

WHEREAS, the CONSULTANT represents it is licensed, qualified and willing to provide such services pursuant to terms and conditions of this Agreement.

NOW, THEREFORE, CITY and CONSULTANT agree as follows:

I. SERVICES TO BE PERFORMED BY THE CONSULTANT

- A. Authorized Scope of Services: The CONSULTANT agrees to perform all services necessary to complete in a manner satisfactory to the CITY those tasks described in Exhibit "A" - Scope of Services, for the cost identified in Exhibit "B" - Project Fee.
- B. Additional Services: Incidental work related to the PROJECT and not provided for in Exhibit "A" may be needed during the performance of this Agreement. The CONSULTANT agrees to provide any and all additional services at the rates identified in attached Exhibit "C" - A schedule of Fees for Additional Professional Services. Such additional services shall not be performed by CONSULTANT without the written consent of CITY.

II. TIME OF PERFORMANCE

The CONSULTANT shall commence performance of this Agreement within five (5) days following City Council approval of this Agreement and shall complete the work within the timeframes outlined in Exhibit "A", unless otherwise extended in writing by CITY, in its sole discretion.

If the CONSULTANT fails to complete the Scope of Service within the time specified, plus any extensions of time which may be granted, the CITY shall determine the percent of each work item completed and shall pay the CONSULTANT on that basis.

CONSULTANT shall not be responsible for delays which are due to causes beyond the CONSULTANT'S reasonable control. In the case of any such delay, the time of completion shall be extended accordingly in a writing signed by both parties, but CONSULTANT shall not be entitled to additional compensation as a result of such delay.

III. COMPENSATION

- A. The method of payment for this agreement will be based on actual cost plus a fixed fee. CITY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT's Fee Proposal, unless additional reimbursement is provided for by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds CITY's approved overhead rate set forth in the Cost Proposal. In the event, that CITY determines that a change to the work from that specified in the Cost Proposal and contract is required, the contract time or actual costs reimbursable by CITY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.
- B. In addition to the allowable incurred costs, CITY will pay CONSULTANT a fixed fee of ~~\$60,536~~. The fixed fee is nonadjustable for the term of the contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.
- C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- D. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- E. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, CITY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article V Termination.
- F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.
- G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by CITY's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Final invoice must contain the final cost and all credits due CITY including any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work.

Invoices shall be mailed to CITY at the following address:

1733 Ninth Street
Reedley, CA 93654

- H. The total amount payable by CITY including the fixed fee shall not exceed \$60,536.
- I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by CITY's Contract Administrator.

For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

IV. AUTHORIZED REPRESENTATIVE

- A. CITY: The City Manager shall represent the CITY in all matters pertaining to the services to be rendered under this Agreement, except where approval of the City Council of the City of Reedley is specifically required.
- B. CONSULTANT: _____ shall represent and act as CONSULTANT in all matters pertaining to the services to be rendered by it under this Agreement.

V. TERMINATION

- A. CITY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- B. CITY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, CITY may proceed with the work in any manner deemed proper by CITY. If CITY terminates this contract with CONSULTANT, CITY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to CITY exceeds the funds remaining in the contract. In which case, the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.
- C. The maximum amount for which the CITY shall be liable if this contract is terminated is sixty thousand five hundred thirty six dollars.
- D. Post-Termination:
 - 1. In the event the CITY terminates this Agreement with or without cause, the CITY may procure, upon such terms and such manner as it may determine appropriate, another party to complete the services under this Agreement.
 - 2. Except with respect to defaults of subconsultants, the CONSULTANT shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of

the CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather; but in the event of the failure to perform is caused by the default of a subconsultant, the CONSULTANT shall not be liable for failure to perform, unless the services to be furnished by the subconsultant were obtainable from other sources in sufficient time and within budgeted resources to permit the CONSULTANT to meet the required delivery schedule or other performance requirements.

3. Should the Agreement be terminated with or without cause, the CONSULTANT shall provide the CITY with all finished and unfinished documents, data, studies, services, drawings, maps, models, photographs, reports, etc., prepared by the CONSULTANT pursuant to this Agreement. The use of all finished and unfinished work product shall be in accordance with Section XI, Documents and Data.
4. Upon termination, with or without cause, CONSULTANT will be compensated for the services satisfactorily performed to the date of termination according to compensation provisions contained herein; provided that, upon termination for cause, the CITY may withhold such amount as the CITY deems appropriate to compensate the CITY for costs or damages incurred as a result of the CONSULTANT's default. In no event, shall the total compensation paid CONSULTANT exceed the total compensation agreed to herein.
5. If, after notice of termination of this Agreement for cause, as provided for in this article, it is determined for any reason that the CONSULTANT was not in default under the provisions of this article, then the rights and obligations of the parties shall be the same as if the Agreement was terminated without cause.
6. Termination of this Agreement shall not terminate any obligation to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination activities.

VI. COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 2 CFR 200, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to CITY.

VII. NO PERSONNEL, AGENCY OR COMMISSION

The CONSULTANT warrants, by execution of this Agreement, that no personnel agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide established commercial or selling agencies maintained by the CONSULTANT

for the purpose of securing business. For breach or violation of this warranty, the CITY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

VIII. RETENTION OF RECORDS/AUDIT

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and CITY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, CITY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

IX. AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by CITY'S Chief Financial Officer.
- B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by CITY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by CITY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this contract.

(The following AUDIT CLAUSE must be inserted into all contracts of \$150,000 or greater)

- D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by CITY contract manager to conform

to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by CITY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

(The following AUDIT CLAUSE must be inserted into all contracts of \$3,500,000 or greater).

- E. CONSULTANT Cost Proposal is subject to a CPA ICR Audit Work Paper Review by Caltrans' Audit and Investigation (Caltrans). Caltrans, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the CITY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.
1. During a Caltrans' review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, CITY will reimburse the CONSULTANT at a provisional ICR until a FAR compliant ICR {e.g. 48 CFR, part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I. Provisional rates will be as follows:
 - a. If the proposed rate is less than 150% - the provisional rate reimbursed will be 90% of the proposed rate.
 - b. If the proposed rate is between 150% and 200% - the provisional rate will be 85% of the proposed rate.
 - c. If the proposed rate is greater than 200% - the provisional rate will be 75% of the proposed rate.
 2. If Caltrans is unable to issue a cognizant letter per paragraph E.1. above, Caltrans may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this Section E, or if Caltrans is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the provisional ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this provisional ICR will become the actual and final ICR for reimbursement purposes under this contract.

4. CONSULTANT may submit to CITY final invoice only when all of the following items have occurred: (1) Caltrans approves or rejects the original or revised independent CPA-audited ICR; (2) all work under this contract has been completed to the satisfaction of LOCAL GAENCY; and, (3) Caltrans has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO CITY no later than 60 days after occurrence of the last of these items.

The provisional ICR will apply to this contract and all other contracts executed between CITY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

X. SUBCONTRACTING

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between CITY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to CITY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from CITY'S obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by CITY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by CITY.
- D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by CITY's Contract Administrator prior to the start of work by the subconsultant(s).

XI. RETENTION OF FUNDS

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
- B. No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by

a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

XII. INDEPENDENT CONTRACTOR

In the performance of the services herein provided for, the CONSULTANT shall be, and is, an independent contractor and is not an agent or employee of the CITY. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder. The CONSULTANT shall be solely responsible for all matters relating to the payment of its employees including compliance with social security and income tax withholding and all other regulations governing such matters.

XIII. EQUIPMENT PURCHASE

- A. Prior authorization in writing, by CITY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by CITY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, CITY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit CITY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established CITY procedures; and credit CITY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by CITY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by CITY." 2 CFR 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

XIV. STATE PREVAILING WAGE RATES

(Choose either Option 1 or Option 2)

(Option 1 - For contracts where a portion of the proposed work to be performed are crafts affected by state labor laws, use paragraphs A and B)

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition,

repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.

- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

(Option 2 - Use only paragraph A below when all of the proposed work in the contract is performed by crafts not affected by state labor laws or are not contemplated for use)

- D. The State of California's General Prevailing Wage Rates are not applicable to this contract.

Note: The Federal "Payment of Predetermined Minimum Wage" applies only to federal-aid construction contracts.

XV. CONFLICT OF INTEREST

- A. CONSULTANT shall disclose any financial, business, or other relationship with CITY that may have an impact upon the outcome of this contract, or any ensuing CITY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing CITY construction project, which will follow.
- B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.
- C. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- D. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

XVI. REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (Verbatim)

CONSULTANT warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any CITY employee. For breach or violation of this warranty, CITY shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

XVII. PROHIBITION OF EXPENDING CITY STATE OR FEDERAL FUNDS FOR LOBBYING

(Include this article in all contracts where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the contract; delete this article and re-number the notification article which follows.)

- A. CONSULTANT certifies to the best of his or her knowledge and belief that:
1. No state, federal or CITY appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
 2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

XVIII. STATEMENT OF COMPLIANCE

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California

Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full.

Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

- C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- D. The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

XIX. DEBARMENT AND SUSPENSION CERTIFICATION

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to CITY.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

XX. FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that

would occur if the contract were executed after that determination was made.

- B. This contract is valid and enforceable only, if sufficient funds are made available to CITY for the purpose of this contract. In addition, this contract is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or CITY governing board that may affect the provisions, terms, or funding of this contract in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.
- D. CITY has the option to void the contract under the 30-day termination clause pursuant to Article VI, or by mutual agreement to amend the contract to reflect any reduction of funds.

XXI. CHANGE IN TERMS

- A. This contract may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by CITY's Contract Administrator.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this contract without prior written approval by CITY's Contract Administrator.

XXII. SPECIFICATIONS

All specifications, manuals, standards, etc., either attached to this Agreement or incorporated by reference, are binding as to the performance of the services specified in this Agreement unless they are changed by written amendment to this Agreement modified in writing to incorporate such changes.

XXIII. DOCUMENTS/DATA

- A. Ownership of Documents: Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in CITY; and no further agreement will be necessary to transfer ownership to CITY. CONSULTANT shall furnish CITY all necessary copies of data needed to complete the review and approval process.

It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.

CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by CITY of the machine-readable information and data provided by CONSULTANT under this contract; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by CITY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as may be authorized in writing by CONSULTANT.

Applicable patent rights provisions regarding rights to inventions shall be included

in the contracts as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).

CITY may permit copyrighting reports or other agreement products. If copyrights are permitted; the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

- B. Publication: No report, information, or other data given or prepared or assembled by the CONSULTANT pursuant to this Agreement, shall be made available to any individual or organization by the CONSULTANT without the prior written approval of the CITY. Notwithstanding the foregoing, however, the CONSULTANT shall not be required to protect or hold in confidence and confidential information which (1) is or becomes available to the public with the prior written consent of the CITY; (2) must be disclosed to comply with law; or (3) must be disclosed in connection with any legal proceedings.
- C. Copyrights: The CONSULTANT shall be free to copyright material developed under this Agreement with the provision that the CITY be given a nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the material for government or public purposes.

XXIV. CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to CITY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this contract, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the contract, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the contract or CITY's actions on the same, except to CITY's staff, CONSULTANT's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by LOCAL AGENCY, and receipt of CITY'S written permission.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.
- F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity other than LOCAL AGENCY.

XXV. INDEMNIFICATION AND INSURANCE

- A. As respects acts, errors, or omissions in the professional services, CONSULTANT shall indemnify and hold harmless CITY, its elected and appointed officers, employees, and CITY designated volunteers from and against any and all claims, demands, losses, defense costs, liability or damages arising directly out of

CONSULTANT's negligent acts, errors or omissions in the performance of his/her services under the terms of this Agreement; except to the extent those arise out of the negligent acts of CITY.

B. As respects all acts or omissions which do not arise directly out of the performance of professional services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, CONSULTANT shall indemnify, defend (at CITY's option), and hold harmless CITY, its elected and appointed officers, agents, employees, representatives, and designated volunteers from and against any and all claims, demands, defense costs, liability, or damages of any kind or nature arising out of or in connection with CONSULTANT (or CONSULTANT's subcontractors, if any) performance or failure to perform, under the terms of this Agreement; except to the extent those which arise out of the negligent acts of CITY.

C. Without limiting CITY's right to indemnification, it is agreed that CONSULTANT shall secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:

1. Workers' Compensation insurance as required by California statutes, and Employer's Liability Insurance in an amount not less than Two Million Dollars (\$2,000,000).
2. Commercial general liability insurance with a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence. Such insurance shall include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products and Completed Operations Liability, Broad Form Property Damage (if applicable), Independent Contractor's Liability (if applicable).
3. Professional liability insurance coverage, in an amount not less than Two Million Dollars (\$2,000,000).
4. Comprehensive automobile liability insurance coverage, in an amount not less than Two Million Dollars (\$2,000,000) per occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles and shall be provided by a business automobile policy.

D. The City Manager is authorized to reduce or modify the requirements set forth above in the event he/she determines that such reduction is in the CITY's best interest.

E. Each insurance policy required by this Agreement shall contain the following clause:

"Each insurance policy required by the agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days prior written notice has been given to the City, except that ten (10) days prior written notice shall apply in the event of cancellation for nonpayment of premium.

"In addition, the Commercial general liability and comprehensive automobile liability

policies required by this Agreement shall contain the following clauses:

"It is agreed that any insurance maintained by the City of Reedley shall apply in excess of and not contribute with insurance provided by this policy."

For the general liability and automobile policies only, the City of Reedley, its officers, agents, employees, representatives and designated volunteers are added as additional insured's as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Reedley.

- F. Prior to commencing any work under this Agreement, CONSULTANT shall deliver to CITY insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above. Within thirty (30) days of the execution date of this Agreement, CONSULTANT shall provide to CITY endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Said endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title. Should it be deemed necessary by CITY, it shall be CONSULTANT's responsibility to see that CITY receives documentation acceptable to CITY which sustains that the individual signing said endorsements is indeed authorized to do so by the insurance company. CITY has the right to demand and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.
- G. In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY, may, at its sole option:
5. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; or
 6. Order CONSULTANT to stop work under this Agreement and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof; or
 7. Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies CITY may have and is not the exclusive remedy for CONSULTANT's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which CONSULTANT may be held responsible for payments of damages to persons or property resulting from CONSULTANT's or its subcontractor's performance of the work covered under this Agreement.

XXVI. NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

XXVII. NON-DISCRIMINATION

CONSULTANT and all subcontractors shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Caltrans-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement.

XXVIII. MISCELLANEOUS PROVISIONS

- A. Asbestos and Hazardous Materials: In providing its services hereunder, CONSULTANT shall not be responsible for identification, handling, containment, abatement, or in any other respect, for any asbestos or hazardous material if such is present in connection with the PROJECT. In the event the CITY becomes aware of the presence of asbestos or hazardous material at the jobsite, CITY shall be responsible for complying with all applicable federal and state rules and regulations, and shall immediately notify CONSULTANT, who shall then be entitled to cease any of its services that may be affected by such presence, without liability to CONSULTANT arising therefrom.
- B. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.
- C. Prohibition of Assignment: Neither the CITY nor CONSULTANT shall assign, delegate or transfer their rights and duties of this Agreement without the written consent of the other party.
- D. Dispute/Governing Law:
1. Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of CITY's Contract Administrator and (Insert Department Head or Official), who may consider written or verbal information submitted by CONSULTANT.
 2. Not later than 30 days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
 3. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this contract.
- E. Notices: Notice shall be sufficient hereunder if personally served upon the City Clerk of the CITY or an officer or principal of the CONSULTANT, or if sent via the United State Postal Service, postage prepaid, addressed as follows:

CITY OF REEDLEY
1733 Ninth Street
Reedley, CA 93654

Attn: City Clerk

- F. INSPECTION OF WORK: CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.
- G. SAFETY
1. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
 2. Pursuant to the authority contained in Section 591 of the Vehicle Code, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
 3. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.
- H. Jurisdiction/Venue/Waiver of Removal: This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that State. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Fresno County, California. The CONSULTANT hereby expressly waives any right to move any action to a county other than Fresno County as permitted pursuant to Section 394 of the California Code of Civil Procedure.
- I. Integration/Modification: This Agreement and each of the exhibits referenced herein, which are incorporated by reference, represents the entire understanding of the CITY and the CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by the CITY and the CONSULTANT.
- J. Conflict with Law: If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.
- K. Attorney's Fees: In the event either party commences any action, arbitration or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined by the court or arbitrator, shall be entitled to recovery of its reasonable attorney's fees and court costs incurred in the action brought thereon.

- L. Construction: This Agreement is the product of negotiation and compromise on the part of each party and the parties agree, notwithstanding Civil Code Section 1654, that in the event of uncertainty the language will not be construed against the party causing the uncertainty to exist.
- M. CLAIMS FILED BY THE CITY's CONSTRUCTION CONTRACTOR
1. If claims are filed by CITY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with CITY's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
 2. CONSULTANT's personnel that CITY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from CITY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this contract.
 3. Services of CONSULTANT's personnel in connection with CITY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this contract in order to resolve the construction claims.
- N. Authority: Each signatory to this Agreement represents that it is authorized to enter into this Agreement and to bind the party to which its signature represents.
- O. Headings: Section headings are provided for organizational purposes only and do not in any manner affect the scope or intent of the provisions thereunder.

IN WITNESS WHEREOF, this Agreement is exceed on the day and year first above written.

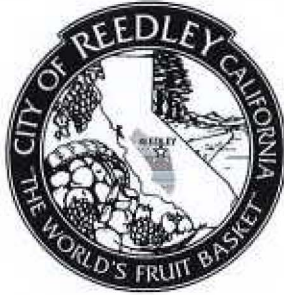
CITY OF REEDLEY

CONSULTANT

Nicole Zieba
City Manager

Attachments:

Exhibit "A": Scope of Services
Exhibit "B": Project Fees
Exhibit "C": Consultant Schedule of Fees



REEDLEY CITY COUNCIL

- ☐ Consent
- ☐ Regular Item
- ☒ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 10

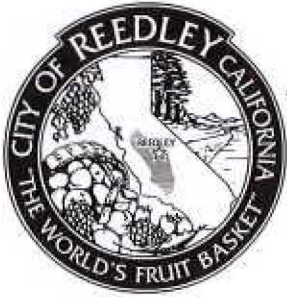
DATE: August 13, 2019

TITLE: PRESENTATION AND DISCUSSION OF GENERAL FUND FORECAST,
FISCAL YEARS 2020-2025.

SUBMITTED: Paul Melikian, Assistant City Manager

APPROVED: Nicole R. Zieba, City Manager

Handouts will be provided at the workshop



REEDLEY CITY COUNCIL

- ☐ Consent
- ☒ Regular Item
- ☐ Workshop
- ☐ Closed Session
- ☐ Public Hearing

ITEM NO: 11

DATE: August 13, 2019

TITLE: ADOPT RESOLUTION NO. 2019-059 APPROVING THE SUBDIVISION MAP IMPROVEMENT AGREEMENT AND FINAL MAP FOR PHASE ONE OF VESTING TENTATIVE SUBDIVISION MAP 6196

SUBMITTED: Rob Terry *RT*
Community Development Director

John Robertson *JR*
City Engineer

APPROVED: Nicole R. Zieba
City Manager *NZ*

RECOMMENDATION

Adopt Resolution No. 2019-059, Approving Phase One Final Map for Vesting Tentative Subdivision Map 6196, and authorizing the City Manager to make non-substantive changes to the attached draft agreement and sign final agreement with Self-Help Enterprises regarding Subdivision Map Improvement Agreement.

EXECUTIVE SUMMARY

The owner of Vesting Tentative Subdivision Map 6196 is requesting the City Council approve the final map for Phase One associated with the project in accordance with Reedley Municipal Code 11-2-13, and approve entering into an Subdivision Improvement Agreement for timely completion of the public facilities associated with serving Phase One, in accordance with Reedley Municipal Code sections 11-2-11 and 11-2-19.

BACKGROUND

Vesting Tentative Subdivision Map 6196 was approved by the Reedley Planning Commission on December 14, 2017, via Resolution 2017-13; consisting of the development of 161 single-family residential units on 31.02 gross acres of land. On June 6, 2019, the Reedley Planning Commission, via Resolution 2019-7, approved amendments to the projects Conditions of Approval to allow the project to build in multiple phases by two separate developers. At this time, one partnering developer (Self-Help Enterprises) has submitted a final map for Phase

One of the project site for the City's approval in accordance with Reedley Municipal Code section 11-2-13. The City Engineer has reviewed the Phase One final map submission for conformance to boundaries, public easement locations, dedications, closure calculations and other required information. The City Engineer has consequently found the map to be in substantial compliance to the tentative map approval, has determined that the improvements required for Phase One have been properly identified, and submits said map to the Council for their approval consideration. Self-Help Enterprises will be holding a public meeting on August 12, 2019 to discuss the specific project as well as their overall programs. Notices for the meeting were mailed to property owners in all adjacent neighborhoods (see Attachment 4 for event flyer and mailing map).

In regards to the completion of public improvements associated with Phase One of Vesting Tentative Subdivision Map 6196, the developer has requested to enter into a Subdivision Improvement Agreement (Attachment 2) for the development with the City of Reedley, as authorized by Reedley Municipal Code section 11-2-11. This action will allow for the filing of a final map for Phase One of the development (lots 1 through 67 of the total 161 approved) with the assurance that outstanding site improvements and activities identified within the project's amended conditions of approval will be completed within a given timeframe acceptable to the City. Such activities shall be secured by surety bond and other specifications, as contained within the agreement. Council may approve, approve with conditions, or disapprove the agreement. Actions associated with a final map for Phase Two of the project site will brought to Council at the appropriate time, and are not included within this action.

The developer has already provided signed initiation documentation associated with annexation into both the LLMD and CFD, as required within the agreement prior to final map recordation.

FISCAL IMPACT

All fees associated with the processing of Vesting Tentative Subdivision Map 6196 were paid prior to Planning Commission action. Phase One Final Map and Subdivision Improvement Agreement fees were paid by the applicant prior to Council actions.

PRIOR COUNCIL ACTIONS

No prior actions have been taken by Council in relation to VTSM 6196.

ATTACHMENTS

1. Resolution No. 2019-059
2. Draft Subdivision Improvement Agreement for Phase One of Vesting Tentative Subdivision Map 6196
3. Phase One Final Map – Tentative Subdivision Map 6196
4. Neighborhood Meeting Flyer and Mailing Map

Motion: _____

Second: _____

RESOLUTION NO. 2019-059

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF REEDLEY APPROVING THE SUBDIVISION MAP IMPROVEMENT AGREEMENT AND FINAL MAP FOR PHASE ONE OF VESTING TENTATIVE SUBDIVISION MAP 6196.

WHEREAS, Tentative Subdivision Map 6196, consisting of APN's 363-062-07S, 363-020-08S, 363-080-10, and 363-080-19, was approved by the Reedley Planning Commission on December 14, 2017; and

WHEREAS, the owner of Vesting Tentative Subdivision Map 6196 is requesting the City Council approve the final map for Phase One associated with the project in accordance with Reedley Municipal Code 11-2-13, and approve entering into an Subdivision Improvement Agreement for timely completion of the public facilities associated with serving Phase One, in accordance with Reedley Municipal Code sections 11-2-11 and 11-2-19.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Reedley using their independent judgment hereby resolves as follows:

1. That certain final map of Vesting Tentative Subdivision Map 6196 Phase One, having heretofore, on August 13, 2019, been certified by the City Engineer, that all provisions of law and of Chapters 31 through 42 of Title 8 of the Reedley City Code, have been complied with, and that said subdivision as shown is substantially the same as it appears on the tentative map thereof, as approved by the Planning Commission on December 14, 2017, by Resolution No. 2017-13, is hereby approved and the dedication of easements and right-of-ways made on said map are hereby accepted subject to the installation of improvements therein and in accordance with the following condition:

That prior to the recording of the final map the owner(s) of said subdivision shall enter into and execute that certain Subdivision Improvement Agreement for Phase One of Vesting Tentative Subdivision Map 6196 with the City of Reedley, as approved by the City Council.

2. Be it further resolved that those certain plans approved by the City Engineer of the City of Reedley entitled, "Plans for Construction of Tract No. 6196 Phase 1," all prepared by LandDesign Consulting, are now on file in the office of the City Engineer, and are hereby approved and adopted as the plans according to which the above mentioned improvements shall be done; and
3. Be it further resolved, that certain agreement between the City of Reedley and said owners or subdividers entitled "Subdivision Improvement Agreement for Phase One of Vesting Tentative Subdivision Map 6196" a copy of which is on file in the office of the City Engineer and to which reference is hereby made, is approved and the City Manager and City Clerk are hereby authorized and directed to execute said agreement on behalf of the City of Reedley; and
4. Be it further resolved that the City Council of the City of Reedley directs the

Clerk of the City of Reedley to execute the Final Map and transmit said Final Map and Subdivision Improvement Agreement to the subdividers in preparation of submission to the Fresno County Recorder's Office for recordation.

This foregoing resolution is hereby approved the 13th day of August, 2019, in the City of Reedley, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Frank Piñon, Mayor

ATTEST:

Sylvia Plata, City Clerk

Recorded by and for the
benefit of, and When
Recorded Mail to:

City of Reedley
Community Development Department
1733 9th Street
Reedley, CA 93654

Exempt from recording fees – Gov. Code Section 27383

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**SUBDIVISION IMPROVEMENT AGREEMENT FOR PHASE ONE OF VESTING
TENTATIVE SUBDIVISION MAP 6196**

This Subdivision Improvement Agreement (“Agreement”) is made and entered into effective on _____, 2019 (“Effective Date”), by and between the City of Reedley, a municipal corporation, hereinafter referred to as “City” and SELF-HELP ENTERPRISES, INC, a California Non-Profit Public Benefit Corporation, hereinafter referred to as “Subdivider”.

RECITALS

WHEREAS, Subdivider is engaged in subdividing that certain tract of land known and designated as Phase One of Vesting Tentative Subdivision Map 6196, situated in the City of Reedley, County of Fresno, State of California; and

WHEREAS, a final map for Phase One of said Vesting Tentative Subdivision Map 6196 (VTSM 6196), has been filed with the City Clerk of the City of Reedley for presentation to the City Council for its approval, which map is hereby referred to and by such reference incorporated herein; and

WHEREAS, the City requires, as a condition precedent to the acceptance and approval of said final map, the dedication of such rights of way for streets, public places, and easements as are delineated and shown on said final map, and deems the same as necessary for the public use, and also requires that any and all rights of way for streets, public places, and easements delineated and shown on said final map shall be improved by the construction and the installation of the improvements hereinafter specified; and

WHEREAS, Section 11-2-11 of the Reedley Municipal Code allows, as a condition to City's approval of the final subdivision map, for the City to require Subdivider to enter into a subdivision improvement agreement which provides for the Subdivider to complete improvements within a reasonable time following approval of the final map.

NOW, THEREFORE, in consideration of the foregoing recitals which are a substantive part of this Agreement, Subdivider and the City do hereby mutually agree as follows:

AGREEMENT

1. Subdivider shall, at its own cost and expense, construct all of the improvements, furnish all the materials and do all the work herein above hereinafter mentioned, all in accordance with the Standard Specifications of the City, and in accordance with and to the extent provided in those certain plans entitled "Plans for Construction of Tract No. 6196 Phase I" prepared by LandDesign Consulting, approved by the City Engineer and by the City Council by Resolution No. 2019-059 and now on file in the office of the said City Engineer ("the Plans"), to which Plans reference is hereby made, and the same are hereby adopted and incorporated herein the same as if fully set forth herein verbatim, and in compliance with the provisions of Title's 8 and 11 of the Reedley Municipal Code relating to regulations and standards for the subdivision of land in said City and for the preparation and presentation of subdivision maps therefor and in accordance with the listed items set forth on the Engineer's Estimate "Preliminary Engineer's Cost Estimate for Tract 6196 Phase 1", dated July 1, 2019 attached hereto and made a part hereof as Exhibit "A". Subdivider hereby agrees that the improvements required to be installed as set forth herein are necessary and will materially benefit the property within the Tract and shall complete the same no later than one (1) year from the Effective Date of this Agreement. Prior to recordation of the final map, Subdivider shall (i) petition and request that the City annex the Phase One of VTSM 6196 area into City's Landscape, Lighting and Maintenance District, Zone Z ("LLMD"), for the maintenance and operation of landscaping facilities, and (ii) petition and request that the City annex the Phase One VTSM 6196 area into the City's Community Facilities District No. 2005-1 ("CFD") for the maintenance and operation of public services and facilities. Annexation of the property comprising Phase One of VTSM 6196 into both the City's LLMD and CFD is a condition precedent to the City's obligation to issue a building permit for development or improvement of any parcel within VTSM 6196, and Subdivider acknowledges and agrees that if this property were not part of the CFD, the City might lack the financial resources to operate facilities and provide adequate public services to the property.

The Subdivider shall provide on-site improvements subject to review and approval of the City of Reedley. For purposes of this agreement, the term "improvements" shall mean only improvements in the public rights-of-way easements and property for streets, sidewalks, storm drains, sewer mains, water mains, landscaping, utilities and related facilities.

The Subdivider shall install all improvements specified in the Plans. In addition to said improvements, Subdivider shall install all improvements required by and otherwise comply with the Conditions of Approval adopted by the Reedley Planning Commission by Resolution No. 2017-13.

2. Any work required under this Agreement and not mentioned in the above-described Plans

and specifications shall be constructed in accordance with the Standard Specifications of the City of Reedley. If the City has no Standard Specifications for any of said work, it is agreed that the same shall be done and performed in accordance with the most current "Standard Specifications of the State of California, Division of Highways". All of said work, improvements and materials shall be completed, performed and installed under the supervision of and to the satisfaction of the City Engineer of the City of Reedley.

3. Subdivider shall provide for the installation of all gas, electric, telephone, Cable T.V., private irrigation pipelines and other public utility lines and facilities and shall grant easements therefor. All underground utilities and improvements in streets and alleys shall be installed before surfacing of said streets and alleys. The Subdivider shall comply with all requirements of Title 11 of the Reedley Municipal Code concerning installation of Cable T.V. lines and facilities, and shall give all notices required by that title.

4. Prior to the approval of said final map by the City Council, and as a condition precedent to the recordation thereof, and in order to secure for the City the faithful performance by Subdivider of all work and the construction of all improvements mentioned in this Agreement including the placement of all monuments as per said final map, within the time herein specified, Subdivider shall furnish the following to the City:

- i. a good and sufficient surety bond or other security acceptable to City securing the faithful performance of all work and the construction of all improvements herein mentioned in this agreement within the time specified and in the sum of two-million six-hundred ninety-one thousand four-hundred eighteen dollars and twenty cents (2,691,418.20); plus any amounts incurred by the City to enforce the secured obligation, including costs and reasonable expenses and fees (including reasonable attorney's fees); and
- ii. a good and sufficient surety bond or other security acceptable to City securing the payment by Subdivider of all bills for labor, work and materials incurred in the construction of all said improvements and the performance of all work herein agreed to be done by said Subdivider, and amounts due under the Unemployment Insurance Act with respect to such work or labor, the amount of said bond to be one-million three hundred forty-five thousand seven-hundred nine dollars and forty cents (\$1, 345,709.40), plus any amounts incurred by the City to enforce the secured obligation, including costs and reasonable expenses and fees (including reasonable attorney's fees); and.

Before acceptance of the subdivision improvements and the release of the faithful performance bond and the labor and materials bond, the Subdivider shall file with the City Clerk a surety bond or

other security acceptable to the City to guarantee the repair of any of the improvements which may be found to be defective in work, labor, or materials within one (1) year after the written acceptance of the improvements by the City. Said Security shall be for two-hundred sixty-nine thousand one-hundred forty-one dollars and eighty-two cents (\$269,141.82), plus an amount for cost and reasonable expenses and fees, including reasonable attorney's fees incurred by the City to enforce the secured obligation; and

All bonds required by this section shall be issued by a corporate surety authorized to do surety business in California and shall be on forms acceptable to the City.

5. The Subdivider shall protect, indemnify, and hold harmless the City of Reedley, its officers, employees and volunteers thereof from any and all liability or claims (in contract, tort, strict liability or otherwise, including but not limited to personal injury, death at any time or property damage), because of or arising out of Subdivider's performance of this Agreement, or out of, any accident, occurrence, loss, damage or happening occurring upon or arising out of the construction of any of the improvements herein or the use by any person of any patent or patented articles in the construction of said work or improvements. The forgoing obligations shall survive completion or termination of this Agreement. The Subdivider agrees that the use of any and all streets and improvements herein above specified shall be, at all times prior to the final acceptance of said improvements by the City Council, the sole and exclusive risk of the Subdivider. The issuance of any occupancy permits by City for dwellings located within the said subdivision shall not be construed in any manner to be an acceptance and approval of any or all of said streets and/or improvements in said subdivision.

6. Subdivider, before commencing work pursuant to this Agreement, shall obtain and maintain in full force and effect during the performance of the work at his/her own expense and risk, policies of insurance as follows and shall furnish evidence of such insurance by filing a certificate of insurance with the City Clerk. Such insurance shall name the City of Reedley, its Council, officers, officials, employees and volunteers as insured or additional insureds, and shall indemnify the City and said persons against liability for loss or damage for personal injury including death, and property damage occasioned by the operations of the Subdivider or its employees, contractors or subcontractors under the terms of this agreement in the minimum limits as follows:

- i.
 - a) **General Liability.** \$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
 - b) **Automobile Liability.** \$2,000,000 combined single limit per accident for

bodily injury and property damage.

c) **Worker's Compensation and Employer's Liability.** Worker's compensation limits as required by the Labor Code of the State of California and Employer's Liability limits of \$1,000,000 per accident.

ii. The policies are to contain, or be endorsed to contain, the following provisions:

a) General Liability and Automobile Liability Coverages.

i) The City, its officers, officials, employees and volunteers are to be covered as insureds as respects liability arising out of activities performed by or on behalf of the Subdivider, products and completed operations of the Subdivider, premises owned, occupied or used by the Subdivider, or automobiles owned, leased, hired or borrowed by the Subdivider. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, or volunteers.

ii) The Subdivider's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Subdivider's insurance and shall not contribute with it.

iii) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

iv) The Subdivider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

b) Worker's Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the Subdivider under this agreement.

c) All Coverages. Each insurance policy required by this clause shall be issued by a corporate insurer authorized to do insurance business in California and shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City. Such notice requirement shall

not contain "shall endeavor", "best efforts" or similar qualifiers.

- iii. Verification of Coverage. Subdivider shall furnish the City with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Where by statute the City's worker's compensation-related forms cannot be used, equivalent forms approved by the Insurance Commissioner are to be substituted. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time. If such insurance is provided in either case by a policy or certificate which covers the Subdivider or other entity or person than the City of Reedley, such policy shall contain the standard form of cross liability endorsement. Such insurance shall also specifically insure contractual liability assumed by Subdivider under the terms of this agreement.

7. Time is of the essence of this Agreement; provided, however, that in the event good cause is shown therefor to the City by Subdivider, City may extend the time in which the aforementioned improvements may be made and completed under this agreement. Said extensions of time, if any, may be granted without notice to the surety and any extensions so granted shall not relieve the surety bond or other security deposited with the City given to secure Subdivider's performance under this agreement. City shall be the sole and final judge as to whether or not good cause has been shown to entitle Subdivider to an extension of time hereunder.

8. All pipes and monuments shown on the final map hereinafter referred to which are destroyed or displaced during construction operations shall be replaced by Subdivider by the time of the final inspection of the improvements hereunder by the City.

9. It is agreed that title and ownership of any improvements constructed hereunder by Subdivider shall vest absolutely in City upon completion and acceptance of such improvements by the City Council.

10. It is mutually understood and agreed that neither Subdivider nor any of its agents, employees or contractors are or shall be considered to be agents of the City of Reedley in connection with the performance of Subdivider's obligations under this agreement.

11. Subdivider shall pay to the City, for all engineering, inspection and other services provided by City in accordance with this Subdivision, amounts as set forth by adopted City ordinance and resolution in effect at time of payment. City shall, at the completion of the improvements provided for herein, furnish the Subdivider with a statement of all charges for services performed by the City in the event said actual costs exceed the payment previously made by Subdivider for such services. The Subdivider shall complete payment for such charges within thirty (30) days after receipt of such statement of actual costs.

12. Subdivider agrees that if, within a period of one (1) year after final acceptance of the work done under this Agreement, any improvements or part of any improvement furnished and/or installed or constructed or caused to be constructed by Subdivider, or any of the work done under this Agreement, fails to fulfill any of the requirements of this Agreement or the Plans and other plans and specifications referred to herein, Subdivider shall, without delay and without any cost to the City, repair or replace or reconstruct any defective or otherwise unsatisfactory part or parts of the work or improvements. The terms of this section shall not apply to any damage caused by acts of God. Should Subdivider fail to act promptly or in accordance with this requirement, or fail to do the construction as agreed upon herein, or should the exigencies of the case require repairs or replacements to be made before the Subdivider can be notified, the City may, at its option, make the necessary repairs or replacements or perform the necessary work and the Subdivider shall pay to the City the actual cost of such repairs plus thirty percent (30%) to cover the City's indirect and overhead costs. If the Subdivider fails to pay to the City the cost repairs plus thirty percent (30%), the City may, without limiting the Subdivider's liability therefor, file a claim against the bond posted to guarantee and warrant the work.

13. The Subdivider and his/her contractors shall pay when due for any materials, wages, subcontracts, labor, provisions, or other supplies and items used in conjunction with the work performed for the subject subdivision including, but not limited to, unemployment insurance and any other incidentals arising out of any necessary work or labor.

14. The Subdivider shall comply with all Street, Plumbing, Building, Electrical, Zoning Codes and any other applicable Codes, ordinances, standards and regulations of the City. Subdivider shall submit the proposed conditions, covenants, and restrictions to sales of lots within this subdivision to the City of Reedley for review and approval prior to any execution thereof.

15. If Subdivider fails to construct the improvements upon the terms and within the time required, City may complete or cause completion of the required improvements and assess the actual cost of completing the required improvements and file a claim against the bond posted to secure faithful performance of the works.

16. When the improvements are completely installed and accepted by the City Council and there is full performance pursuant to this agreement, City agrees to release Subdivider and the described property from further obligation under this Agreement, except for those obligations, including but not limited to Section 6 and 13, that by their nature continue after termination or completion of this Agreement.

17. All covenants in this Agreement shall pertain to and run with the described real property and shall apply to, bind, and inure to the parties and the contractors, heirs, executors, administrators, assigns or successors in interest of the respective parties hereto.

18. Any notice required by law or by this Agreement shall be given by personal delivery of first class

U.S. Mail. Notice by personal delivery will be effective on delivery and notice by mail will be considered effective three days after it is deposited in the U.S. Mail, postage paid, addressed to the City of Reedley, 1733 Ninth Street, Reedley, CA 93654 or to Subdivider, Self-Help Enterprises, Inc., PO Box 6520, Visalia, CA 93290 at their respective addresses as of the date of this Agreement, unless written notice of change or address has been received by the other party. If any action is required to enforce the provisions of this Agreement, the prevailing party shall be entitled to an award of reasonable attorney fees to be determined by a Court.

19. The Subdivider shall have a record drawing prepared by a civil engineer which denotes the final disposition of the improvements as constructed for water, sewer, storm drain, curb and gutter, and streets. Said "as-built" drawing shall be prepared and submitted to, and approved by, the City Engineer prior to the City Council's acceptance of the improvements.

IN WITNESS WHEREOF, the parties have signed this agreement to be effective as of the Effective Date in the opening paragraph.

CITY OF REEDLEY, a municipal corporation

SELF-HELP ENTERPRISES, INC.,
a California Corporation

BY: _____
Nicole Zieba, City Manager
(Notary Acknowledgement to be Attached)

BY: _____
Tom Collishaw, President/CEO
(Notary Acknowledgement to be Attached)

ATTEST:

BY: _____
Sylvia Plata, City Clerk

APPROVED AS TO FORM:

BY: _____
Scott Cross, City Attorney

RECOMMEND APPROVAL:

BY: _____
Rob Terry,
Community Development Director

PHASE 1 OF VESTING TENTATIVE MAP NO. 6196
IN THE CITY OF REEDLEY, COUNTY OF FRESNO, STATE OF CALIFORNIA
SURVEYED AND PLATTED IN JUNE 2018, BY LANDDESIGN CONSULTING
CONSISTING OF THREE SHEETS
SHEET TWO OF THREE

PHASE 1 OF VESTING TENTATIVE MAP NO. 6198

IN THE CITY OF REEDLEY, COUNTY OF FRESNO, STATE OF CALIFORNIA
SURVEYED AND PLATTED IN JUNE 2018, BY LANDDESIGN CONSULTING

CONSISTING OF THREE SHEETS
SHEET TWO OF THREE

THE NORTH LINE OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 15 SOUTH, RANGE 23 EAST, MOUNT Diablo BASE & MERIDIAN, THENCE TO BE 58927'42"E AS PER RECORD DATA PER RECORD OF SURVEY RECORDED IN BOOK 57 AT PAGE 42 OF RECORDS OF SURVEYS, FRESNO COUNTY RECORDS.

1. SET 3/4" I.D. STEEL PIPE, 30' LONG, 6" DOWN BELOW GROUND, PER CITY OF REEDLEY STD. 57-41, TIED TO PLS 7775 AT ALL LOT CORNERS AND ANGLE POINTS.

1. SET 3/4" I.D. STEEL PIPE, 30' LONG, 6" DOWN BELOW GROUND, PER CITY OF REEDLEY STD. ST-41, TAPPED PLS 7773 AT ALL LOT CORNERS AND ANGLE POINTS.


- WEST EMBERTON, MARYLAND

* MONUMENT FOUND AND ACCEPTED UNLESS OTHERWISE NOTED.

- ② SET BRONZE SURVEY MARKER FLUSH IN CONCRETE, STAMPED PLS 7773 PER CITY OF REEDLEY STANDARD ST-41, CENTERLINE MONUMENT.

▲ NOW OFFERED FOR DEDICATION FOR PUBLIC STREET PURPOSES.

- ***** INDICATES RELINQUISHMENT OF DIRECT ACCESS RIGHTS.
- ⚠ PREVIOUSLY DECEDED FOR GRANT OF EASEMENT FOR SEWER LINE, RECORDED AUGUST 27, 2015, AS DOC. NO. 2015-0110416-00, F.C.R., AND RECORDED AUGUST 27, 2015, AS DOC. NO. 2015-0110417-00, F.C.R.

-  PREVIOUSLY GRANT DEEDED, RECORDED NOVEMBER 18, 1983 AS DOCUMENT NO. 93177380, F.C.B.

- PREVIOUSLY DEEDED FOR GRANT OF EASEMENT FOR PUBLIC UTILITIES AND INCIDENTAL PURPOSES, RECORDED NOVEMBER 29, 1994 UNDER RECORDER'S SERIAL NO. 94178930. F.C.R.

- PREVIOUSLY DEEDED FOR GRANT OF EASEMENT FOR IRRIGATION PIPE LINE.
RECORDED NOVEMBER 15, 1905 IN BOOK 3, PAGE 24 OF RECORDS OF SURVEYS,
F.C.R., AND RECORDED JULY 15, 1947 IN BOOK 254-5, PAGE 158 UNDER
RECORDER'S SERIAL NO. 37436, F.C.R., AND RECORDED SEPTEMBER 14, 1958 IN
BOOK 3821, PAGE 28 UNDER RECORDER'S SERIAL NO. 88147, F.C.R.

- PREVIOUSLY DEDICATED FOR STREET PURPOSES, RECORDED NOVEMBER 15, 1905
IN BOOK 3, PAGE 24 OF RECORD OF SURVEYS, F.C.R.
- PREVIOUSLY DEEDED FOR THE PERPETUAL RIGHT TO ENTER THE EAST 10 FEET
FOR THE PURPOSE OF TAKING WATER FROM THE EXISTING PIPELINE, RECORDED
AUGUST 18, 1950 IN BOOK 4262, PAGE 153 AS DOCUMENT NO. 57585, F.C.R.

- RECORD DATA PER RECORD OF SURVEY RECORDED IN BOOK 57 AT PAGE 42 OF
RECORD OF SURVEYS, FRESNO COUNTY RECORDS.

F.C.R. FRESNO COUNTY COUNCIL RECORDS

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RE RETIREMENT SAVINGS FROM INTEREST AND DIVIDENDS FOR PUBLIC USE

FE FOREIGN FIRM ENLIGHTENED FROM OFFERED FOR OBSERVATION FOR FOREIGN USE.

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YOU ARE CORDIALLY INVITED TO LEARN ABOUT SELF-HELP ENTERPRISES'

PLANS TO DEVELOP A SINGLE-FAMILY SUBDIVISION IN REEDLEY

Date: Monday, August 12, 2019 **Time:** 5:30 PM
Location: Reedley Community Center
100 N. East Avenue Reedley, CA 93654

ABOUT THE PROJECT

The project location is a portion of the northeast corner of N. Reed Avenue and W. Aspen Drive. All members of the Reedley community are welcome. **Please come by and share your thoughts and ideas for the proposed project.**

ABOUT SELF-HELP ENTERPRISES

Self-Help Enterprises (SHE) is a nationally recognized community development organization dedicated to developing high-quality housing opportunities for working families throughout the San Joaquin Valley. SHE is the pioneer and leading provider of mutual self-help housing in the United States and their efforts today encompass a range of programs to build better homes and communities for families with limited incomes. Since 1965, SHE has helped more than 6,200 families to build their own homes, rehabilitated over 6,300 unsafe homes, developed over 1,400 units of affordable rental housing and has provided technical assistance for reliable access to safe drinking water and sanitary sewer infrastructures to more than 160 small communities.



FOR MORE INFORMATION, PLEASE CONTACT
KAREN SAUCEDA
PHONE: (559) 802-1670
EMAIL: KARENS@SELFHELPENTERPRISES.ORG



ESTÁ CORDIALMENTE INVITADO A APRENDER ACERCA DE NUESTROS

PLANES PARA CONSTRUIR NUEVAS VIVIENDAS EN REEDLEY

Fecha: Lunes 12 de agosto de 2019 **Hora:** 5:30 PM
Ubicación de la Reunión: Centro Comunitario de Reedley
100 N. East Avenue Reedley, CA 93654

SOBRE EL PROYECTO

El proyecto será ubicado la esquina noreste de N. Reed Avenue y W. Aspen Drive. Todos los miembros de la comunidad de Reedley son bienvenidos. **Por favor venga y comparta sus pensamientos e ideas sobre el proyecto propuesto.**

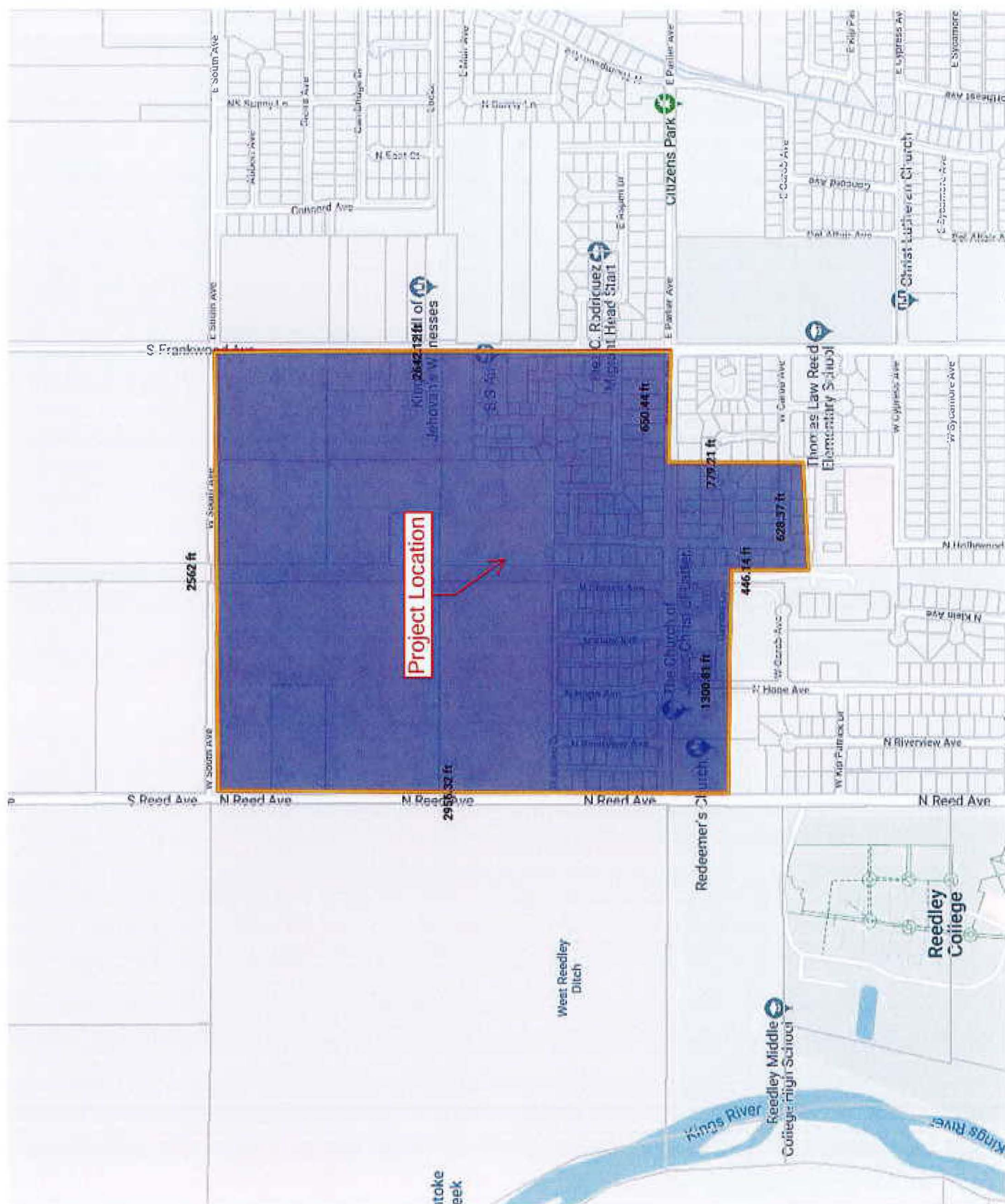
SOBRE NUESTRA ORGANIZACIÓN SELF-HELP ENTERPRISES

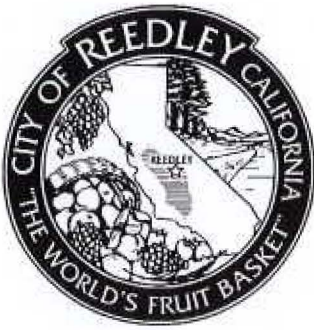
Self-Help Enterprises (SHE) es una organización dedicada al desarrollo comunitario reconocida a nivel nacional, que se enfoca en crear viviendas de alta calidad para familias trabajadoras en todo el Valle de San Joaquín. SHE es el líder de viviendas de autoayuda mutua en los Estados Unidos, en donde grupos de familias acuerdan ayudarse mutuamente a construir sus casas con la supervisión del personal de construcción de SHE. Desde 1965, SHE ha ayudado a más de 6,200 familias a construir sus propias casas, ha rehabilitado más de 6,300 viviendas inseguras, ha desarrollado más de 1,400 alquiler de apartamentos y ha brindado asistencia técnica para el acceso de agua potable e infraestructura cloacales a más de 160 comunidades rurales.



PARA MÁS INFORMACIÓN (EN ESPAÑOL), POR FAVOR CONTACTE A DIANA DIAZ
TELÉFONO: (559) 802-1624
CORREO ELECTRÓNICO:
DIANAD@SELFHELPENTERPRISES.ORG

www.selfhelpenterprises.org





REEDLEY CITY COUNCIL

- ☐ Consent
☒ Regular Item
☐ Workshop
☐ Closed Session
☐ Public Hearing

ITEM NO: 12

DATE: August 13, 2019

TITLE: APPROVE AND AUTHORIZE CITY MANAGER TO EXECUTE A CONSULTANT AGREEMENT WITH DAVID TAUSSIG & ASSOCIATES, INC. IN AN AMOUNT NOT TO EXCEED \$10,750 FOR TRANSACTIONS AND USE TAX MEASURE ADVISORY SERVICES AND ELECTION COORDINATION

SUBMITTED: Paul A. Melikian, Assistant City Manager *PM*

APPROVED: Nicole R. Zieba, City Manager *NZ*

RECOMMENDATION

Request Council approve and authorize the City Manager to execute the attached consulting agreement with David Taussig & Associates, Inc. in an amount not to exceed \$10,750 for Transactions and Use Tax (TUT) Measure Advisory Services and Election Coordination.

EXECUTIVE SUMMARY

With the support of the City Council, staff will work towards a March 2020 ballot measure to request voter approval of a TUT measure (aka "sales tax") to generate critical additional revenue necessary to maintain services through the coming years of significant projected shortfalls in revenue to meet rising operational costs. A new tax measure is a complex project that has many required documents and deadlines, and it is common for public agencies to hire an experienced consultant to assist with the process. (The City used a consultant for the 2007/2008 Measure 'G' tax measure.) David Taussig & Associates ('DTA') has worked on many tax measures in California, and most recently in this region, assisted the City Kingsburg in its successful passage of a sales tax measure. The consultant will work in conjunction with the City Attorney on the review and submission of all required documents within deadlines; specifically:

- Prepare a schedule of events identifying all necessary steps and relevant deadlines to a proposed tax measure;
- Provide clarification and guidance on procedural elements related to the proposed measure, including permissible and impermissible actions by City staff;
- Assist in the preparation of documentation necessary to pass a proposed tax measure, including ordinances and resolutions;
- Review and provide feedback on documents, ballot/supporting language, and suggesting strategies used by other successful measures;
- Attend meetings with staff and/or Council to discuss/advise on the proposed measure.

FISCAL IMPACT

No new appropriations are needed for this Agreement. Services will be paid from savings from the budget for the Economic Development Study that was cancelled. Per the attached Consultant Agreement, services rendered will be billed by DTA on a time and materials basis not to exceed \$10,000, plus out of pocket expenses not to exceed \$750.

ATTACHMENT

Agreement with David Taussig & Associates, Inc.



www.FinanceDTA.com

99 Almaden Blvd, Suite 875
San Jose, CA 95113

CONSULTANT AGREEMENT – NOTICE OF AUTHORIZATION

Date: June 28, 2019

Project: City of Reedley, TUT Measure

Description of Work: Election Coordination and Advisory Services

Budget: Time and materials not to exceed \$10,000, plus out-of-pocket expenses not to exceed \$750.

Table 1: DTA's Hourly Rates

2019 Fee Schedule	
President/Managing Director	\$290/Hour
Senior Vice President	\$250/Hour
Vice President	\$225/Hour
Senior Manager	\$200/Hour
Manager	\$185/Hour
Senior Associate	\$175/Hour
Associate II	\$165/Hour
Associate I	\$150/Hour
Research Associate II	\$140/Hour
Research Associate I	\$125/Hour

Out-of-pocket and administrative expenses shall be equal to 3% of DTA's billings for labor, plus travel costs and any outside vendor payments, not to exceed a total of \$750. All hourly rates for services apply through December 31, 2019, and are subject to a cost-of-living increase at that time. On or about the first two weeks of each month during which consulting services are rendered hereunder, Consultant shall present to Client an invoice covering the current consulting services performed and reimbursable expenses incurred pursuant to this Notice of Authorization. Invoices shall be paid by Client within 30 days of the date of each invoice. A 1.2% charge may be imposed monthly against accounts that are not paid within 45 days of the date of each invoice. The prevailing party in any legal action brought by one party against the other and arising out of this Consultant Agreement shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses, including court costs and reasonable attorneys' fees.

Consultant:
David Taussig & Associates, Inc. d/b/a DTA

Nathan D. Perez, Esq.

Client:
City of Reedley

Authorized Signature

Brief Description of Scope of Services:

DTA shall perform the services described under Tasks 1-5 in the Scope of Work identified in the attached Advisory Services proposal, subject to limitations in the attached Fee Schedule.

Advisory Services Scope of Work

- Task 1: Consultant shall assist Client in the preparation of a Schedule of Events identifying the necessary steps and relevant deadlines related to a proposed Transactions and Use Tax (TUT) measure.
- Task 2: Consultant shall provide clarification and guidance on procedural elements related to the proposed TUT, including permissible and impermissible actions by City Staff.
- Task 3: Consultant shall, to the extent necessary, assist in the preparation of the documentation necessary in order to pass the proposed TUT, including the ordinance(s) and resolution(s).
- Task 4: Consultant shall review and provide feedback on documents, ballot/supporting language, and arguments as requested by Client, detailing strategies employed by other successful measures.
- Task 5: Consultant shall attend one (1) formal meeting with City Staff or Council to educate or discuss processes, findings, or advisability of the proposed TUT.

MINUTES
REEDLEY AIRPORT COMMISSION MEETING
Thursday, May 16, 2019

#13

1. CALL TO ORDER
A meeting of the Reedley Airport Commission was held at the Reedley Community Center, 100 N. East Avenue, Reedley, California and called to order by Chairperson Carl Smith at 4:00 p.m.
2. ROLL CALL AND INTRODUCTION OF GUESTS
 - A. Commissioners Present: Carl Smith, Chairperson; David Richey, Vice Chairperson; Robert Harris; Anthony Jewell; Robert Mason.
 - B. Commissioners Absent: None.
 - C. Staff Present: Sarah Reid, Airport Manager; Denise Phariss, Administrative Assistant.
 - D. Others present: John Johnson, Reedley College Instructor.
3. APPROVAL OF MINUTES
 - A. A small correction was mentioned to item 6B. It should have stated that food would be purchased for 500, not 400. Motion by Commissioner Harris, seconded by Commissioner Richey to approve the April 18, 2019 Airport Commission minutes, as corrected. Motion carried.
4. PUBLIC DISCUSSION – None.
5. RECOGNITION OF OUTGOING COMMISSIONER DAVID RICHEY –Commissioner Richey was presented with a volunteer coffee mug and certificate of appreciation from the City of Reedley for his 10 years of service on the Airport Commission. The Commission expressed their thanks for David's contributions to the Airport.
6. ORAL AND WRITTEN COMMUNICATIONS – None.
7. UNFINISHED BUSINESS
 - A. **Airport Barbecue Wrap Up** – Comments and suggestions for next year – Staff did a super job. Raffle items were nicely displayed. City Council members that were there felt the event was well done. The Cadets did a great job parking cars; their golf cart with the flag was done properly. They also helped serve the food. Nice that the Fire and Police Explorers and Sequoia Safety Council (ambulance) displayed their vehicles. Everything ran very smoothly, except a few issues with the free airplane rides. A different system will be used next year so that once registered for a ride they can participate in our other activities while they wait for their turn. Unfortunately, there were only two airplanes and 3 pilots giving rides. John Johnson volunteered to recruit pilots and airplanes for next year's event. Another issue was the uniformed volunteers moving to the front of the line when others had been waiting in line for hours. A suggestion was made to have a raffle with a limited number of rides for Cadets and Explorers. Next year a list of responsibilities could be created before the event and then fill in the spots when volunteers show up. Cadets/Explorers should be utilized to guard the electric airplanes to keep spectators out of them. Many positive comments were received about the guest speaker – Raymond McClure. A special thanks to John Johnson for bringing out the flight simulator. He was originally planning on providing airplane rides, but his aircraft was not able to be certified in time. Next year, he will promote the event within the

MINUTES
REEDLEY AIRPORT COMMISSION MEETING
Thursday, May 16, 2019

aviation community in order to get more aircraft displayed. Next year's target date: May 16, 2020. John told about the app called "Social Flight" that lists all fly in and airport events. Signs need to be posted in the outside parking area to direct people to the south entrance to park. A sign could be posted on the south end of the fence by the school. The hotdog meal could be served earlier – 10:30 start time. Sarah Reid suggested renaming the event to be an "Open House". She indicated that the Fire Department Open House is similar to what we do for our event. It might be a better description of what our event has evolved into. She asked the Commission to think about it and will be discussed at a later meeting. The Airport Barbecue recap report was distributed to the Commission to review. Comments received at today's meeting will be included in the notes for this year.

8. **STAFF REPORTS**

A. **Airport Manager – Sarah Reid**

- 1) Reported that staff is thinking about holding a food truck event at the airport in the fall of 2020. The Chamber and City are partnering to hold one at Cricket Hollow this fall
- 2) A letter was sent to all airport tenants that hangar rent will increase in July 2019.
- 3) The Department will be experiencing a large staffing turnover – Denise Phariss is retiring in July and there is conversation about switching service providers for transit which would affect the front office staff and the transit drivers.
- 4) The City Clerk will be advertising for vacancies on two commissions, including the position vacated by Commissioner Richey.
- 5) On June 4th Sarah Reid will present the department's budget to City Council. She invited the Commission to attend, if possible.

9. **COMMISSIONERS REPORTS**


- A. BMX Agreement is due to renew in December. Staff is working on an agreement with Paul Huebert to repair the perimeter fence that was damaged by a tree. They will be given a rent credit for work done.
- B. Hangars are still full with a long waiting list.

10. **ADJOURNMENT**

As there was no further business to discuss, it was moved by Commissioner Mason seconded by Commissioner Harris to adjourn at 5:12 p.m.


Carl Smith, Chairperson


Sarah Reid, Airport Manager


Denise Phariss, Administrative Assistant