City of St. Helena
Regular City Council Meeting
Tuesday, April 28, 2020 @ 6:00 PM

In accordance with Executive Orders N-25-20, N-29-20, and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. We will address the Order in the following ways: Members of the public may not physically attend meetings. The City Council meeting will be live-streamed on Comcast Channel 28 and on the City's website, barring technical difficulties. Those members of the public wishing to participate must do so remotely via Zoom electronic meetings in the following ways; by either logging onto the Zoom link located on the meeting agenda (please download the app to your computer or mobile device) and enter the meeting ID or by calling a listed number and enter the meeting ID. Public comment for City Council meetings will be accepted via email to publiccomment@cityofsthelena.org.

Please see the end of the agenda for detailed PUBLIC PARTICIPATION instructions.

Please click the link to join the meeting: https://zoom.us/j/93982461478

Or iPhone one-tap : US: +16699006833,,93982461478# or +13462487799,,93982461478#

Or Telephone: Dial(for higher quality, dial a number based on your current location):
US: +1 669 900 6833 or +1 346 248 7799 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 301 715 8592

Meeting ID: 939 8246 1478

International numbers available: https://zoom.us/u/ac2gdYTQP6

PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the "Oral Communication" portion of the agenda may do so, but <u>please observe the time limit of four minutes.</u>

Page

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL
   Mayor: Geoff Ellsworth, Vice Mayor: Paul Dohring, City Council Members: Anna Chouteau, David Knudsen and Mary Koberstein

4. PUBLIC FORUM:
   Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Forum. Each person's comments shall be limited to <u>4 minutes</u>. Each person is entitled to speak on any non-agendized item only once at any meeting. Brief questions by Council Members for clarifications may be posed and answered, and Council Members may make

requests that items be placed on future agendas, but in accordance with state law, no substantive discussion or action may take place unless and until the matter properly appears on the agenda.

4.1. Public Comment.Jim Sweeney 11

5. REPORTS BY STAFF AND CITY COUNCIL, FUTURE AGENDA ITEMS, AND AB 1234 REPORTS:

Reports by staff and/or Council Members on items of general interest. Brief questions for clarification may be posed and answered, and Council Members may request that items be placed on a future agenda. Except under certain circumstances, the Brown Act prohibits any other discussion or action by the City Council.

6. PRESENTATIONS AND PUBLIC RECOGNITIONS

6.1. SB 1383 Short-Lived Climate Pollutants Regulations – Overview and local preparations by Christy Pestoni Abreu, Community Outreach Coordinator at Upper Valley Disposal & Recycling and Amanda Griffis, Environmental Resource Specialist Napa County Public Works 13 - 22

Presentation

7. STAFF BRIEFING

7.1. Update on Waste Water Treatment Plant Upgrade Project by Erica Ahmann Smithies, Public Works Director and City Engineer

7.2. Upper York Creek Dam Project Update by Erica Ahmann Smithies, Public Works Director and City Engineer

8. CONSENT ITEMS

Members of the Council or the public may ask that any items be considered individually for purposes of considering alternative action, for extended discussion, or for public comment. Unless that is done, one motion may be used to adopt all recommended actions. (Roll Call Vote)

8.1. Authorizing a resolution approving a three-year Professional Services Agreement for Professional Auditing Services with Brown Armstrong Accountancy Corporation in the amount not-to-exceed of $32,260 for the first year and $35,850 per year for two subsequent years for a total $103,960 over a three-year term. 23 - 70

CEQA Determination: Exempt
Prepared By: Mandy Kellogg, Finance Manager
Recommendation:
Staff recommends approval of the resolution approving the Professional Services Agreement with Brown Armstrong Accountancy Corporation for a total not to exceed amount of $32,260 for the first year and $35,850 per year for two subsequent years for a total $103,960 over a three-year term.

Staff Report - Pdf

8.2. Consideration of proposed approval of a resolution authorizing Amendment #2 to the professional services agreement with Dudek for an additional $15,410 for a total not-to-exceed contract amount of $328,571 in order to complete the Hunter Subdivision Environmental 71 - 78

Impact Report (EIR).

CEQA Determination: Categorically Exempt, Section 15323
Prepared By: Aaron Hecock, Senior Planner
Recommendation:
Staff recommends the City Council approve a resolution authorizing Amendment #2 to the professional services agreement with Dudek for an additional $15,410 for a total not-to-exceed contract amount of $328,571.

Staff Report - Pdf

8.3. Resolution authorizing the City Manager to execute a Professional Services Agreement with BKF for design of the Capital Improvement Project R19-05 Grayson Avenue and South Crane Avenue Rehabilitation for an amount not to exceed $175,139 — 79 - 104

CEQA Determination: CEQA will be completed as part of project design
Prepared By: Martin Beltran, Management Analyst
Recommendation:
Staff recommends City Council adopt a resolution authorizing the City Manager to execute a Professional Services Agreement with BKF for design of the Capital Improvement Project R19-05 Grayson Avenue and South Crane Avenue Rehabilitation for an amount not to exceed $175,139.

Staff Report - Pdf

8.4. Consideration and proposed approval of a resolution ratifying the City Manager's implementation of a 7-day, 53-hour work period for all Full-time and Part-time Firefighter personnel under the COVID-19 emergency declaration and approval authorizing the second amendment to the Full Time Fire Department Unrepresented Compensation Program — 105 - 120

CEQA Determination: Not a CEQA project
Prepared By: Kathy Robinson, Human Resources & IT Director
Recommendation:
It is recommended that the City Council approve the resolution ratifying the City Manager's declaration of establishing 7-day, 53-hour work period and approve the second amendment to the to the Full-Time Fire Department Unrepresented Program.

Staff Report - Pdf

8.5. Consideration and proposed approval of a Resolution 1) approving Amendment No. 2 to the Updated Employment Agreement STH Contract: 2019-092 entered into as of May 28, 2019, between the City of St. Helena and John Sorensen, to serve in a temporary full-time assignment as Fire Chief during the COVID-19 local emergency effective April 12, 2020 and to remain in effect for the duration of the local health emergency or return to prior staffing schedule; and 2) in accordance with the requirement of California Code Section 5953(c)(3) approving the recommended final action for the Fire Chief to serve in this full-time capacity with a temporary annualized base salary of — 121 - 134

$176,800; and 3) increase prorated fringe benefits to full vacation accruals, holiday pay, and executive leave; and 4) duly adopting and approving publicly available pay schedules in accordance with the requirement of California Code of Regulations Title 2, Section 570.5 to include the temporary assignment annualized salary for the Fire Chief.

CEQA Determination: Not a CEQA project
Prepared By: Kathy Robinson, Human Resources & IT Director
Recommendation:
City staff recommends approval of Amendment No. 2 to the Updated Employment Agreement STH Contract: 2019-092; and duly adopting and approving publicly available pay schedules in accordance with the requirement of California Code of Regulations Title 2, Section 570.5 to include the temporary assignment annualized salary for the Fire Chief.

Staff Report - Pdf

8.6. **Staff report provided on 4-24-2020.** 135 - 136

Consideration and support of the Downtown Streetscape ad hoc subcommittee's recommendation to not expedite the City Project No. R18-81 Downtown Sidewalk Improvements Project at this time and maintain the original planned start date of January 2021 (~~Staff report forthcoming~~)

CEQA Determination: CEQA will be completed as part of project design
Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:
Pass a motion supporting the Downtown Streetscape ad hoc subcommittee's recommendation to not expedite the City Project No. R18-81 Downtown Sidewalk Improvements Project at this time and maintain the original planned start date of January 2021

Staff Report - Pdf

9. PUBLIC HEARINGS

9.1. Introduction and first reading of an ordinance amending Title 13, Public Services of the St. Helena Municipal Code and consideration of a resolution approving City Council Policy P-FI-0019 Disconnection of Water Service for Nonpayment to comply with SB998 mandates. 137 - 167

CEQA Determination: Not a CEQA project
Prepared By: Jennifer Weeks, Senior Accounting Technician
Recommendation:
1. Introduce and conduct first reading of the draft Ordinance (Attachment 1), by title only and waive further reading.
2. Adopt a Resolution approving City Council Policy P-FI-0019 Disconnection of Water Service for Nonpayment to comply with SB998 mandates.

Staff Report - Pdf

10. OLD BUSINESS

10.1. None

11. NEW BUSINESS

11.1. Consideration and approval of an Urgency Ordinance temporarily suspending Sections 3.28.070 and 3.28.080 of the St. Helena Municipal Code concerning payments of Transient Occupancy Tax, and declaring the urgency thereof. 169 - 175

CEQA Determination: Not a CEQA project
Prepared By: April Mitts, Finance Director
Recommendation:
Staff recommends the City Council approve an Urgency Ordinance temporarily suspending Sections 3.28.070 and 3.28.080 of the St. Helena Municipal Code concerning payments of Transient Occupancy Tax, and declaring the urgency thereof.

Staff Report - Pdf

11.2. Request to Form Council Ad Hoc Subcommittee for Farmstead Development Agreement 177 - 178

CEQA Determination: Not a CEQA project
Prepared By: Maya DeRosa, Planning & Building Director
Recommendation:
Appoint two city council members to serve on ad hoc subcommittee for Farmstead Development Agreement.

Staff Report - Pdf

12. ITEMS LIKELY TO BE PLACED ON THE NEXT OR FUTURE MEETING AGENDA:

12.1.

<u>May City Council Meetings</u>: **5/12 (staff reports due 4/24)** **5/14 Budget Workshop 1 (9am – 12pm)** **5/25 (staff reports due 5/8)** **5/28 Budget Workshop 2 (9am – 12pm)**
STAFF BRIEFING:
Upper York Creek Dam Project Update by Erica Ahmann Smithies, Public Works Director and City Engineer
Update on Waste Water Treatment Plant Upgrade Project by Erica Ahmann Smithies, Public Works Director and City Engineer
2020 City of St. Helena Water Storage Projections Update by Erica Ahmann Smithies, Public Works Director and City Engineer
CONSENT:
5/12 Spring Mountain Vineyard Sediment Disposal Agreement in conjunction with Upper York Creek
5/12 Liebert Cassidy Whitmore ERC Membership at no cost to the City
5/26 Cell Tower Lease
5/26 Award of contract for tennis courts rehabilitation
5/26 Addendum for Meadowood Tanks Upgrade (potentially remove item 70)
City conflict of Interest Code Update
OLD BUSINESS:

5/12 2020 City of St. Helena Water Storage Projections Update
5/12 Renew Housing Authority Contract
PH or NEW BUSINESS:
5/12 PH Discussion of Potential Activities and Projects for Inclusion in the 2020 Community Development Block Grant (CDBG) Applications; and Consideration of Approval of a Resolution Approving (1) Applications for Funding, and (2) the Execution of a Grant Agreement and any Amendments thereto from the 2019-2020 Funding Year of the CDBG Program.
5/26 Long Range Financial Forecast
5/12 Grant Qtrly Report
5/12 Finance Qtrly Report
5/12 Consideration on placement of a bench
June City Council Meetings: **6/9 (staff reports due 5/22)** **6/23 (staff reports due 6/5)**
STAFF BRIEFING:
Upper York Creek Dam Project Update by Erica Ahmann Smithies, Public Works Director and City Engineer
Update on Waste Water Treatment Plant Upgrade Project by Erica Ahmann Smithies, Public Works Director and City Engineer
2020 City of St. Helena Water Storage Projections Update by Erica Ahmann Smithies, Public Works Director and City Engineer
CONSENT:
6/23 Upvalley Diversion Program Contract Amendment
Award of Upper York Creek Construction Contract
56. Award of CEQA/NEPA PSA for S-52 WWTRP Upgrades
OLD BUSINESS:
6/9 First reading for Vaping Ordinance
PH or NEW BUSINESS:
6/9 Utility Master Plan
6/23 Nimbus Arts mural discussion
6/23 First reading ADU ordinance
6/9 Non-profit award

13. ADJOURNMENT

The next Regular City Council meeting is scheduled for May 12, 2020, at 6:00 p.m.

I do hereby certify that a copy of the foregoing agenda was posted on the City website on Thursday, April 23, 2020.

Cindy Tzafopoulos

Cindy Tzafopoulos, City Clerk

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 72 hours prior to the meeting as required by

Section 202 of the Americans with Disabilities Act will enable the City to make reasonable arrangements to ensure accessibility to this meeting

CHALLENGING DECISIONS OF CITY ENTITIES

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City of St. Helena is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision, including without limitation Government Code section 65009 applicable to many land use and zoning decisions, Government Code section 66499.37 applicable to the Subdivision Map Act, and Public Resources Code section 21167 applicable to the California Environmental Quality Act (CEQA). Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. Government Code section 65009 and 66499.37, and Public Resources Code section 21167, impose shorter limitations periods and requirements, including timely service in addition to filing.

If a person wishes to challenge the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of St. Helena, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this Agenda, after the posting of the Agenda, will be available for public review in the City Clerk's Office located at 1480 Main Street, St. Helena, California, during normal business hours. In addition, such writings or documents will be made available on the City's web site at https://sthelena.civicweb.net and will be available for public review at the respective meeting.

THE CITY OF ST. HELENA ENCOURAGES ONLINE PUBLIC PARTICIPATION IN VIRTUAL CITY COUNCIL MEETINGS

St. Helena, CA– The City of St. Helena is committed to public participation in City government in a manner that is consistent with guidance provided by the Napa County Public Health Official and Governor Newsom's Executive Order N-25-20. These guidelines relate to social distancing, and are intended to protect everyone by limiting the spread of COVID-19 in our community. In adherence to these guidelines, the St. Helena City Council will host a Virtual Council Meeting on Zoom; a free teleconferencing tool that enables users to watch and/or call into the meeting from their computers or phones. This meeting will be open to public and allows for live public comment. The meeting will also be recorded, livestreamed, and posted on the City's website after the adjournment of the meeting if technical difficulties occur:

https://sthelena.civicweb.net/Portal/

The ZOOM web link, meeting ID, and phone number will be listed at the top of the City Council Meeting Agenda. You will be required to enter the meeting ID, but there will be no password or participant ID.

How to Watch or Listen to Council Meetings:

1. Watch on Comcast Channel 28
2. Watch the livestreaming video on the City's website
3. Watch and Listen on Zoom.us by clicking on the link in the Council Agenda
4. Listen only by calling the Zoom number listed on the Council Agenda

Watch Council Meeting by Joining the Zoom Meeting:

1. **By Computer, Tablet, or Smart Phone:**
    a. Before joining the virtual City Council Meeting, it is highly encouraged that you download the Zoom App. To sign up for your own free account, visit zoom.us/signup and enter your email address. You will receive an email from Zoom (no-reply@zoom.us). In this email, click Activate Account.
    b. If you are logged into your account, Enter the **Meeting ID** listed on the City Council Agenda. If you have not created an account go to: https://zoom.us/join and enter the **Meeting ID**
    c. Select if you would like to connect audio and/or video and tap **Join Meeting**.
    d. For specific instructions for your device, go to: https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting
2. **Listen Only by Telephone:**
    a. **Dial** the number listed on the Council Agenda.
    b. At the prompt, enter the **Meeting ID** provided on the top of the City Council Meeting Agenda and **Press #. A participate ID is not required.**
    c. To disconnect from the meeting, hang up the phone.

Ways to Provide Public Comment:

While attending the virtual City Council Meeting, the public will have the opportunity to provide live public comment during Public Forum and after each agenda item. When it is the appropriate time for public comment the Mayor will verbally open public comment. At this time each individual is permitted 4 minutes to speak.

1. **Send a Public Comment in Advance to** publiccomment@cityofsthelena.org

    The easiest way to provide public comment is to email your public comment. Public comments may be emailed to publiccomment@cityofsthelena.org. Please include in the subject line "COMMENT TO COUNCIL and the AGENDA ITEM". Any public comment is required to be submitted no later than 1 hour before the scheduled meeting and will be included as an attachment to the agenda.

2. **Provide Comment through Zoom meeting from a computer, tablet, or smart phone**

This option allows the public to virtually attend the meeting as a muted 'attendee' with no video or screen sharing capabilities. You will be able to see and hear those participating in the meeting, but they will not be able to hear you until the host unmutes you.

If you wish to provide public comment during a specific agenda item or during public forum, you can use the **"raise hand"** feature located in the control panel at the bottom of your screen. The icon is a small blue hand. In Windows you can also use the Alt+Y keyboard shortcut to raise or lower your hand. In Mac you can also use the Option+Y keyboard shortcut to raise or lower your hand.

The host will be notified that you've raised your hand and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. To be removed from the queue, just click the '**raise hand'** button again.

3. **Call in to the ZOOM meeting from a cell phone or landline phone only**

This option allows the member of the public with the opportunity to verbally participate in public comment.

If you wish to speak during public comment time dial ***9** on your telephone.

The host will be notified that you would like to speak and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. You may press ***9** again if you wish to be removed from the queue.

You will be notified at the end of your statement that you have been muted.

Cindy Tzafopoulos

From: Jim Sweeney <jim@inno-vine.com>
Sent: Tuesday, April 28, 2020 4:58 PM
To: Public Comment
Subject: [External] Public Comment submission for City Council Meeting tonight, 4/28/2020

Follow Up Flag: Follow up
Flag Status: Flagged

If possible, please include this in the public comment portion of the Council Members packets. I plan on 'raising my hand' to read myself, but just in case there is a technical issue participating, I would like to have included. Thank you.

"We, the citizens of St. Helena know you, the City Council, have some very difficult decisions to make over the next few weeks. The compressed tax revenues now, and likely well into next fiscal, will force decisions on which projects to support or defer.

I just want to say that with the City's leadership, and the skills and hard work of our community as well as the incredible generosity, possibly in both materials and/or financial at some level, we can help move some of these projects over the line. Organizations such as the Rotary, the Boy Scouts, the Ag Boosters, the Oddfellows and others, have a proven track record of stepping up when needed.

We are keenly aware that some local improvement priorities that might be under review now may have to be deferred. I am simply saying, 'we can help, don't count us out' when making your tough decisions. St. Helena was built by the hard work and spirit of our founding families, and we can, and would like to, contribute again.

Per Councilman Knudsen's editorial comments this past week, we ask that you keep us in mind"

Jim Sweeney
1407 Kearney Street
St. Helena, CA, 94574
Cell: 707-738-4942

SB 1383

Reducing Short-Lived Climate Pollutants in California

An Overview of SB 1383's Organic Waste Reduction Requirements

SB 1383 Key Implementation Dates

September 2016
SB 1383 Adopted

Jan. 2019
Two Years of Informal Rulemaking Ends. Formal Rulemaking Begins

Late 2019/Early 2020
Regulations Adopted

Jan. 1, 2020
50 Percent Reduction in Organic Waste Disposal

Jan. 1, 2022
Regulations Take Effect and State Enforcement Begins

Jan. 1, 2024
Regulations Require Local Governments to Take Enforcement

January 1, 2025
75% Reduction in Organics Disposal

20% Increase in Edible Food Recovery

2016-2019	2020	2021	2022	2023	2024	2025

CalRecycle

Jurisdiction Responsibilities

Provide Organics Collection Services to All Residents and Businesses

Conduct Education and Outreach to Community

Secure Access to Recycling and Edible Food Recovery Capacity

Establish Edible Food Recovery Program

Procure Recyclable and Recovered Organic Products

Monitor Compliance and Conduct Enforcement

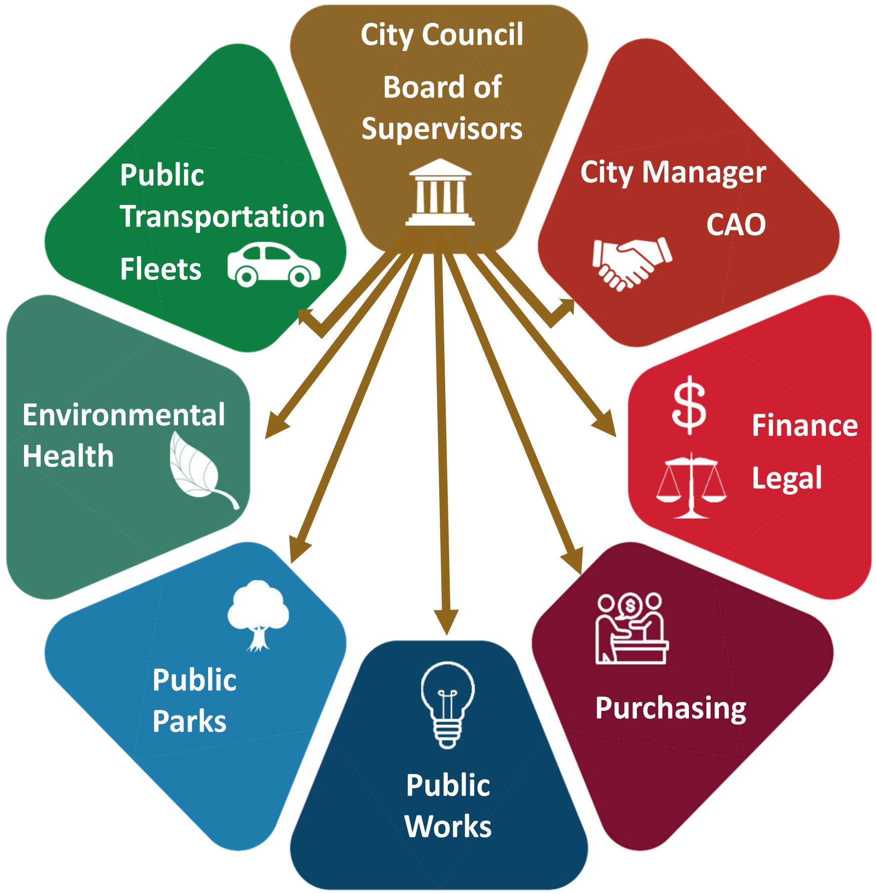
CalRecycle

SB 1383 IN ACTION

LOCAL GOVERNMENT ROLES AND RESPONSIBILITIES

SB 1383 doesn't just apply to waste management and recycling departments.

Every local department plays a role in SB 1383 implementation.



SB 1383 IN ACTION

PROCUREMENT REQUIREMENTS

Procure Recycled and Recovered Organic Products

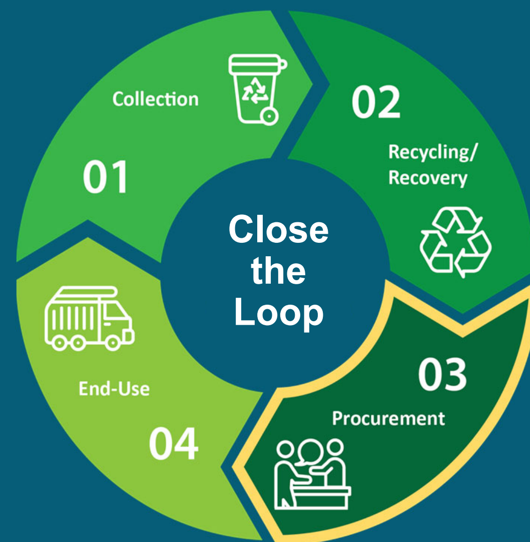
JURISDICTION REQUIREMENTS

COMPOST, RNG & ELECTRICITY

- Minimum Procurement

PAPER PROCUREMENT REQUIREMENTS

- Recycled Content
- Recyclability

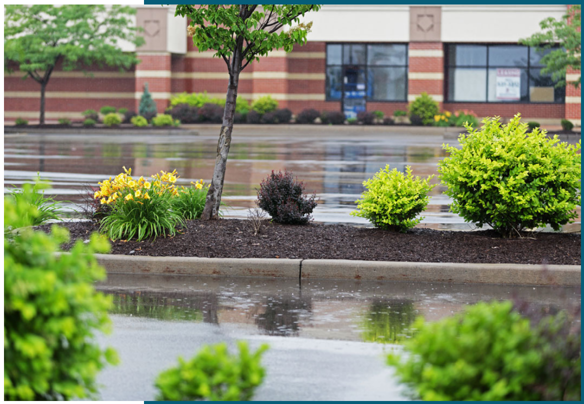


CalRecycle

Construction & Landscaping Requirements

Recycling organic waste commingled with C&D debris, to meet CalGreen 65% requirement for C&D recycling in both residential and non-residential projects

Model Water Efficient Landscape Ordinance (MWELO) requirements for compost and mulch application.



CalRecycle

ORGANIC WASTE RECYCLING INFRASTRUCTURE

SB 1383 Requires 50-100
New or Expanded
Organic Waste Recycling Facilities

CalRecycle

SB 1383 in Action

Inspection and Enforcement Requirements

Monitor Compliance and Conduct Enforcement

Jurisdiction Requirements

Ordinance
2022

Adopt an Ordinance (Enforceable Mechanism)

Including Enforcement

Compliance Monitoring & Education
2022-2024

Annual Compliance Reviews, Route Reviews, Inspections

Educate Violators

Compliance Monitoring & Enforcement
2024

Annual Compliance Reviews

Route Reviews, Inspections,

Notice of Violations,

Penalties for Violators

CalRecycle

SB 1383 in Action
Jurisdiction Requirements

Maintain Records and Report to CalRecycle

Recordkeeping Requirements:

- Organic Collection Services
- Hauler Program
- Contamination Minimization
- Waivers
- Education & Outreach
- Edible Food Recovery Program
- Recycled Organic Waste Procurement
- Recycled Paper Procurement
- Commercial Edible Food Generators
- Jurisdiction Inspection & Enforcement

CalRecycle

State Enforcement

CalRecycle

CalRecycle Oversight (Begins in 2022)

Authorize Waivers

- Low Population
- Rural Areas

Emergency Circumstances

Oversee and Monitor

- State Agencies and Facilities
- Local Education Agencies

Oversee and Monitor for Compliance

Jurisdiction Review

- Conduct joint inspections with jurisdictions
- Review Implementation Record

If Violations

- Issue Notices of Violation
- May Authorize Corrective Action Plan
- Allows up to 24 months to address barriers outside of a jurisdiction's control

CalRecycle

Report to the City Council
Regular City Council - 28 Apr 2020

Agenda Section: **<u>CONSENT ITEMS</u>**

Subject: **Authorizing a resolution approving a three-year Professional Services Agreement for Professional Auditing Services with Brown Armstrong Accountancy Corporation in the amount not-to-exceed of $32,260 for the first year and $35,850 per year for two subsequent years for a total $103,960 over a three-year term.**

CEQA Determination: **Exempt**

Prepared By: Mandy Kellogg, Finance Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND
State law requires local governments to publish a complete set of audited financial statements by December 31st of each year. The Comprehensive Annual Financial Report (CAFR) is published annually to fully disclose the City's financial information, as well as to comply with state and federal requirements and bond covenants.

The financial audit and the preparation of the financial statements takes place over several months, beginning just after the end of the fiscal year and continuing through the time the books are closed and the CAFR is published. Staff coordinates with the auditors to ensure that the work is completed accurately and timely.

DISCUSSION
The City contracts for an annual independent audit of its financial statements. The City has contracted with Van Lant & Fankhanel, LLP for audit services for the past five years. Although the City has been satisfied with the services of the previous auditor, the contract expired after completion of the FY 2018/19 audit.

The Government Finance Officers Association (GFOA) best practices for audit procurement recommends that at the end of term of each audit contract, the governmental entity should actively seek the participation of all qualified firms. The audit procurement process should be structured so that the principal factor in the selection of an independent auditor is the auditor's ability to perform a quality audit.

A request for proposal for Professional Auditing Services was issued on January 24, 2020 with responses due to the City on or before February 28, 2020. The City of St. Helena requested proposals from qualified firms of certified public accountants for a three year contract to prepare and audit its financial statements for fiscal years ending June 30, 2020, 2021, 2022. An option to extend the contract for fiscal years ending in June 30, 2023 and 2024 may be exercised by the City through a written amendment.

A total of seven proposals were received on or before February 28, 2020. During the week of March 2, 2020 all proposals were independently reviewed by Finance Director Mitts, Finance Manager Kellogg, and Mark Walsh, CPA. The top three firms were selected and interviewed by Finance Director Mitts and Finance Manager Kellogg.

After conducting interviews with three highly qualified firms, it was determined Brown Armstrong Accountancy Corporation would be recommended as the firm to prepare and audit the City's financial statements for the fiscal years ending June 30, 2020, 2021, and 2022. An option to extend the contract for fiscal years ending June 30, 2023 and 2024 may be exercised by the City through written amendment. Brown Armstrong selection was based on a variety of factors including:

- Extensive experience auditing California cities of similar size and scope;
- Technical experience and professional qualifications;
- Engagement with staff throughout the audit process;
- Understanding of reporting requirements and deadlines;
- Overall cost.

Due to the COVID-19 Pandemic, Brown Armstrong has agreed to reduce their contract price for year one of the proposal by 10% which has been reflected in the Revised Exhibit A and Revised Exhibit B of the attached Professional Services Agreement (Attachment 1).

FISCAL IMPACT

The fiscal impact to the City of St. Helena shall not exceed $32,260 for the first year and $35,850 per year for two subsequent years for a total $103,960 over a three-year term. These funds will be budgeted in the FY 2020/21 budget and will be paid through 101/561/571-4300-2145.

RECOMMENDED ACTION

Staff recommends approval of the resolution approving the Professional Services Agreement with Brown Armstrong Accountancy Corporation for a total not to exceed amount of $32,260 for the first year and $35,850 per year for two subsequent years for a total $103,960 over a three-year term.

ATTACHMENTS
Brown Armstrong PSA
Resolution 2020- Professional Auditing Services
Brown Armstrong Accountancy Corporation - Final Proposal

Attachment 1

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on ______________, 2020, by and between the City of St. Helena, located in the County of Napa, State of California (City), and Brown Armstrong Accountancy Corporation (Consultant).

RECITALS:

A. City desires to employ Consultant to furnish professional services in connection with the project described as Professional Audit Services.

B. Consultant has represented that Consultant has the necessary expertise, experience, and qualifications to perform the required duties.

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

SECTION 1 – BASIC SERVICES

Consultant agrees to perform the services set forth in **Exhibit A, "Scope of Services"** and made part of this Agreement.

SECTION 2 – ADDITIONAL SERVICES

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in this Agreement or **Exhibit A, "Scope of Services"** (the "Services"), unless such additional Services and compensation are authorized in advance and in writing by the City Council or City Manager of the City.

SECTION 3 – TIME FOR COMPLETION

The time for completion of Services shall be as identified in **Exhibit A, "Scope of Services"**. The parties expressly agree that time is of the essence in the performance of this Agreement.

SECTION 4 – COMPENSATION AND METHOD OF PAYMENT

A. Subject to any limitations set forth in this Agreement, City agrees to pay consultant the amount specified in Exhibit A, "Compensation" attached hereto and made a part hereof. Total compensation shall not exceed $32,260 for the first year and $35,850 per year for two subsequent years for a total of $103,960 over a three-year term, unless additional compensation is approved in accordance with Section 2.

B. Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories if applicable: labor (by sub-category), travel, materials, equipment, supplies, subconsultant contracts, and miscellaneous expenses. Each original invoice furnished shall include the expenses incurred during the preceding month, the cumulative Agreement amount, and the amount remaining on the Agreement. City shall independently review each invoice submitted to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. If no charges or expenses are disputed, the invoice shall be approved, and City will use its best efforts to cause Consultant to be paid within 30 days of receipt of invoice. If the City disputes any charges or expenses, the City will return the original invoice to Consultant for correction and resubmission. If the City reasonably determines, in its sole judgment, that the invoiced charges and expenses exceed the value of the Services performed to date and that it is probable that the Agreement will not be completed satisfactorily within the contract price, City may retain all or a portion of the invoiced charges and expenses. Within thirty (30) days of satisfactory completion of the project, City shall pay the retained amount, if any, to Consultant.

C. Payment to the Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5 – STANDARD OF PERFORMANCE

A. Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons in the same or similar geographical area engaged in providing Services similar to those required of Consultant under this Agreement.

B. In order to induce City to enter into this Agreement, Consultant represents that it is duly organized, existing and in good standing under applicable state law; Consultant is licensed to perform all aspects of the Services; Consultant will employ only persons and Subconsultants with all required licenses and certifications; that Consultant is duly qualified to conduct business in the State; that Consultant has duly authorized the execution, delivery and performance of this Agreement and the Services to be performed herein; and that the Agreement does not violate or create a default under any instrument, agreement, order or decree binding on Consultant.

SECTION 6 – INSPECTION AND FINAL ACCEPTANCE

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City, unless the parties mutually agree to extend such deadline. City shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects and fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, the sections pertaining to indemnification and insurance.

SECTION 7 – INSURANCE REQUIRED

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees, as indicated:

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:
   1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
   2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
   3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:
   1. General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations, as applicable. If Commercial General Liability Insurance or other form with a 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.
   2. Automobile Liability: $1,000,000 per accident for bodily injury and property damage.
   3. Employer's Liability: $1,000,000 per accident for bodily injury or disease.

C. Professional Liability Insurance. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, environmental engineer or other professional engineer, or land surveyor ("design professional"), Consultant shall maintain at least $2,000,000 of professional liability insurance. When Consultant is not a design professional, Consultant shall maintain at least $1,000,000 of professional liability insurance combined single limit for each occurrence, insuring against professional errors and omissions in the Services performed by Consultant under this Agreement, including, without limitation, claims for negligence, misrepresentation, violation of good faith and fair dealing, and inaccurate advise arising out of, resulting from, or in connection with Services performed by Consultant under this Agreement.

D. Excess Limits. If Consultant maintains higher limits than the minimums shown above, City requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

E. Primary Coverage. For any claims related to this contract the Consultants insurance coverage shall be primary insurance as respects to 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 Consultants insurance and shall not contribute with it.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions of $25,000 or greater must be declared to and approved by the City.

G. Other Insurance Provisions. The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its agent, officers, officials, employees, and volunteers are to be covered as additional insured as respects: liability arising out of work or operations performed by the Consultant or Consultant's subconsultants; or automobile owned, leased, hired or borrowed by the Consultant.
2. For any claims related to Consultant's conduct while performing the work of this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its agents, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its agents, officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.

H. Waiver of Subrogation. Consultant's commercial general liability, automobile liability, workers' compensation, and employer's liability policies shall be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its agents, officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

I. The Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

J. Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on forms that conform to City requirements. 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, including endorsements affecting the coverage required by these specifications at any time.

SECTION 8 – INDEMNIFICATION

A. To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), as may be applicable, Consultant shall indemnify, defend, and hold harmless City, its agents, officers, officials, employees, representatives, and volunteers from any and all claims, demands, suits, loss, damages, injury, and/or liability (including any and all costs and expenses in connection therewith, including legal fees and expert witness costs) (collectively, "Liabilities"), incurred by reason of any negligent or otherwise wrongful act or omission of Consultant, its officers, agents, employees, subconsultants, and subcontractors, or any of them, under or in connection with this Agreement; and Consultant agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against City, its agents, officers, officials, employees and volunteers, or any of them, arising out of, pertaining to, or relating to such negligent or otherwise wrongful act or omission, and to pay and satisfy any resulting judgments.

B. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, professional engineer, or land surveyor (i.e., a "design professional," pursuant to Civil Code § 2782.8(c)), the provisions of this section regarding Consultant's duty to defend and indemnify apply only to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant.

C. If any action or proceeding is brought against Indemnitees by reason of any of the matters against which Consultant has agreed to indemnify Indemnitees as provided above, Consultant, upon notice from City, shall defend Indemnitees at Consultant's expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to Indemnification in order to be so indemnified. The insurance required to be maintained by Consultant shall ensure Consultant's obligations under this section, but the limits of such insurance shall not limit the liability of Consultant hereunder. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

D. The provisions of this section do not apply to claims to the extent occurring as a result of the City's sole negligence, active negligence, or willful acts or misconduct.

E. Duty to Cooperate. Each party shall notify the other party immediately in writing of any claim or damage related to activities or Services performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of all Liabilities arising out of the activities or Services under this Agreement.

F. In the event that Consultant executes any subconsulting agreements in connection with the Services performed under this Agreement, Consultant shall place in all such subconsulting agreements, and cause its subconsultants to agree to, the indemnity and insurance obligations in favor of City and other Indemnitees, as provided herein, in the exact form and substance of those contained in this Agreement.

SECTION 9 – INDEPENDENT CONTRACTOR STATUS

A. Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner or to incur an obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

B. The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of City.

C. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 10 – CONFLICTS OF INTEREST AND ANTI-FRAUD AND ANTI-CORRUPTION POLICIES

A. Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts with the interests of City in the performance of this Agreement.

B. City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related Services for other governmental agencies and private parties. Consultant is aware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

C. Consultant understands and acknowledges City maintains an anti-fraud and anti-corruption policy to protect the City, its operations, and its employees from and against financial risks, operational breaches, and unethical, fraudulent and corrupt activities. Consultant represents and warrants that Consultant, its subcontractor(s) / subconsultant(s) and their respective employees providing Services pursuant to the Agreement are (1) in good standing; (2) have not been previously investigated, convicted, or debarred for fraudulent or corrupt activities; (3) will not participate in fraudulent or corrupt activities, and (4) will take steps to ensure that its employees and subcontractor(s) / subconsultant(s) employees do not participate in any fraudulent or corrupt activities. Consultant acknowledges and agrees further that it has a duty to and will report to City any information or incident(s) about possible fraudulent or corrupt activities Consultant may discover, and will cooperate in any fraud or corruption investigation conducted, with respect to Consultant's service provided pursuant to this Agreement.

SECTION 11 – OWNERSHIP OF DOCUMENTS

A. All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any Services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. When requested by City, but no later than three years after project completion, Consultant shall deliver to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

B. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, improvements, developments, works of authorship, or other products developed or created by Consultant during the course of providing Services (collectively the "Work Product") shall belong exclusively to City. The Work Product shall be considered a "work made for hire" within the meaning of Title 17 of the United States Code. Without reservation, limitation, or condition, Consultant hereby assigns, at the time of creation of the Work Products, without any requirement of further consideration, exclusively and perpetually, any and all right, title, and interest Consultant may have in the Work Product throughout the world, including without limitation any copyrights, patents, trade secrets, or other intellectual property rights, all rights of reproduction, all rights to create derivative works, and the right to secure registrations, renewals, reissues, and extensions thereof.

SECTION 12 – CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

B. Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite such response.

SECTION 13 – SUSPENSION OF WORK

City may, at any time, by ten (10) days written notice suspend further performance by Consultant. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and Consultant shall be paid for Services performed and reimbursable expenses incurred prior to the suspension date.

SECTION 14 – COMPLIANCE WITH LAW

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the Services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 15 – COMPLIANCE WITH CIVIL RIGHTS

During the performance of this contract, Consultant agrees as follows:

A. Equal Employment Opportunity. In connection with the execution of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, ancestry, age, sexual orientation, gender, gender identity and gender expression as protected categories specifically and expressively in that category, physical handicap, medical condition, marital status, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training including apprenticeship.

B. Nondiscrimination Civil Rights Act of l964. Consultant will comply with all federal regulations relative to nondiscrimination to federally assisted programs.

C. Solicitations for Subcontractors including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations, made by Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by Consultant of Consultant's obligations under this Agreement and the regulations relative to nondiscrimination.

SECTION 16 – AUDIT AND INSPECTION OF RECORDS

A. Records of Consultant's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on a generally recognized accounting basis and made available to City if and when required for a period of up to 3 years from the date of Consultant's final invoice.

B. Consultant shall maintain all documents and records prepared by or furnished to Consultant during the course of performing the Services for at least three (3) years following completion of the Services. Such records include, but are not limited to, correspondence, internal memoranda, technical reports and investigations, calculations, books and accounts, accounting records documenting its work under its Agreement, and invoices, payrolls, records and all other data related to matters covered by this Agreement.

C. Consultant shall permit City to audit, examine and make copies, excerpts and transcripts from such records, and the Consultant shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any matter whatsoever for three (3) years after City makes the final or last payment or within three (3) years after any pending issues between City and Consultant with respect to this Agreement are closed, whichever is later.

SECTION 17 – LIMITATION OF LIABILITY

A. Consultant agrees that any liability of City arising in connection with this Agreement shall be limited exclusively to the City-entity identified as the "City" under this Contract. Under no circumstance shall any other City-entity be liable to Consultant under any theory, whether in contract, tort, or otherwise, and Consultant waives unconditionally any such claims. Consultant hereby waives and release other City-entities from any liability under this Agreement.

B. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed hereunder.

SECTION 18 – COOPERATION BY CITY

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit A, "Scope of Services", shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 19 – NOTICES

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by facsimile or first-class mail, addressed as follows:

To City: City Manager
1480 Main Street
St. Helena, California 94574

To Consultant: Brown Armstrong Accountancy Corporation
Lindsey B. McGuire, CPA

4200 Truxton Avenue, Suite 300
Bakersfield, CA 93309

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile, or, if mailed, three (3) days after deposit in the custody of the U.S. Postal Service.

SECTION 20 – TERMINATION

A. City may terminate this Agreement, with or without cause, at any time by giving ten (10) days written notice of termination to Consultant. If such notice is given, Consultant shall cease immediately all work in progress.

B. If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

C. Upon termination of this Agreement by either Consultant or City, all property belonging to City which is in Consultant's possession shall be delivered to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in this Agreement.

SECTION 21 – ATTORNEYS' FEES

If litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys' fees, costs and expenses, in addition to any other relief to which it may be entitled. In addition, any legal fees, costs and expenses incurred to enforce the provisions of this Agreement shall be reimbursed to the prevailing party.

SECTION 22 – ENTIRE AGREEMENT

This Agreement, including the attached Exhibits, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 23 – SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties. However, this Agreement shall not be assigned by Consultant without written consent of the City.

SECTION 24 – CONTINUITY OF PERSONNEL

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the Services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff assigned to perform the Services required under this Agreement, prior to any such performance.

SECTION 25 – DEFAULT

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default and may terminate this Agreement immediately by written notice to Consultant.

SECTION 26 – WAIVER

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 27 – LAW TO GOVERN; VENUE

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Napa. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Northern District of California, in San Francisco.

SECTION 28 – SEVERABILITY

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

SECTION 29 – THIRD PARTY BENEFICIARIES

Consultant's subconsultants shall agree to be bound to the terms of the Agreement to the extent of their scope of Services, including but not limited to, terms regarding indemnity and dispute resolution, and shall agree that City is deemed an express third party beneficiary of their subconsultant agreements. Nothing contained in this Agreement, however, shall operate to confer such or similar rights or benefits on persons or entities not party to this Agreement.

SECTION 30 – STATUTES OF LIMITATION

As between the parties to this Agreement, any applicable statute of limitations for action arising out of, pertaining to, or relating to any act or failure to act in connection with this Agreement shall commence to run on the date of City's issuance of the final Certificate for

Payment, or termination of this Agreement, whichever is earlier, except for latent defects and/or deficiencies, for which the applicable statute of limitation shall begin to run upon discovery of the defect and/or deficiency and its cause.

SECTION 31 – SPECIAL PROVISIONS

This Agreement is subject to the following special provisions: none.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms, conditions, and provisions above stated, the day and year first above written.

Consultant:

By: ______________________
Name: Lindsey McGuire
Title: Partner

City:

By: ______________________
Name: Mark T. Prestwich
Title: City Manager

Approved as to Form:

By: ______________________
Name: Kara K. Ueda
Title: City Attorney

Exhibit A – Scope of Services

Perform professional auditing services for the City of St. Helena (the City) for the three fiscal years ending June 30, 2020 through June 30, 2022, with the option of extending the agreement for an additional two-year period per the proposal dated February 28, 2020.

Revised Exhibit A - Compensation

Schedule of Professional Fees and Expense to Support the Total All-Including Maximum Price

	Hours	Standard Hourly Rates	Quoted Hourly Rates	Total for FY 19/20
Partner	60	$ 210	$ 140	$ 8,400
Manager	59	$ 150	$ 110	$ 6,490
Supervisory Staff	109	$ 110	$ 80	$ 8,720
Staff	120	$ 85	$ 70	$ 8,400
Clerical	5	$ 75	$ 50	$ 250
				$ 32,260

BROWN ARMSTRONG
Certified Public Accountants

Revised Exhibit B - Compensation

All-inclusive Maximum Price by Report	FY 2019/20	FY 2020/21	FY 2021/22	Optional Years FY 2022/23	Optional Years FY 2023/24
State Controller's Reports					
City Annual Report of Finanical Transactions & Streets Report	$ 3,200	$ 3,200	$ 3,200	$ 3,200	$ 3,200
City Audit/CAFR	$ 25,060	$ 28,650	$ 28,650	$ 28,650	$ 28,650
Single Audit	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000
Total	$ 32,260	$ 35,850	$ 35,850	$ 35,850	$ 35,850

BROWN ARMSTRONG
Certified Public Accountants

Attachment 2

CITY OF ST. HELENA

RESOLUTION NO. 2020-

Resolution approving a three-year agreement for Professional Services with Brown Armstrong Accountancy Corporation in the amount of 32,260 for the first year and $35,850 per year for two subsequent years for a total $103,960 over a three-year term for audit services.

RECITALS

A. The City desires to hire a Consultant to furnish professional auditing services for the preparation of a complete set of audited financial statements; and

B. Brown Armstrong Accountancy Corporation has represented that they have the necessary expertise, experience, and qualifications to perform the required duties.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena hereby resolves as follows:

1. Approve the Professional Services Agreement with Brown Armstrong Accountancy Corporation for a total not to exceed amount of $32,260 for the first year and $35,850 per year for two subsequent years for a total $103,960 over a three-year term; and

2. Authorize the City Manager to execute the agreement on behalf of the City.

Approved at a Regular Meeting of the St. Helena City Council on April 28, 2020, by the following vote:

Mayor Ellsworth:

Vice Mayor Dohring:

Councilmember Koberstein:

Councilmember Chouteau:

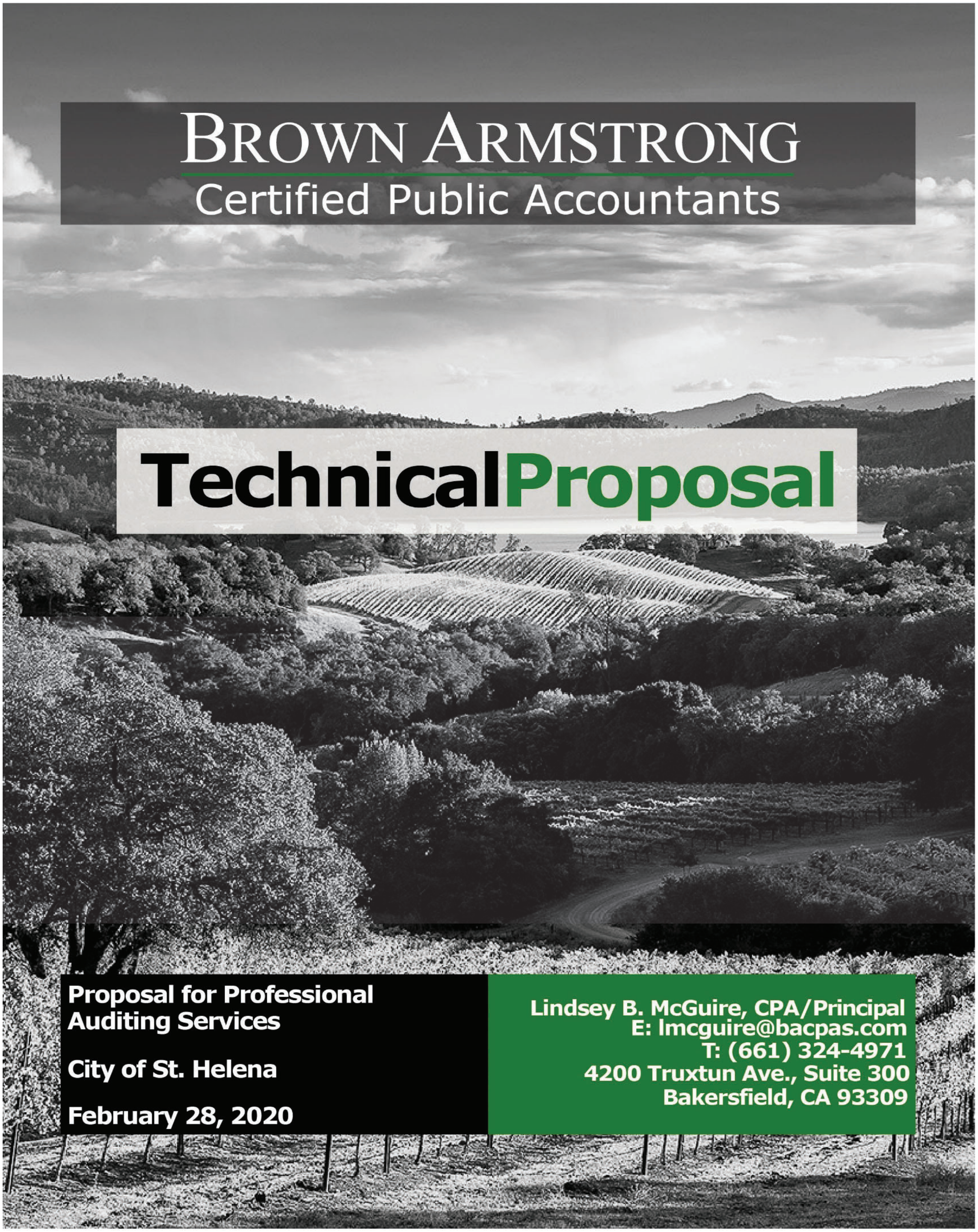
Councilmember Knudsen:

APPROVED: ATTEST:

Geoff Ellsworth, Mayor

Cindy Tzafopoulos, City Clerk

Attachment 3



Brown Armstrong
Certified Public Accountants

Technical Proposal

Proposal for Professional Auditing Services

City of St. Helena

February 28, 2020

Lindsey B. McGuire, CPA/Principal
E: lmcguire@bacpas.com
T: (661) 324-4971
4200 Truxtun Ave., Suite 300
Bakersfield, CA 93309

BROWN ARMSTRONG
Certified Public Accountants

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BROWN ARMSTRONG
CERTIFIED PUBLIC ACCOUNTANTS

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4200 TRUXTUN AVENUE
SUITE 300
BAKERSFIELD, CA 93309
TEL 661.324.4971
FAX 661.324.4997
EMAIL info@bacpas.com

FRESNO OFFICE
10 RIVER PARK PLACE EAST
SUITE 208
FRESNO, CA 93720
TEL 559.476.3592

STOCKTON OFFICE
1919 GRAND CANAL BLVD
SUITE C6
STOCKTON, CA 95207
TEL 888.565.1040

WWW.BACPAS.COM

BROWN ARMSTRONG
Certified Public Accountants

Transmittal Letter
February 28, 2020

Cindy Tzafopoulos
Office of the City Clerk
City of St. Helena
1572 Railroad Avenue
St. Helena, California 94574

Dear Ms. Tzafopoulos;

Brown Armstrong Accountancy Corporation (Brown Armstrong) is pleased to submit this proposal to perform professional auditing services for the City of St. Helena (the City) for the three fiscal years ending June 30, 2020 through June 30, 2022, with the option of extending the agreement for an additional two-year period. This proposal will demonstrate to you that our firm is uniquely qualified to serve as your auditors.

We have thoroughly read your request for proposal, understand the work to be done, and feel that we are the best candidate to meet your needs. We are committed to performance and efficient completion of this audit on or before the dates specified in your request for proposal. We are very proud of our timely audit delivery with all of our other municipal clients throughout California.

At Brown Armstrong, we understand that your timeframes must be met. As one of our key strengths, we develop an approach by which specific deliverables are achieved within set timeframes. We will work with you to develop a timeline that meets your specific requirements, meeting dates, field work dates, status reporting dates, and final report dates.

Our firm partners and managers are actively involved in trade associations such as the Government Finance Officers Association (GFOA) and the California Society of Municipal Finance Officers (CSMFO). Several of our Partners are pro bono recognized reviewers for the GFOA Certificate of Achievement Award Committee. We enthusiastically contribute our time to this Award process because as we review Comprehensive Annual Financial Reports (CAFRs) from all across the United States, we maintain current, up-to-date knowledge of municipal accounting principles. Beyond the activity in trade associations, we offer our clients the education and organization to prepare themselves for upcoming regulation and compliance changes.

Our mission is "to exceed expectations and provide opportunities" for our clients. Our sixty-seven (67) employees lead us in achieving this mission by working with our clients individually to overcome any challenges with a special combination of knowledge and experience in city audits. We have audited numerous agencies similar to yours for four decades. We are experts in governmental accounting and auditing and have assisted numerous clients in receiving the GFOA Certificate of Achievement of Excellence in Financial Reporting. Brown Armstrong has been in business for over 44 years. Over the past five (5) years, we have performed over 900 audits of public agencies.

Our approach, people, commitment to timelines, and dedication to financial reporting excellence makes Brown Armstrong the best-qualified firm to meet your needs.

Brown Armstrong is independent with respect to the City and is an equal opportunity employer.

I will be the engagement partner and primary liaison responsible for all services provided to the City, and I am entitled to represent the firm, empowered to submit this bid, and authorized to negotiate and sign a contract with the City. I can be contacted at 4200 Truxtun Ave, Suite 300, Bakersfield, CA 93309, Tel (661) 324-4971, Fax (661) 324-4997, or by email at lmcguire@bacpas.com.

I confirm that the information provided in this proposal is accurate and that the terms and conditions of this proposal are a firm and irrevocable offer for one-hundred and eighty (180) days. Please contact me if I can clarify or expand on any item contained in this proposal. We are available for an oral presentation, if requested. We appreciate the opportunity to provide you with the outstanding service you expect and deserve.

Sincerely,

BROWN ARMSTRONG
ACCOUNTANCY CORPORATION

By: Lindsey B. McGuire, CPA
Principal

California Corporation Number: C0808648
Incorporation Date: February 10, 1977
Registered as:
Brown Armstrong Accountancy Corporation
4200 Truxtun Avenue, Suite 300
Bakersfield, CA 93309
Title of person signing on behalf of the corporation: Principal

TECHNICAL PROPOSAL

Independence

Our firm, its shareholders and employees are independent of the City of St. Helena (the City) as defined by auditing standards generally accepted in the United States of America, and the General Accounting Office's *Government Auditing Standards*.

We have had no professional relationships involving the City for the past five (5) years. We do not have a conflict of interest relative to performing the proposed audit. In the event our firm is to enter into any professional relationships during the period of our agreement, we will provide the City with written notice of this fact.

We understand that the services performed by us are in the capacity of independent contractors and not as an officer, agent, or employee of the City of St. Helena.

License to Practice in California

Our firm, the engagement partner, and all assigned key professional staff are properly licensed to practice public accounting in the State of California and are in good standing with all licensing agencies.

Firm Qualifications and Experience

Our firm had its roots in the late 1960's when founders Peter C. Brown and Burton H. Armstrong began their public accounting careers with Big Eight international accounting firms. Brown formed a local accounting firm in 1974 and was joined in 1985 by Armstrong to form a premier public accounting firm. Now, with sixty-seven (67) highly skilled employees, Brown Armstrong is a local accounting firm and continues its growth by offering auditing, tax, accounting, consulting, and assurance services to governmental entities, nonprofits, corporations, partnerships and individuals.

The firm currently employs sixty-seven (67) people as follows:

Our Staff		Governmental Staff	
Partners	9	Partners	6
Shareholders in Training	2	Shareholders in Training	2
Managers	7	Managers	4
Seniors	4	Seniors	3
Supervisors	6	Supervisors	3
Staff Accountants	18	Staff Accountants	17
Support Staff	21	Support Staff	3
Total	67	Total	38

* Indicates employees involved in providing services to local governments.

All staff assigned to this engagement will be employed on a full-time basis. We are not proposing as a joint venture or consortium.

We have three (3) offices located throughout the state of California. Our main office is located in Bakersfield, California. We have additional offices in Fresno and Stockton to better serve our client's needs. All of the work performed on this engagement will be from our Bakersfield and Stockton offices. The Stockton office has one (1) Partner, one (1) Manager, and two (2) Staff Accountants. The Fresno office has one (1) Manager, one (1) Senior, and four (4) Staff Accountants. The remaining staff as listed above are located in the Bakersfield office. The Stockton and Fresno offices only perform audit services while the Bakersfield office performs audit, tax, accounting, bookkeeping, consulting, and assurance services.

TECHNICAL PROPOSAL

External Quality Control Review Report

As part of our commitment to quality control, our firm is a member of the Center for Public Firms Auditors Section (Center) of the American Institute of Certified Public Accountants (AICPA). We have completed several External Quality Control reviews under the AICPA's guidance, all of which included one or more governmental audits. Exhibit I of this proposal contains a copy of our most recent report. As indicated in that report, our Firm received a peer review rating of a "pass," which is the highest rating available.

Desk or Field Reviews and Disciplinary Actions

Our firm has been subjected to one field review during the past three years. All of our reports are subjected to annual desk reviews by federal and state cognizant agencies. All of our reports for the past three years were accepted by these agencies. We have had no disciplinary action taken against the Firm or any of its members nor do we have any actions pending at the date of this proposal. Single audit reports are filed annually with the Federal Audit Clearinghouse. All of our reports are desk reviewed by the California State Controller's Office (SCO) every year.

Firm Assigned Responsibly to the Audit

Our firm has extensive experience in audits of local governments, having performed over 900 audits of public agencies over the past five (5) years. Several of these are local government agencies with a population of over 50,000 and over $100 million in general governmental revenues. We have also performed Single Audits for most of these agencies.

Recent County and City client's serviced by Brown Armstrong are as follows:

*County of Fresno	2012-Present	*City of Bakersfield	1999-Present
*County of Kern	1989-2019	*City of Fresno	2015-Present
County of Merced	2012-Present	*City of Tulare	1999-Present
*County of Napa	2016-Present	*City of Laguna Woods	2018-Present
*County of Riverside	2014-Present	*City of Paso de Robles	2019-Present
*County of Santa Barbara	2007-2019		
*County of Santa Cruz	2014-Present		
*County of Stanislaus	2007-2018		
*County of Tulare	2012-Present		
*County of San Luis Obispo	2015-2019		

Note that an * indicates a Government Finance Officers Association (GFOA) Certificate of Achievement in Financial Reporting winner.

The following is a list of the most significant engagements performed in the last five (5) years that are similar to your City's engagement. All clients listed below may be contacted as references. All CAFRs and financial statements listed in the scope of services below were prepared in conformance with GAAP requirements. All engagements listed received the CSMFO and GFOA award and are in conformance with the GASB 34 requirements:

TECHNICAL PROPOSAL

City of Fresno	2015-Present
Scope of Work:	CAFR/Single Audit/Airport PFC, Health and Welfare Audit, NTD Reporting
Engagement Partners:	Eric H. Xin, CPA, MBA/Rosalva Flores, CPA
Total Hours:	2,500
Contact:	Michael Lima, Finance Director/Controller (559) 621-7006

Link to final audit report:
https://www.fresno.gov/finance/wp-content/uploads/sites/11/2020/01/FY19-CITY-OF-FRESNO-CAFR-Secured.pdf

City of Tulare	1999-Present
Scope of Work:	Assistance with drafting the CAFR/Single Audit/RDA Successor Agency/Measure R/TDA
Engagement Partner:	Thomas M. Young, CPA
Engagement Manager:	Melissa Cabezzas, CPA
Total Hours:	1,000
Contact:	Darlene Thompson, Finance Director (559) 684-4255

Link to final audit report:
https://www.tulare.ca.gov/home/showdocument?id=13751

City of Bakersfield	1990-Present
Scope of Work:	CAFR/Single Audit/GANN Limit/Prop 10/Agreed Upon Procedures/RDA/Measure N
Engagement Partner:	Eric H. Xin, CPA, MBA
Engagement Manager:	Melissa Cabezzas, CPA
Total Hours:	800
Contact:	Randy McKeegan, Finance Director (661) 326-3030

Link to final audit report:
https://bakersfieldcity.us/civicax/filebank/blobdload.aspx?BlobID=34085

City of El Paso de Robles	2019-Present
Scope of Work:	CAFR/Single Audit/GANN Limit/TDA/SCO reports
Engagement Partner:	Lindsey B. McGuire, CPA
Engagement Manager:	Melissa Cabezzas, CPA
Total Hours:	400
Contact:	Ryan Cornell Interim Director of Administrative Services (805) 237-3999 ext. 6650

Link to final audit report:
https://www.prcity.com/ArchiveCenter/ViewFile/Item/891

City of Laguna Woods	2018-Present
Scope of Work:	Assistance with drafting the CAFR/Single Audit/GANN Limit
Engagement Partner:	Lindsey B. McGuire, CPA
Engagement Manager:	Melissa Cabezzas, CPA
Total Hours:	400
Contact:	Elizabeth (Liz) Torres Administrative Services Director/City Treasurer (949) 639-0555

TECHNICAL PROPOSAL

Link to final audit report:
https://www.cityoflagunawoods.org/wp-content/uploads/2019/12/Comprehensive-Annual-Financial-Report-FY-2018-19.pdf

A summary of our most recent governmental audit experience is stated at Exhibit II.

Partner, Supervisory, and Staff Qualifications and Experience

The City requires auditors who can quickly identify and understand the pertinent issues and promptly provide assistance whenever and wherever needed. This cannot be accomplished without a comprehensive knowledge of operations. Brown Armstrong has assembled a key group of professionals that possess a firm grasp of the subject matter, as well as the experience, confidence, and friendliness you deserve. Our staff will be there when you need them, and they will be continually involved in the audit procedures. This will allow you to have access to decision makers and the resources you need at all times.

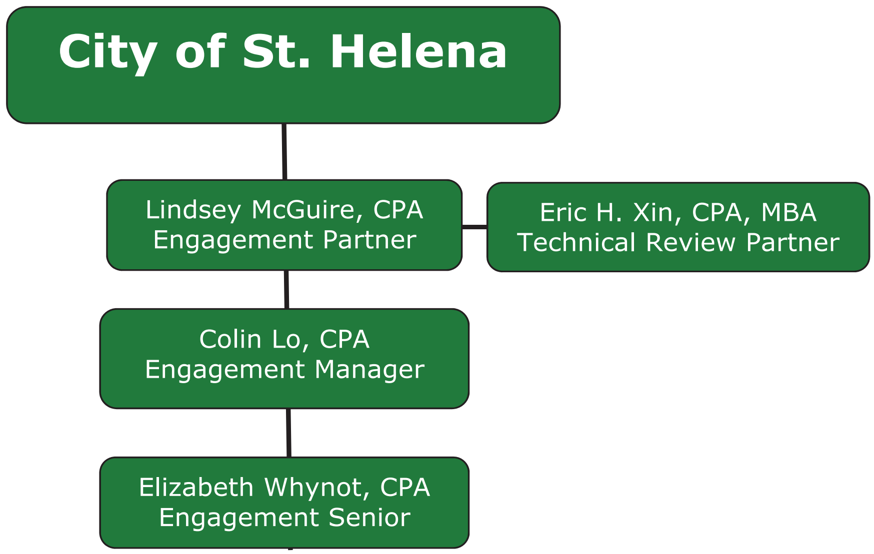
When you choose Brown Armstrong for your auditing services, you aren't just choosing an accountant; you're choosing a resource and an expert. You don't need to dread your upcoming audit, the audit team assigned to your engagement will not only meet the deadlines you have in place, but will work with you to keep you current on the latest regulations. Our professional auditing staff is experienced in working with clients in all levels of the public sector, but the team we have chosen for you have specific skills that make them the best fit for your needs.

From our governmental audit staff of thirty-eight (38), we have assembled an audit team consisting of members who are extremely qualified to perform your audit. All team members notated as a CPA are registered or licensed to practice as a certified public accountant in California. We have crafted expertise in auditing the public sector since the birth of the company. We offer unmatched customer service, reliability, and quality. Through tireless planning, relationship building, and knowledge of the realm, we are dedicated to serving our clients and exceeding their needs and expectations. Additionally, we have a team of two (2) in our financial reporting department that solely work on financial statement preparation, formatting, and proofreading to ensure the finest product is produced for your City.

TECHNICAL PROPOSAL

Below is an organizational chart of the proposed engagement team structure. Resumes and continuing professional education information for these individuals can be found on the following pages.

Professional Audit Services



Continuing Professional Education

Each year Brown Armstrong organizes four days of CPE seminars in Bakersfield (two, two-day sessions covering 32 hours of CPE) for its professional staff and clients' personnel. One of the two-day CPE seminars is in the middle of January. It covers accounting and auditing updates relating to for-profit businesses (FASB, PCAOB, and SAS). Another two-day CPE seminar covering primarily governmental accounting and auditing updates (GASB, Yellowbook, Single Audit) is typically in May. The course material covers emerging issues, current pronouncements, auditing standards, risk alerts, information systems, reporting issues, and other topics of interest which concern auditing and accounting with an emphasis on governmental issues. Course materials are prepared by professional lecturers, our partners, managers, and seniors based on their own experience, research, and learning. Last year's attendance included Brown Armstrong professionals and nearly 60 clients and their accounting staff. All staff assigned to governmental entities meets the CPE requirements in accordance with *Government Auditing Standards*.

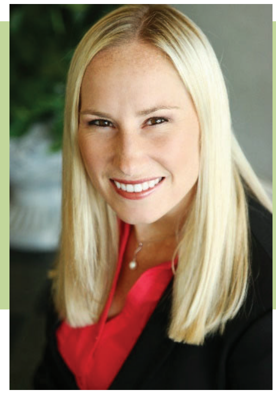
Staff Continuity

The engagement partner, manager, other supervisory staff, and specialists may be changed if those personnel leave the firm, are promoted or assigned to another office. These personnel may also be changed for other reasons only with the express prior written permission of the City. We understand that the City retains the right to approve or reject replacements. Other audit personnel may be changed at the discretion of our Firm, provided that replacements have substantially the same or better qualifications or experience. Every effort will be made to ensure continuity of audit personnel and allow for a smoother audit process during the term of the engagement.

Our firm policy is to provide staff consistency on engagements; however, having a large public sector focus allows us to provide options for staff rotation if requested.

TECHNICAL PROPOSAL

Lindsey B. McGuire, CPA
Engagement Partner



Lindsey is the engagement partner of the project. She has more than 9 years of governmental auditing experience and 17 years of auditing experience. She has been with the firm since August of 2012, joining the firm after 6 years at KPMG Orange County and 4 years of additional accounting and auditing experience before working at KPMG. Her primary business focus is governmental entities audit and accounting. Her audit specialties include counties, cities, special districts, and retirement systems. She also enjoys presenting classes at SACA and CALAPRS.

Lindsey has always ensured that we have the highest level of audit and consulting services for all of her clients. She is actively involved in a number of professional organizations such as the American Institute of Certified Public Accountants and the California Society of Certified Public Accountants.

Roles and Responsibilities

- Overall responsibility for the audit and delivery of client service
- Approves the overall audit risk assessment and audit procedures
- Communicates with executive management, and members of the City, regarding audit planning, fieldwork and reporting
- Available throughout the year to ensure proactive issue identification and service delivery

Education

Azusa Pacific University, 2006

Bachelors of Science Degree in Accounting

Clients Served

*Only chosen clients are listed

City
City of Bakersfield
City of Laguna Woods
City of Paso Robles
City of Tulare
City of Visalia
City of Fresno

Counties
County of Napa
County of Riverside
County of Tulare
County of Kern
County of Santa Barbara
County of Santa Cruz
County of San Luis Obispo
County of Merced
County of San Joaquin

Retirement Systems
Public Employees Retirement System of Nevada
San Joaquin County Employees' Retirement Association
San Luis Obispo County Pension Trust

Eric H. Xin, CPA, MBA
Technical Review Partner

Eric Xin, a partner at Brown Armstrong's Bakersfield office, will be the Technical Review partner for this engagement. He has over 22 years of experience in auditing governmental entities and brings expertise in many areas. His primary audit focus is in counties, cities, school districts, and special districts.

Not only does he have experience in the audit process, but he will be an integral member of the team when it comes to keeping standards up to date. He is a reviewer for the GFOA Certificate of Achievement Program and reviews the Governmental Accounting Standards Board (GASB) advisory committees' latest pronouncements.

Roles and Responsibilities

- Performs a second review of the financial statements and other reports to provide additional assurance that the audit confirms to the firm and professional standards
- Available to assist the team with technical matters

Education

Nankai University, China,
July 1989
Bachelors of Science, Business

California State University,
Bakersfield, June 1996
Masters of Business Administration

Clients Served
*Only chosen clients are listed

Cities
City of Fresno
City of Bakersfield
City of Visalia
City of Tulare
City of Santa Barbara
City of Modesto
City of Delano

Counties
County of Kern
County of Santa Barbara
County of Merced
County of Fresno
County of Riverside
County of Stanislaus
County of Tulare
County of San Joaquin
County of Kings

Special Districts
Westside Health Care District
Los Osos Community Services District
San Joaquin Valley Air Pollution – Control District

TECHNICAL PROPOSAL

Colin Lo, CPA, MAcc
Engagement Manager

Education
University of the Pacific, 2014

Masters of Accounting
Bachelor of Science in Accounting

Clients Served
*Only selected clients are listed

Cities
City of Fresno
City of Burlingame

Counties
County of Napa
County of Fresno
County of Santa Cruz
County of San Joaquin
County of Stanislaus

Special Districts and Transits
Central Contra Costa Transit Authority
East Bay Regional Park District
Fresno Metropolitan Flood Control District
San Joaquin Council of Governments
South San Joaquin Irrigation District

Retirement Systems
Marin County Employees' Retirement Association
Mendocino County Employees' Retirement Association
Merced County Employees' Retirement Association
Sacramento County Employees' Retirement System
Sonoma County Employees' Retirement Association

Colin has over 5 years of governmental auditing experience and will be the engagement manager. He works in our Stockton office. He has shown excellent performance in leading fieldwork, compiling and preparing financial statements, performing tests and analytical reviews, as well as creating strong working relationships with clients. He has executed audits in the past with little issues and is great at maximizing efficiency while performing audit work. He is actively involved in a number of professional organizations such as the American Institute of Certified Public Accountants and the California Society of Certified Public Accountants

Roles and Responsibilities
- Assists in the coordination of planning, fieldwork and reporting matters
- Leading fieldwork audit team
- Reviews, analyzes, and documents client internal controls
- Completes complex audit procedures.
- Researches and performs tests and analytical reviews on issues under direction of the Engagement Partners
- Reviews financial statements and workpapers before sending the drafts to Engagement Partners for further review

Elizabeth Whynot, CPA
Engagement Senior

Education
Loyola Marymount University
Master of Science in Accounting

California Polytech State University,
San Luis Obispo
Bachelor of Science in Business Administration

Clients Served
*Only chosen clients are listed

Cities
City of Bakersfield
City of Tulare

Counties
County of Stanislaus
County of Merced
County of Napa
County of San Luis Obispo

School Districts
Kern County Superintendent of Schools

Nonprofit
Hoffman Hospice
Bethany Services, Inc.
Community Action Partnership of Madera County
First 5 Sonoma County
Buck Owens Private Foundation

School Districts
Kern County Superintendent of Schools

Retirements
Tulare County Employees' Retirement Association
Fresno County Employees' Retirement System
Sacramento County Employees' Retirement System

Special Districts
Mojave Public Utility District
Buena Vista Water Storage District

Transits
Tulare Council of Governments

Elizabeth is an audit senior with over four (4) years of auditing experience. She has shown excellent performance in leading fieldwork, compiling and preparing financial statements, performing tests and analytical reviews, as well as creating strong working relationships with clients. She has executed audits in the past with little issues and is great at maximizing efficiency while performing audit work.

Roles and Responsibilities
- Leading fieldwork audit team
- Reviews, analyzes, and documents client internal controls
- Completes complex audit procedures
- Researches and performs tests and analytical reviews on issues under direction of the Engagement Manager
- Reviews financial statements and workpapers before sending the drafts to Engagement Manager and Partners for further review

TECHNICAL PROPOSAL

Continuing Professional Education

*Relevant Education Listed

Lindsey B. McGuire, CPA

Applying Key Provisions of Risk Assessment Standards to Improve Audit Effectiveness and Efficiency, 2020
Recent Changes to Key Topics in Accounting, Auditing, and Attest, 2020
It's Here! Fiduciary Activities Implementation Considerations
GASB Implementation Guides for Fiduciary Activities and Leases, 2019
2018/2019 Federal and California Tax Update - Part I, 2019
California Ethics and Fraud Case Studies, 2019
Joint Interest Accounting Stories from the Trenches, 2018
Avoiding Problems in Conducting Single Audits, 2018
Governmental Accounting and Auditing Update, 2108
State Association of County Auditors Conference, 2018
Risk Assessments, 2018
Accounting Industry Update, 2018
Ethical Responsibilities for CPAs, 2018
What Every CPA Should Know About Fraud, 2018
Common Financial Statement Deficiencies, The Financial Reporting Model Project, and GASB Agenda, 2017
GASB 74/75 – OPEB and GASB Update, 2017
Annual Conference of the State Association of County Auditors, 2017
GASB 75 OPEB Implementation: Accounting and Auditing Considerations, 2017
GAAP Update and Fraud – Practical Approach to Prevention and Detection, 2017
Single Audits: A Case Study Approach, 2017

Eric H. Xin, MBA, CPA

Applying Key Provisions of Risk Assessment Standards to Improve Audit Effectiveness and Efficiency, 2020
Recent Changes to Key Topics in Accounting, Auditing, and Attest, 2020
Single Audit Lightning Round, 2019
GAA Committee Meeting October, 2019
GASB Implementation Guides for Fiduciary Activities and Leases, 2019
The New Yellow Book: Government Auditing Standards, 2018 Revision, 2019
Governmental Accounting and Auditing Update, 2019 2019 GAQC Annual Update Webcast, 2019
2018/2019 Federal and California Tax Update - Part I & II, 2019
California Ethics and Fraud Case Studies, 2019
State Controllers Conference with County Auditors, 2018
Governmental Accounting and Auditing, 2018
Avoiding Problems in Conducting Single Audits, 2108
Governmental Accounting and Auditing Update, 2018
2018 GAQC Annual Webcast Update, 2018
State Association of County Auditors Conference, 2018
Accounting Industry Update, 2018
Ethical Responsibilities for CPAs, 2018
What Every CPA Should Know About Fraud, 2018
Spidell's 2017/18 Federal and California Fall Tax Update Seminar, 2017
OPEB White Paper, GASB Update, and Enterprise Fraud Accounting, 2017
2017 EMB Compliance Supplement and Single Audit Update, 2017
Common Financial Statement Deficiencies, The Financial Repotting Model Project, and GASB Agenda, 2017
GASB 74/75 – OPEB and GASB Update, 2017
School Districts Conference Webcast, 2017
2017 GAQC Annual Update Webcast, 2017
GAAP Update - Practical Approach to Prevention and Detection, 2017
Single Audits: A Case Study Approach, 2017

Colin Lo, CPA, MAcc

Applying Key Provisions of Risk Assessment Standards to Improve Audit Effectiveness and Efficiency, 2020
Recent Changes to Key Topics in Accounting, Auditing, and Attest, 2020
Leadership in Our Changing Times 4, 2019
Experienced In-Charge/Senior: Auditing Estimates and Fair Value Measurements-Part I, 2019
Experienced In-Charge/Senior: Auditing Revenue Recognition, 2019
Experienced In-Charge/Senior: Complex Topics in an Audit, 2019
Experienced In-Charge/Senior: Concluding the Audit-Reporting and Engagement Administration, 2019
Experienced In-Charge/Senior: Auditing Estimates and Fair Value Measurements-Part II, 2019
Experienced In-Charge/Senior: Engagement Management and Supervision, 2019
Experienced In-Charge/Senior: Overview of Financial Reporting, 2019
Experienced In-Charge/Senior: Risk Assessment and Advanced Internal Controls, 2019
Experienced In-Charge/Senior: Using a Service Organization and the Use of a Specialist, 2019
The New Yellow Book: Government Auditing Standards, 2018 Revision, 2019
Governmental Accounting and Auditing Update, 2019
New Hire Training - Day 4, 2019
New Hire Training - Day 3, 2019
California Ethics and Fraud Case Studies
GAAP Update, 2019
Spidell's 2018/2019 Federal and California Tax Update, 2019
Avoiding Problems in Conducting Single Audits, 2018
Governmental Accounting and Auditing Update, 2018
Accounting Industry Update, 2018
What Every CPA Should Know About Fraud, 2018
Emerging Leaders Certificate Program, 2018

Elizabeth Whynot, CPA

Applying Key Provisions of Risk Assessment Standards to Improve Audit Effectiveness and Efficiency, 2020
Recent Changes to Key Topics in Accounting, Auditing, and Attest, 2020
Audit Watch Level 3: Beginning In-Charge Training, 2019
The New Yellow Book: Government Auditing

Standards, 2018 Revision, 2019
Governmental Accounting and Auditing Update, 2019California Ethics and Fraud Case Studies, 2019
GAAP Update, 2019
Trends in Governmental Accounting, 2018
Accounting for Governmental Assets and Liabilities, 2018
Spidell's 2018/2019 Federal and California Tax Update, 2018
Real Estate Professionals: Do They Really Exist?, 2018
Accounting and Auditing Update Retirements, 2018
and Detection, 2017
Single Audits: A Case Study Approach, 2017
Accounting Industry Update, 2018
Ethical Responsibilities for CPAs, 2018
What Every CPA Should Know About Fraud, 2018
Spidell's 2017/18 Federal and California Fall Tax Update Seminar, 2017
2017 Audit Staff Training, 2017
Common Financial Statement Deficiencies, The Financial Reporting Model Project, and GASB Agenda, 2017
GASB 74/75-OPEB and GASB Update, 2017
GAAP Update and Fraud - Practical Approach to Prevention

Specific Audit Approach

Our audits will be conducted in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States, and will be fully compliant with all current Governmental Accounting Standards Board (GASB) pronouncements. If applicable, we will also perform a single audit of the expenditures of federal grants in accordance with provisions of the Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).

We will perform agreed-upon procedures in accordance with attestation standards established by the American Institute of Certified Public Accountants (AICPA) pertaining to the City's appropriations limit calculations.

We will assist in preparation of the Comprehensive Annual Financial Report (CAFR) to ensure compliance with the reporting requirements for a Certificate of Achievement for Excellence in Financial Reporting issued by the Government Finance Officers Association (GFOA). We will be available throughout the year for general consultation regarding matters of accounting and new GASB implementations.

The methods employed to formulate our auditors' opinions consist of several functions. These functions and the related time requirements, as well as the timing are:

Planning

We will begin the planning of the engagement upon notification of award of the contract. We will review the City's budget, prior year financial statements, procedural manuals, review minutes and other planning procedures. From the information we gather, we will develop a preliminary audit strategy. During planning, we will form an audit risk based on our review. A pre-audit conference will be scheduled during the first day of interim.

Information Technology within the Financial Statement Audit

Brown Armstrong utilizes the risk-based audit approach that recognizes the pervasiveness of Information Technology (IT) within business processes and financial transaction cycles. The first step is determining the level of IT sophistication, ranking entities by high, medium and low sophistication. High and Medium sophistication requires the assistance of a subject matter expert to evaluate and test the Information Technology and related controls. Once we have identified the relevant information systems we will test the IT General Controls surrounding the system to determine that the system can be relied upon. We will then test relevant application controls and integrate that control assessment with our manual control testing and risk assessment process. We also may utilize various Computer Assisted Audit Tools to improve both the efficiency and effectiveness of our substantive procedures.

In addition to the procedures noted above, we will provide recommendations to management on how to improve or streamline internal controls as they relate to your deployed Information Technology.

Extent of Electronic Data Processing (EDP) Software in the Engagement

Each staff person has access to a personal computer, and has knowledge of CCH Pfx Engagement software we have purchased for auditing municipalities and report writing. We use this software in the beginning, inputting all prior year actual numbers, and the client current year budget, including amendments. We then input year-to-date numbers and run analytical work at the end of the audit comparing appropriation-expenditure numbers to prior year and budget amounts. All significant differences are investigated. Our software is capable of complete report writing, including combining statements and footnotes.

Identification of Computer Software

Brown Armstrong uses Windows Server 2019 virtual servers in a VMWare environment hosted on redundant Cisco UCS physical servers. We use Microsoft Exchange Server 2010 for our email, and we have a centralized data storage system running on a Netapp disk array. Our network backbone is comprised of Cisco routers and switches and we have WAN connections to our satellite offices. Our servers are on protected power and have redundant drive arrays to eliminate any single points of failure. All of our data is backed up using Zetta.net, which is HIPAA, FINRA, FIRPA, ITAR, SEC 17A-4 and SOX compliant. In addition, our Information technology system is reviewed (peer review) by a third-party IT consulting firm on a bi-annual basis to ensure we are up-to-date on security and efficiency issues.

All key personnel assigned to your audit have computer application skills, training, and experience in auditing computerized accounting systems.

In 2007, Brown Armstrong switched to paperless audits utilizing CCH Pfx Engagement software. Our staff is equipped with portable computer equipment that enables them to work effectively from the field. Our laptops have both hard drive encryption technology and tracking software to help us locate them in the case they are lost or stolen, and client data is regularly cleared off the local drives after jobs are finished. The data on each laptop in our main auditing software (CCH Pfx Engagement) is synched both with the central file room in our office and between each laptop in the field so there are multiple copies of the data available in case a laptop fails.

Additionally, Brian Letlow, our IT Director, provides a wide range of computer support to the Firm and its clients. Mr. Letlow is a Certified Network Engineer (CNE) and Certified Network Administrator (CNA).

Study and Evaluation of Internal Controls

This is the cornerstone of the engagement. Internal accounting control generally comprises the plan of organization and procedures and records that are concerned with the safeguarding of assets and reliability of financial records.

We will begin by preparing memoranda to fully describe all financial systems. We will then review the documents to isolate the significant strengths and weaknesses that would affect the extent of substantive audit procedures to be employed. Each strength is then tested and the results subjected to evaluation. These evaluations assist us in determining the amount of reliance we can place on those significant strengths we have identified.

Test of Controls and Compliance

Based on our preliminary assessment of the internal control structure and risk factors, we anticipate performing internal control testing in the following areas:

Review Area	Sample Size
Receipts and revenues	25-60
Disbursements and accounts payable	25-60
Payroll and related liabilities	25-60
Controls over requirements of federal and state grants	25-60 (per major program)

Sample sizes will depend on the extent of reliance placed on the given sample and the volume of transactions involved. Statistical and random sampling will be used to ensure that all samples truly represent the population being tested. We will use Excel and audit command language (ACL) software and your on-site automated data system on an "inquiry only" basis for purposes of identifying the postings of items selected for testing. Findings will be discussed with management for accuracy and the process of recommendations immediately started.

At this point we make adjustments to our auditing plan to compensate for the significant strengths and weaknesses thus identified and substantiated.

Substantive Tests

In this portion of the examination, we obtain sufficient competent evidential matter through inspection, observation, inquiries and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit. The extent and timing thereof is determined by the results of our study and evaluation of internal control.

Compliance Tests

Concurrent with the substantive testing, we perform the compliance tests which have been designated to meet the objectives stated by the U.S. Comptroller General of the Office of Management and Budget and the State Controller’s Office.

Included in this auditing phase are all procedures relating to Federal assisted programs. These procedures would include:

- Setting of auditing scope with cognizant agency and obtaining approval of reporting formats (previously noted under the "planning" discussion).

- Review and testing of internal control, practices and policies designed to provide reasonable assurance that the City’s controls relating to the management of federal financial assistance programs are functioning and are in compliance with applicable laws and regulations.

- For major federal assistance programs: reviewing cash receipts to ascertain agreement with grant terms; reviewing program funding for matching requirements; testing a representative sample of disbursements for compliance; tracing financial data to submitted reports.

- Summarizing financial data for final reports.

Analytical Procedures

We will perform analytical procedures during all phases of our audit (audit planning, field work and audit completion). We will build our expectations based on historical experience and known current year factors and will investigate significant departures at the financial statement level to decide if we can reach our comfort level for certain audit areas. We will also perform substantive analytical procedures, where we use analytical procedures as the principal substantive test of a significant financial statement assertion, based on the auditor's judgment and on the expected effectiveness and efficiency of available procedures.

Approach to Determine Applicable Laws and Regulations Subject to Audit Test Work

Our experience with various municipal audit clients, most with federal or state monies, has created a reservoir of knowledge of many laws and regulations. However, by inquiry and observation, we will determine all major programs participated in by the City. We then consult the actual law, the Federal Register, Catalogue of Federal programs, or the California State Controllers guide to State and Federal Compliance to obtain understanding of the requirements of the law. For major programs, we specifically test those requirements by inspection of documents.

Approach for Drawing Audit Samples for Compliance Tests

Compliance test samples will be drawn usually by statistical sampling techniques. The universe from which the sample is drawn begins at the beginning of the year under audit, and ends with the end of that year. If a null is picked, it is replaced in draw sequence until sufficient live items comprise the planned sample size.

We will request the City to provide us with all disbursements and payroll data files for the year in spreadsheet format from which to draw our samples.

Supervision and Review

The review process is constant throughout the engagement. Each working paper prepared by a staff accountant is reviewed by the engagement manager. All working papers are then reviewed by the engagement partner.

To be effective, the reviews must be conducted as the engagement progresses and as each important step is completed. Our procedure is for the audit manager and partner to review the work at the conclusion of each significant task through the engagement as an integral quality control procedure. The financial statements and report thereon are then reviewed by an audit partner not directly involved in the engagement for concurrence of opinion prior to release of the report to the City.

If conditions are discovered which lead to the belief that material errors, defalcations or other irregularities may exist, or if any other circumstances are encountered that require extended services, we will promptly advise you. No extended services will be performed unless they are authorized in the contractual agreement or in an amendment to the agreement.

Exit Conference with Management

An important process in our audit plan is to hold an exit conference with management. The purpose of the exit conference is to discuss the results of the audit, communicate to management any reportable conditions identified during our audit to allow management to respond to the finding(s) and discuss the draft report and timeline of the final delivery of the reports.

TECHNICAL PROPOSAL

Expression of Opinion - Our Primary Purpose

Our final review of the working papers includes a determination as to whether or not we have a basis to support our conclusion that the financial statements are presented fairly, in conformity with generally accepted accounting principles applied on a consistent basis, and that they contain adequate informative disclosure.

As a normal part of any examination we conduct, a management letter is prepared which identifies observations we have made in the course of our work with respect to accounting practices which are not generally accepted, deficiencies in internal control and operational inefficiencies, if any. At appropriate times operating personnel are consulted to ensure the correctness of our understanding. These findings are then communicated in writing to management and the Board together with our specific recommendations for improvements in accounting practices, operating practices and internal control procedures.

As a result of the aforementioned procedures, we will express an opinion as to the fair presentation of the financial statements of the City in accordance with generally accepted accounting principles applied on a basis consistent with the preceding year.

Recent GASB Pronouncements and AICPA SAS's

Our staff participates in a number of organizations to keep current on professional standards and we host annual two-day governmental accounting and auditing continuing education seminars on the most recent governmental accounting pronouncements for clients and staff to ensure our staff has the knowledge and is aware of the latest pronouncements and can serve as advisors to our clients when implementing new standards or an accounting matter arises. Some examples of our firm's involvement with standards or professional organizations include:

- California Association of Public Retirement Systems (CALAPRS) – Presenters on GASB 72 implementation
- Members of the AICPA Governmental Audit Quality Center (GAQC) – This organization provides resources to promote high quality audits and our firm participates in the annual webcasts to stay informed on the most current issues.
- Participation in the State Association of County Auditors (SACA) – Our firm has been a presenter on several new pronouncements in recent years including fraud presentations.
- Participation in the State Association of County Retirement Systems (SACRS) – Participation in this organization allows us to remain current on all administrative, legal and accounting issues impacting 1937 Act retirements. Our firm has been a presenter on several new pronouncements in recent years.
- GFOA – Several of our partners are reviewers of the GFOA Certificate of Achievement Award Program.

In addition, we are proud that an alumnus of our firm, Jialan Su, is now a project manager at the GASB. Jialan has been a great resource for responding to technical accounting issues.

TECHNICAL PROPOSAL

We currently do not anticipate any audit problems. However, with our history of working with numerous local entities, often the greatest challenge and area that causes the most audit problems for local agencies is the handling and implementation of new GASB standards. We have established Task Forces to aid our clients in implementing pronouncements such as GASB 67/68, GASB 72, GASB 74/75, GASB 84, and GASB 87. To assist the City with implementation of GASB pronouncements, we will meet with you as soon as possible to discuss any pronouncements that could affect your financial statements such that we have adequate time to work through the implementation before we go into our fieldwork. We will set up an entrance meeting to go over any pronouncements that will affect this year's audit as well as any future years' audits. We will provide you examples on how to implement the pronouncements and review your implementation in the interim so we have adequate time to get everything ready to go before we start the final drafting process.

Preliminary Schedule

The following Detailed Audit Schedule provides a detail of the timing and time requirements for your audit:

DETAILED AUDIT SCHEDULE

	Time Period	Audit Tasks		
	April 2020	**Contract Awarded**		
PLANNING AND ADMINISTRATION	**April/May 2020**	**Planning and Administration:** • Obtain and Review copies of key work papers of prior audit firm. • Pre-audit conference. • Review and evaluate the City's accounting and financial reporting. • Entrance conference with Management to discuss audit approach, timing, assistance, and issues. Discuss SAS-99 approach. • Prepare overall memo confirming audit procedures, timing, and assistance. • Prepare detailed audit work plan and audit programs, audit budget and staffing schedule. Provide schedules to City Management. • Obtain a preliminary Schedule of Expenditures of Federal Awards, if applicable for the latest closed month.	Partner Manager Supervisor Staff Clerical Total	**2** **6** **6** **10** **2** **26**

TECHNICAL PROPOSAL

INTERIM AUDIT PROCEDURES	Date	Procedures	Staff	Hours
	July 2020	**Interim Fieldwork**		
		Obtain and document our understanding of the following key internal control systems through walkthroughs, interviews of staff, and review of supporting documentation - all entities: • Budgeting. • Revenue, billing, accounts receivable and cash collections. • Purchasing, expenditures, accounts payable and cash disbursements. • Capital assets and journal entry procedures. • Debt authorization, issuance and repayment. • Payroll. • Understanding, evaluating, and testing of Information Technology and Electronic Data Processing Systems and the related controls. • Other significant internal control systems as necessary. • Obtain and document all inter-fund / inter-reporting entity advances and current status, along with any allowances for doubtful accounts. Discuss with the City any plans for converting allowances for doubtful accounts into grants. • Document if any on-behalf payments are made between City entities (debt, fringe benefits, other items). • Document City's long-term debt status (including general obligation bonds, certificates of participation, etc.). • Test Revenue Recognition at key points - cash collections for fees, fines, water and wastewater fees, license and permit fees, collections. • Perform audit tests of grant programs and Compliance with Federal Laws and Regulations. Review grant documents; select sufficient number of transactions to test for compliance with the most recent *Compliance Supplement*. • Review minutes of Council meetings and other key committees. • Coordinate and assist City staff in the preparation of all appropriate confirmation requests. • Hold progress conference with Management. • Obtain trial balance for interim analytical procedures. • Detailed audit plan provided to the City, including all schedules to be prepared by the City. • Prepare and send out, with the City's help, confirmations for all cash, debt, certain revenue items such as taxes, and legal.	Partner Manager Supervisor Staff Clerical Total	**8** **16** **40** **40** **0** **104**

TECHNICAL PROPOSAL

FIELDWORK	**October 2020**	**Year End Audit Procedures:** • Entrance conference with Management. • Follow-up on all outstanding confirmations. • Verify and validate account balances by reviewing invoices, vouchers, resolutions, minutes and other documentation, as required. • Perform analytical review of revenues and expenditures. Determine reason for all material differences between budget and actual, test and verify City attestations. • Test cash and investment and bank reconciliations for the City and restricted cash with fiscal agents • Complete payroll testing from journals to 941's amounts (cross fiscal year). Tie 941's to other available information. • Perform a search for unrecorded liabilities by reviewing disbursements subsequent to June 30, testing terms of contractual obligations, and interviewing staff. • Review of all minutes of City Council and other key committees. • Sample and test material capital asset additions and deletions for the year. • Tie out all confirmed debt principal and interest payments to debt schedules. • Perform testing and recalculating over the Net Pension Liability and related deferred outflows and inflows. • Verify the proper classifications of the net position and fund balances. • Complete single audit procedures through compliance and control testing in accordance with the Uniform Guidance. • Review all audit documentation to ensure we have performed adequate testing to cover our audit opinion. • Finalize all potential findings, management letter comments and audit documentation and hold Exit Conference with Management.	Partner **8** Manager **24** Supervisor **40** Staff **40** Clerical **8** Total **120**

REPORTING AND FINAL	**November/ December 2020**	**Reporting and Final:** • Issue draft reports on: o City's CAFR in accordance with generally accepted accounting principles and all applicable GASB pronouncements. o A report on the compliance and on internal control over financial reporting based on an audit performed in accordance with Government Auditing Standards. o Single Audit report on compliance with Requirements applicable to each Major Program, Internal Control over Compliance and on the Schedule of Expenditures of Federal Awards in Accordance with provisions of the Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). o Management Letter addressed to the City Manager that includes recommendations for improvements in internal controls, accounting procedures, and other significant observations that are considered non-reportable conditions. o Required Communications under SAS-114 and SAS-115. o Review of the City's CAFR for conformance with the GFOA financial reporting award program. o Prepare the Annual State Controller's Reports for the City. • Finalize all reports, findings, and recommendations. • Available to present all reports to City Council Member and Committees, Management, and all interested stakeholders and Citizens • Availability to examine other reports or perform other services as required in conformity with the hourly rates presented in the cost section of this proposal.	Partner 12 Manager 24 Supervisor 34 Staff 50 Clerical 20 Total 140 **TOTAL HOURS 390**

Identification Anticipated Potential Audit Problems

We currently do not anticipate any audit problems. However, with our history of working with numerous local entities, often the greatest challenge and area that causes the most audit problems for local agencies is the handling and implementation of new GASB standards. We anticipate potentially needing to be involved in the implementation of GASB 84 for fiscal year ended 2020 and GASB 87 for fiscal year ended 2021.

In the event problems are identified during the course of our audit procedures, we will resolve the problem as follows:

- Discussion amongst audit team at the time of identified potential audit problem for consultation and consensus amongst the team.
- Consultation and discussion with appropriate the City personnel when identified to ensure all facts are known and agreed upon with the audit team.
- Consultation and discussion with liaison(s).
- Resolution with appropriate the City personnel.
- If applicable, a management letter will be submitted documenting the criteria, condition, cause and effect of the issue, along with our recommendation and management's response and corrective action plan.

TECHNICAL PROPOSAL

Total All Inclusive Maximum Price and Hourly Rates

EXHIBIT A

Schedule of Professional Fees and Expenses to Support the Total All-Including Maximum Price		Hours	Standard Hourly Rates	Quoted Hourly Rates	Total
Partner		30	$210	$150	$4,500
Manager		70	$ 150	$120	$8,400
Supervisory Staff		120	$110	$90	$10,800
Other (Specify)	Staff	140	$85	$75	$10,500
	Clerical	30	$75	$55	$1,650
Sub-Total					$35,850
Out-of-Pocket Expenses					$0
Total					$35,850

EXHIBIT B

All-Inclusive Maximum Price by Report	FY 2019/20	FY 2020/21	FY 2021/22	Optional Years FY 2022/23	Optional Years FY 2023/24
State Controller's Reports: City Annual Report of Financial Transactions & Streets Report	$3,200	$3,200	$3,200	$3,200	$3,200
City Audit/CAFR	$28,650	$28,650	$28,650	$28,650	$28,650
Single Audit	$4,000	$4,000	$4,000	$4,000	$4,000
Total	$35,850	$35,850	$35,850	$35,850	$35,850

EXHIBITS

EXHIBITS

Exhibit I

External Quality Control Review Report

WATSON COON RYAN
CERTIFIED PUBLIC ACCOUNTANTS

9250 EAST COSTILLA AVENUE, SUITE 450
GREENWOOD VILLAGE, COLORADO 80112
303-792-3020 (O) | 303-792-5153 (F)
WWW.WCRCPA.COM

REPORT ON FIRM'S SYSTEM OF QUALITY CONTROL

June 27, 2019

To the Shareholders of
Brown Armstrong Accountancy Corporation
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of Brown Armstrong Accountancy Corporation (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended October 31, 2018. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

EXHIBITS

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act and audits of employee benefit plans.

As a part of our peer review, we considered reviews by regulatory entities as communicated by the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of Brown Armstrong Accountancy Corporation applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended October 31, 2018, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Brown Armstrong Accountancy Corporation has received a peer review rating of *pass*.

Watson Coon Ryan, LLC

Watson Coon Ryan, LLC

EXHIBITS

Exhibit II

Summary of Recent Governmental Experience

CITIES	RETIREMENT PLANS	SPECIAL DISTRICTS
City of Bakersfield City of Baldwin Park City of Burlingame City of Delano City of Fresno City of Lindsay City of Modesto City of Pasadena City of Paso Robles City of Santa Barbara City of Seaside City of Tulare City of Visalia City of Laguna Woods	Contra Costa County Employees' Retirement Association Fresno City Employees' Retirement System Fresno County Employees' Retirement Association Imperial County Employees' Retirement System Kern County Employees' Retirement Association Los Angeles Fire and Police Pension System Los Angeles City Employees' Retirement System Los Angeles County Employees' Retirement Association Marin County Employees' Retirement Association Merced County Employees' Retirement Association Orange County Employees' Retirement System San Diego City Employees' Retirement System San Diego County Employees' Retirement Association San Joaquin County Employees' Retirement Association San Mateo County Employees' Retirement Association Sonoma County Employees' Retirement Association Tulare County Employees' Retirement Association Ventura County Employees' Retirement Association San Francisco Bay Area Rapid Transit District Money Purchase Plan and Deferred Compensation Plan San Luis Obispo County Employees' Pension Trust Pasadena Fire & Police Retirement System Santa Barbara County Employees' Retirement System Fresno Metropolitan Flood Control District Pension Plan and Trust Sacramento County Employees' Retirement System	Bear Mountain Recreation and Park District Delano Mosquito Abatement District Fresno Irrigation District Fresno Metropolitan Flood Control District Kern Tulare Water District Kern Water Bank Authority Kings County Economic Development Corporation Mojave Public Utility District Mother Lode Job Training Agency Riverside County Habitat Conservation Agency Pasadena Center Operating Company Pixley Public Utility District Port Hueneme Water Agency Rosamond Community Services District Rose Bowl Operating Company San Joaquin Area Flood Control Agency San Joaquin Valley Air Pollution Control District Stanislaus County Community Services Agency

TRANSIT DISTRICTS	SCHOOL DISTRICTS	COUNTIES
Anaheim Resort Transportation Antelope Valley Transit Authority Central Contra Costa Transit Authority Fresno County Transportation Authority Golden Empire Transit District Kern Council of Governments Kings County Area Public Transit Agency Napa Valley Transportation Authority Riverside Transit Agency San Joaquin Council of Governments Santa Barbara Metropolitan Transit District Santa Cruz Metropolitan Transit District Solano County Transit Stanislaus Council of Governments Tulare County Association of Governments	Bakersfield City School District Castaic Union School District Delano Union School District Kern County Superintendent of Schools Richgrove Elementary School District Saugus Union School District Taft Union High School District Tehachapi Unified School District Visalia Unified School District	County of Fresno County of Kern County of Kings County of Merced County of Riverside County of San Joaquin County of San Luis Obispo County of Santa Barbara County of Santa Cruz County of Stanislaus County of Tulare County of Napa

NON-PROFITS	HEALTH CARE
Bakersfield ARC Community Action Partnership of Kern Community Action Partnership of San Luis Obispo Goodwill Industries of South Central California Kern County Bar Association Kern County Library Foundation Missionary Church Western Regional Pasadena Chamber of Commerce Pasadena Community Access Corporation Tranquil Waters Guidance Center Valley Consortium for Medical Education Women's Center – High Desert	Kern Health Systems Kern Medical Liberty Health Advantage Hall Ambulance Heritage Provider Network Heritage California Medical Group Heritage New York Medical Group Southwest Health Care District West Side Health Care District Riverside County Health System - Medical Center San Joaquin County General Hospital Stanislaus County Health Services Agency

Report to the City Council
Regular City Council - 28 Apr 2020

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration of proposed approval of a resolution authorizing Amendment #2 to the professional services agreement with Dudek for an additional $15,410 for a total not-to-exceed contract amount of $328,571 in order to complete the Hunter Subdivision Environmental Impact Report (EIR).**

CEQA Determination: **Categorically Exempt, Section 15323**

Prepared By: Aaron Hecock, Senior Planner

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On December 12, 2017, the City Council approved a contract with the consulting firm Dudek to prepare an Environmental Impact Report (EIR) for the Hunter Subdivision Project (file no. PL10-040). The total contract amount was not-to-exceed $234,511.

On November 26, 2019, the City Council approved Contract Amendment #1 with Dudek for an additional $78,650 for a total contract not-to-exceed amount of $313,161 for the purpose of completing a Phase II Cultural Resource Evaluation and to complete several other phases of the EIR (Amendment #1 is attached to this report).

DISCUSSION

Additional funding has been requested to revise the Traffic Analysis per new CEQA Guidelines to address the project’s vehicle miles traveled (VMT) and to update the EIR to reflect the City’s 2040 General Plan Update rather than the 1993 General Plan.

FISCAL IMPACT

There is no direct fiscal impact to the City as the costs associated with preparation of the EIR are paid by the project applicant. The City is also billing the applicant a 10% administration fee for contracting with and managing the consultant which is not reflected in the dollar figures in this report.

RECOMMENDED ACTION

Staff recommends the City Council approve a resolution authorizing Amendment #2 to the professional services agreement with Dudek for an additional $15,410 for a total not-to-exceed contract amount of $328,571.

ATTACHMENTS

Dudek Contract Amendment Resolution
Second Amendment to Contract 2017-082 Dudek_final

CITY OF ST. HELENA

RESOLUTION NO. 2020-_____

Authorizing Amendment #2 to Professional Services Agreement with Dudek STH Contract No: FY 2017-082 for an additional $15,410 for a total contract amount not-to-exceed $328,571.

RECITALS

A. On December 12, 2017 the City and Consultant entered into the Agreement for Consultant to provide professional services in connection with the project described as EIR for the Hunter Property Residential Subdivision project; and

B. During preparation of the Administrative Draft EIR it was discovered that there may be potential presence of Native American remains and pre-historic artifacts, which would require a Cultural Resource Evaluation that was not included in the original scope of work; and

C. On November 26, 2019 a First Contract Amendment in the amount of $78,650 for a not-to-exceed contract amount of $313,161 was approved in order to complete the Phase II Cultural Resource Evaluation; and

D. Additional funding has been requested to revise the Traffic Analysis per new CEQA Guidelines to address the project's vehicle miles traveled (VMT) and to update the EIR to reflect the City's 2040 General Plan Update opposed to the 1993 General Plan; and

E. No budget adjustment is necessary because all costs are paid directly by the applicant.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

1. Approval of this resolution is CEQA Categorically Exempt under Section 15323; and

2. Approves Amendment #2 to Professional Services Agreement with Dudek STH Contract No: FY 2017-082 for an additional $15,410 for a total contract amount not-to-exceed $328,571 and authorizes the City Manager to execute all necessary documents.

Approved at a Regular Meeting of the St. Helena City Council on April 28, 2020, by the following vote:

Mayor Geoff Ellsworth:

Vice Mayor Paul Dohring:

Councilmember Koberstein:

Councilmember Anna Chouteau:

Councilmember David Knudsen:

APPROVED:	ATTEST:
________________________	__________________________
Geoff Ellsworth, Mayor	Cindy Tzafopoulos, City Clerk

AMENDMENT #2
TO PROFESSIONAL SERVICES AGREEMENT WITH DUDEK; STH CONTRACT NO: 2017-082 FOR PROFESSIONAL SERVICES IN CONNECTION WITH THE PROJECT DESCRIBED AS EIR FOR THE HUNTER PROPERTY RESIDENTIAL SUBDIVISION PROJECT FOR AN ADDITIONAL $15,410 FOR A TOTAL CONTRACT AMOUNT NOT-TO-EXCEED $328,571.

This Second Amendment to Professional Services Agreement STH Contract: FY 2017-082 dated ("Agreement") is made as of this _____ day of _________, 2020 by and between the City of St. Helena, a municipal corporation ("City"), and Dudek. ("Consultant").

RECITALS

A. On December 12, 2017 the City and Consultant entered into the Agreement for Consultant to provide professional services in connection with the project described as EIR for the Hunter Property Residential Subdivision project; and

B. During preparation of the Administrative Draft EIR it was discovered that there may be potential presence of Native American remains and pre-historic artifacts, which would require a Cultural Resource Evaluation that was not included in the original scope of work; and

C. On November 26, 2019 a First Contract Amendment in the amount of $78,650 for a not-to-exceed contract amount of $313,161 was approved in order to complete the Phase II Cultural Resource Evaluation; and

D. Additional funding in the amount of $15,410 has been requested to revise the Traffic Analysis per new CEQA Guidelines to address the project's vehicle miles traveled (VMT) and to update the EIR to reflect the City's 2040 General Plan Update opposed to the 1993 General Plan; and

F. The City and Consultant now desire to amend the Agreement with Consultant for the purpose of completing the Draft EIR.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements herein contained, for good and valuable consideration, the adequacy of which is hereby acknowledged, the parties agree to amend the Agreement as follows:

1. Section 4.A. Compensation and Method of Payment, is amended to read as follows:

"Total compensation shall not exceed $328,571.00…"

All other terms of the Agreement shall remain in full force and effect.

Entered as of the day and year first above stated.

CONSULTANT:

Signatures of Authorized Persons:

DocuSigned by:

By: Joe Monaco

61A12CB5F28F42F...

Print Name: Joe Monaco

Title: President and CEO

CITY OF ST. HELENA
a Municipal Corporation

By: ______________________________

Print Name: Mark T. Prestwich

Title: City Manager

APPROVED AS TO FORM:

____
Kara K. Ueda, City Attorney

ATTEST:

____
City Clerk

Attachments:

Exhibit A-1, "Scope of Services and Compensation"

1102 R STREET
SACRAMENTO, CALIFORNIA 95811
T 916.443.8335 F 916.443.5113

EXHIBIT A-1

March 11, 2020

Maya DeRosa, Building and Planning Director
City of St. Helena
Planning & Community Improvement Department
1480 Main Street
St. Helena, CA 94574

Subject: Hunter Subdivision Project – Budget Augment Request

Dear Maya,

In order to complete the Draft EIR for public review, the prior traffic analysis prepared in early 2019 that evaluates traffic impacts using level of service (LOS) needs to be revised per the new CEQA Guidelines to address the project's vehicle miles traveled (VMT). As we discussed we are recommending the City use the OPR threshold to evaluate the project's VMT. In addition, per the City's direction we will update the EIR and replace the 1993 General Plan goals and policies with the City's recently adopted General Plan goals and policies and revise the impact analysis, as necessary, to reflect the new policies. Lastly, per the City's direction we will include an analysis of wildfire risks in the Executive Summary.

We have provided a scope of work and cost estimate to complete these tasks, shown below. The total cost of this augment is $15,410. Completion of the VMT analysis is estimated to take 4 weeks to complete once we receive a notice to proceed.

Transportation – Revise Traffic Section to Address VMT

Dudek's in-house Transportation group will prepare a VMT analysis for the proposed project that is consistent with Senate Bill 743 (SB 743) and the current CEQA Guidelines. While the City does not currently have specific guidelines and significance criteria for to evaluate VMT, this analysis will be prepared consistent with guidance from the State's Office of Planning and Research (OPR) *Technical Advisory on Evaluating Transportation Impacts in CEQA* (December 2018). The VMT analysis will be prepared using data from the California Household Travel Survey (CHTS), and using the significance thresholds per the OPR Technical Advisory, or other thresholds as directed by the City. Dudek will review the CHTS data for all census tracts in the City of St. Helena to identify the baseline VMT per capita for home-based trips. The project VMT per capita will be determined for the census tract in which the project is located, and/or the census tracts in the project vicinity that have similar development to that of the proposed project. Per OPR's Technical Advisory, the VMT threshold of 15% lower than existing development will be utilized for the project. Using this methodology, Dudek will identify whether the project's VMT per capita is greater than the VMT threshold.

If a significant VMT impact is identified, Dudek will provide feasible mitigation measures that could avoid or reduce the impact. Transportation Demand Management (TDM) strategies to mitigate VMT will be used from the document *Quantifying Greenhouse Gas Mitigation Measures, August 2010*, prepared by California Air Pollution Control Officers Association (CAPCOA). Dudek will also use reduction factors provided in this document to quantify, wherever possible, the effect of applicable TDM strategies on VMT reduction of single occupant vehicle trips. It should be noted that the reduction of VMT for some of the measures is qualitative;

therefore, the mitigation measures will include both quantitative and qualitative significance after mitigation analysis. It should be noted that within the project area, strategies to reduce VMT are limited due to the lack of other transportation modes and reliance on private vehicles.

The EIR traffic section will be revised to remove the LOS analysis, update the General Plan goals and policies, and include an analysis of the project's VMT. The methodologies, results, findings, and mitigation measures (if any) will be revised to include relevant information specific to VMT. The LOS information will be included in a Memorandum to be provided to the City. The model outputs will be included in an appendix to the EIR.

Requested budget augment... $13,340

Update General Plan Goals and Policies/Include Wildfire Evaluation

The 1993 General Plan goals and policies will be removed from all sections of the EIR and replaced with goals and policies from the City's recently adopted 2019 General Plan. The impact analyses will be reviewed and revised, if necessary, to reflect the new policies. In addition, a brief discussion of the project's risk associated with wildfire will be prepared and included within the Executive Summary chapter of the EIR.

Requested budget augment...$2,070

If you have any questions or need to discuss any of the items listed above, please feel free to contact me at your convenience.

Sincerely,

Christine Kronenberg

Christine Kronenberg, AICP
Sr. Project Manager

Report to the City Council
Regular City Council - 28 Apr 2020

Agenda Section: **CONSENT ITEMS**

Subject: **Resolution authorizing the City Manager to execute a Professional Services Agreement with BKF for design of the Capital Improvement Project R19-05 Grayson Avenue and South Crane Avenue Rehabilitation for an amount not to exceed $175,139**

CEQA Determination: **CEQA will be completed as part of project design**

Prepared By: Martin Beltran, Management Analyst

Reviewed By: Erica Ahmann Smithies, Public Works Director and City Engineer

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City of St. Helena is responsible for the maintenance of public streets within the City limits. On May 8, 2018, City Council adopted the Capital Improvement Plan (CIP) which included Grayson Avenue and South Crane Avenue Rehabilitation, Capital Improvement Project R19-05. The City of St. Helena requires engineering services to provide plans, specifications, and construction estimates in order to bid the future street improvement project.

On October 3, 2019, a Request for Proposals (RFP) was released to find qualified consultant(s) to provide engineering, design, and environmental services for Capital Improvement Plan project R19-05 Grayson Avenue and South Crane Avenue Rehabilitation. Per the City's pavement management software program, Streetsaver, both Grayson Avenue and South Crane Avenue are due for complete reconstruction with PCI's as low as 33 and 24 respectively.

The project scope includes at a minimum: preservation of all existing survey monuments, full reconstruction (preferred design options are recycle in place, full depth reconstruction, etc. as applicable), installation of new pavement markers and striping, adjustment of existing utilities to pavement finished grade, installation of traffic detector loops, incorporating elements from the City's adopted General Plan, incorporating elements from the City's adopted bike and pedestrian plan as feasible, installation of ADA compliant curb ramps as necessary, and removal and reconstruction of failed curb, gutter and sidewalk segments.

The project is currently funded with Measure T funds and the adopted CIP budget is for the design and environmental phase with the anticipation that additional funds will be programmed as well as grant funding applied for once construction costs are identified based on 100% design.

DISCUSSION

On November 13, 2019, two responsive proposals were received for the Grayson Avenue and South Crane Avenue Rehabilitation, Design Services R19-05 project: RSA+ and BKF. City staff reviewed the proposals and recommend BKF for this project due to their proposed design approach, initial rehabilitation ideas, public outreach, and strategies that further reinforce the team's ability to successfully deliver this project. In addition, BKF demonstrated the best combination of qualifications, experience, and local knowledge for the project. BKF has the appropriate project design experience required to prepare a complete set of contract documents that will be necessary to competitively hire a contractor to complete the construction phase of the project. In addition, BKF has demonstrated a level of experience, competence, and staffing necessary to perform the work satisfactorily.

The project includes an initial community meeting (i.e. St. Helena Unified School District, residents, and businesses) and a separate public meeting with the Active Transportation and Sustainability Committee (ATSC) to inform the stakeholders and community members of the forthcoming project and to obtain initial feedback. It is anticipated that in addition to general requests from the public, this meeting will focus on understanding pedestrian accessibility and transportation concerns and needs on both Grayson and South Crane Avenues. In addition, a follow-up meeting will be held with the community and again with ATSC when 90% plans have been completed. It is anticipated that the initial public outreach will kick-off in May 2020.

It is anticipated that the project will receive Categorial Exemption designation as part of the CEQA process. BKF will assemble the necessary supportive data and studies to complete CEQA as it relates to a Class I Categorical Exemption. I

FISCAL IMPACT

The Grayson Avenue and South Crane Avenue Rehabilitation, Project No. R19-05 is included in the May 2019 adopted five-year Capital Improvement Plan (CIP) and is included as Attachment 3.

BKF's total contract is for an amount not to exceed $175,139 which is within the adopted Fiscal Year 2019-20 CIP budget of $200,000 for design. It is important to note that the construction budget will be updated as design progresses and it is anticipated additional funds will be programmed as well as grant funding applied for once construction costs are identified based on 100% design.

RECOMMENDED ACTION

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a Professional Services Agreement with BKF for design of the Capital Improvement Project R19-05 Grayson Avenue and South Crane Avenue Rehabilitation for an amount not to exceed $175,139.

ATTACHMENTS

Attachment 1: Resolution
Attachment 2: BKF Professional Services Agreement
Attachment 3: CIP R19-05

CITY OF ST. HELENA

RESOLUTION NO. 2020 -

Resolution authorizing the City Manager to execute a Professional Services Agreement with BKF for design of the Capital Improvement Project R19-05 Grayson Avenue and South Crane Avenue Rehabilitation for an amount not to exceed $175,139.

RECITALS

A. The City of St. Helena requires engineering, design, and environmental services for Capital Improvement Plan project R19-05 Grayson and South Crane Rehabilitation; and

B. On October 3, 2019, the City issued a Request for Proposals inviting consultants to submit proposals for Capital Improvement Project R19-05 Grayson and South Crane Rehabilitation Design Services; and

C. On November 13, 2019, City staff received and reviewed two (2) proposals; and

D. City staff found that BKF provided the best combination of qualifications, experience, and local knowledge for the project; and

E. BKF has the appropriate project design experience required to prepare a complete set of contract documents that will be necessary to competitively hire a contractor to complete the construction phase of the project; and

F. BKF will meet the City's insurance requirements; and

G. The Grayson Avenue and South Crane Avenue Rehabilitation, CIP Project No. R19-05 is included in the May 2019 adopted five-year Capital Improvement Plan (CIP); and

H. Sufficient funding for design services is available in the total approved project budget for Fiscal Year 2019/2020.

RESOLUTION

The City Council of the City of St. Helena hereby resolves as follows:

1. Authorizing the City Manager to execute a Professional Services Agreement with BKF for design of the Capital Improvement Project R19-05 Grayson Avenue and South Crane Avenue Rehabilitation for an amount not to exceed $175,139.

Approved at a Regular Meeting of the St. Helena City Council on April 14, 2020, by the following vote:

Mayor Ellsworth: ___________

Vice Mayor Dohring: ___________

Councilmember Koberstein: ___________

Councilmember Chouteau: ___________

Councilmember Knudsen: ___________

APPROVED: ATTEST:

______________ __________________________

Geoff Ellsworth, Mayor Cindy Tzafopoulos, City Clerk

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on ____________, 2020 by and between the City of St. Helena, located in the County of Napa, State of California (City), and BKF (Consultant).

RECITALS:

A. City desires to employ Consultant to furnish professional services in connection with the project described as Capital Improvement Plan Project No. R19-05 Grayson Avenue and South Crane Avenue Rehabilitation, Design Services.

B. Consultant has represented that Consultant has the necessary expertise, experience, and qualifications to perform the required duties.

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

SECTION 1 – BASIC SERVICES

Consultant agrees to perform the services set forth in **Exhibit A, "Scope of Services"** and made part of this Agreement.

SECTION 2 – ADDITIONAL SERVICES

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in this Agreement or **Exhibit A, "Scope of Services"** (the "Services"), unless such additional Services and compensation are authorized in advance and in writing by the City Council or City Manager of the City.

SECTION 3 – TIME FOR COMPLETION

The time for completion of Services shall be as identified in **Exhibit A, "Scope of Services"**. The parties expressly agree that time is of the essence in the performance of this Agreement.

SECTION 4 – COMPENSATION AND METHOD OF PAYMENT

A. Subject to any limitations set forth in this Agreement, City agrees to pay consultant the amount specified in Exhibit B, "Compensation" attached hereto and made a part hereof. Total compensation shall not exceed $175,139.00 (One Hundred Seventy-five Thousand One Hundred Thirty-nine Dollars and Zero Cents), unless additional compensation is approved in accordance with Section 2.

B. Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories if applicable: labor (by sub-category), travel, materials, equipment, supplies, subconsultant contracts, and miscellaneous expenses. Each original invoice furnished shall include the expenses incurred during the preceding month, the cumulative Agreement amount, and the amount remaining on the Agreement. City shall independently review each invoice submitted to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. If no charges or expenses are disputed, the invoice shall be approved, and City will use its best efforts to cause Consultant to be paid within 30 days of receipt of invoice. If the City disputes any charges or expenses, the City will return the original invoice to Consultant for correction and resubmission. If the City reasonably determines, in its sole judgment, that the invoiced charges and expenses exceed the value of the Services performed to date and that it is probable that the Agreement will not be completed satisfactorily within the contract price, City may retain all or a portion of the invoiced charges and expenses. Within thirty (30) days of satisfactory completion of the project, City shall pay the retained amount, if any, to Consultant.

C. Payment to the Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5 – STANDARD OF PERFORMANCE

A. Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the Services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons in the same or similar geographical area engaged in providing Services similar to those required of Consultant under this Agreement.

B. In order to induce City to enter into this Agreement, Consultant represents that it is duly organized, existing and in good standing under applicable state law; Consultant is licensed to perform all aspects of the Services; Consultant will employ only persons and Subconsultants with all required licenses and certifications; that Consultant is duly qualified to conduct business in the State; that Consultant has duly authorized the execution, delivery and performance of this Agreement and the Services to be performed herein; and that the Agreement does not violate or create a default under any instrument, agreement, order or decree binding on Consultant.

SECTION 6 – INSPECTION AND FINAL ACCEPTANCE

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City, unless the parties mutually agree to extend such deadline. City shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects and fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, the sections pertaining to indemnification and insurance.

SECTION 7 – INSURANCE REQUIRED

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees, as indicated:

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:
   1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
   2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
   3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:
   1. General Liability: $2,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations, as applicable. If Commercial General Liability Insurance or other form with a 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.
   2. Automobile Liability: $1,000,000 per accident for bodily injury and property damage.
   3. Employer's Liability: $2,000,000 per accident for bodily injury or disease.

C. Professional Liability Insurance. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, environmental engineer or other professional engineer, or land surveyor ("design professional"), Consultant shall maintain at least $2,000,000 of professional liability insurance.

D. Excess Limits. If Consultant maintains higher limits than the minimums shown above, City requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

E. Primary Coverage. For any claims related to this contract the Consultants insurance coverage shall be primary insurance as respects to 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 Consultants insurance and shall not contribute with it.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions of $25,000 or greater must be declared to and approved by the City.

G. Other Insurance Provisions. The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its agent, officers, officials, employees, and volunteers are to be covered as additional insured as respects: liability arising out of work or operations performed by the Consultant or Consultant's subconsultants; or automobile owned, leased, hired or borrowed by the Consultant.
2. For any claims related to Consultant's conduct while performing the work of this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its agents, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its agents, officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.

H. Waiver of Subrogation. Consultant's commercial general liability, automobile liability, workers' compensation, and employer's liability policies shall be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its agents, officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

I. The Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

J. Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on forms that conform to City requirements. 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, including endorsements affecting the coverage required by these specifications at any time.

SECTION 8 – INDEMNIFICATION

A. To the fullest extent allowed by law (including without limitation California Civil Code Sections 2782 and 2782.8), as may be applicable, Consultant shall indemnify, defend, and hold harmless City, its agents, officers, officials, employees, representatives, and volunteers from any and all claims, demands, suits, loss, damages, injury, and/or liability (including any and all costs and expenses in connection therewith, including legal fees and expert witness costs) (collectively, "Liabilities"), incurred by reason of any negligent or otherwise wrongful act or omission of Consultant, its officers, agents, employees, subconsultants, and subcontractors, or any of them, under or in connection with this Agreement; and Consultant agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against City, its agents, officers, officials, employees and volunteers, or any of them, arising out of, pertaining to, or relating to such negligent or otherwise wrongful act or omission, and to pay and satisfy any resulting judgments.

B. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, professional engineer, or land surveyor (i.e., a "design professional," pursuant to Civil Code § 2782.8(c)), the provisions of this section regarding Consultant's duty to defend and indemnify apply only to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant.

C. If any action or proceeding is brought against Indemnitees by reason of any of the matters against which Consultant has agreed to indemnify Indemnitees as provided above, Consultant, upon notice from City, shall defend Indemnitees at Consultant's expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to Indemnification in order to be so indemnified. The insurance required to be maintained by Consultant shall ensure Consultant's obligations under this section, but the limits of such insurance shall not limit the liability of Consultant hereunder. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

D. The provisions of this section do not apply to claims to the extent occurring as a result of the City's sole negligence, active negligence, or willful acts or misconduct.

E. Duty to Cooperate. Each party shall notify the other party immediately in writing of any claim or damage related to activities or Services performed under this Agreement. The parties shall cooperate with each other in the investigation and disposition of all Liabilities arising out of the activities or Services under this Agreement.

F. In the event that Consultant executes any subconsulting agreements in connection with the Services performed under this Agreement, Consultant shall place in all such subconsulting agreements, and cause its subconsultants to agree to, the indemnity and insurance obligations in favor of City and other Indemnitees, as provided herein, in the exact form and substance of those contained in this Agreement.

SECTION 9 – INDEPENDENT CONTRACTOR STATUS

A. Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner or to incur an obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

B. The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that

Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of City.

C. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 10 – CONFLICTS OF INTEREST AND ANTI-FRAUD AND ANTI-CORRUPTION POLICIES

A. Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of Services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts with the interests of City in the performance of this Agreement.

B. City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related Services for other governmental agencies and private parties. Consultant is aware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

C. Consultant understands and acknowledges City maintains an anti-fraud and anti-corruption policy to protect the City, its operations, and its employees from and against financial risks, operational breaches, and unethical, fraudulent and corrupt activities. Consultant represents and warrants that Consultant, its subcontractor(s) / subconsultant(s) and their respective employees providing Services pursuant to the Agreement are (1) in good standing; (2) have not been previously investigated, convicted, or debarred for fraudulent or corrupt activities; (3) will not participate in fraudulent or corrupt activities, and (4) will take steps to ensure that its employees and subcontractor(s) / subconsultant(s) employees do not participate in any fraudulent or corrupt activities. Consultant acknowledges and agrees further that it has a duty to and will report to City any information or incident(s) about possible fraudulent or corrupt activities Consultant may discover, and will cooperate in any fraud or corruption investigation conducted, with respect to Consultant's service provided pursuant to this Agreement.

SECTION 11 – OWNERSHIP OF DOCUMENTS

A. All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any Services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. When requested by City, but no later than three years after project completion, Consultant shall deliver to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

B. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, improvements, developments, works of authorship, or other products developed or created by Consultant during the course of providing Services (collectively the "Work Product") shall belong exclusively to City. The Work Product shall be considered a "work made for hire" within the meaning of Title 17 of the United States Code. Without reservation, limitation, or condition, Consultant hereby assigns, at the time of creation of the Work Products, without any requirement of further consideration, exclusively and perpetually, any and all right, title, and interest Consultant may have in the Work Product throughout the world, including without limitation any copyrights, patents, trade secrets, or other intellectual property rights, all rights of reproduction, all rights to create derivative works, and the right to secure registrations, renewals, reissues, and extensions thereof.

SECTION 12 – CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

B. Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite such response.

SECTION 13 – SUSPENSION OF WORK

City may, at any time, by ten (10) days written notice suspend further performance by Consultant. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and Consultant shall be paid for Services performed and reimbursable expenses incurred prior to the suspension date.

SECTION 14 – COMPLIANCE WITH LAW

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the Services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 15 – COMPLIANCE WITH CIVIL RIGHTS

During the performance of this contract, Consultant agrees as follows:

A. Equal Employment Opportunity. In connection with the execution of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, ancestry, age, sexual orientation, gender, gender identity and gender expression as protected categories specifically and expressively in that category, physical handicap, medical condition, marital status, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training including apprenticeship.

B. Nondiscrimination Civil Rights Act of l964. Consultant will comply with all federal regulations relative to nondiscrimination to federally-assisted programs.

C. Solicitations for Subcontractors including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations, made by Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by Consultant of Consultant's obligations under this Agreement and the regulations relative to nondiscrimination.

SECTION 16 – AUDIT AND INSPECTION OF RECORDS

A. Records of Consultant's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on a generally recognized accounting basis and made available to City if and when required for a period of up to 3 years from the date of Consultant's final invoice.

B. Consultant shall maintain all documents and records prepared by or furnished to Consultant during the course of performing the Services for at least three (3) years following completion of the Services. Such records include, but are not limited to, correspondence, internal memoranda, technical reports and investigations, calculations, books and accounts, accounting records documenting its work under its Agreement, and invoices, payrolls, records and all other data related to matters covered by this Agreement.

C. Consultant shall permit City to audit, examine and make copies, excerpts and transcripts from such records, and the Consultant shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any matter whatsoever for three (3) years after City makes the final or last payment or within three (3) years after any pending issues between City and Consultant with respect to this Agreement are closed, whichever is later.

SECTION 17 – LIMITATION OF LIABILITY

A. Consultant agrees that any liability of City arising in connection with this Agreement shall be limited exclusively to the City-entity identified as the "City" under this Contract. Under no circumstance shall any other City-entity be liable to Consultant under any theory, whether in contract, tort, or otherwise, and Consultant waives unconditionally any such claims. Consultant hereby waives and release other City-entites from any liability under this Agreement.

B. Notwithstanding any other provision of this Agreement, in no event shall City be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed hereunder.

SECTION 18 – COOPERATION BY CITY

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit A, "Scope of Services", shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 19 – NOTICES

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by facsimile or first class mail, addressed as follows:

To City: City Manager
1480 Main Street
St. Helena, California 94574

To Consultant: BKF
200 4th Street, Suite 300
Santa Rosa, CA 95401

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile, or, if mailed, three (3) days after deposit in the custody of the U.S. Postal Service.

SECTION 20 – TERMINATION

A. City may terminate this Agreement, with or without cause, at any time by giving ten (10) days written notice of termination to Consultant. If such notice is given, Consultant shall cease immediately all work in progress.

B. If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

C. Upon termination of this Agreement by either Consultant or City, all property belonging to City which is in Consultant's possession shall be delivered to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in this Agreement.

SECTION 21 – ATTORNEYS' FEES

If litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys' fees, costs and expenses, in addition to any other relief to which it may be entitled. In addition, any legal fees, costs and expenses incurred to enforce the provisions of this Agreement shall be reimbursed to the prevailing party.

SECTION 22 – ENTIRE AGREEMENT

This Agreement, including the attached Exhibits, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 23 – SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties. However, this Agreement shall not be assigned by Consultant without written consent of the City.

SECTION 24 – CONTINUITY OF PERSONNEL

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the Services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff assigned to perform the Services required under this Agreement, prior to any such performance.

SECTION 25 – DEFAULT

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default and may terminate this Agreement immediately by written notice to Consultant.

SECTION 26 – WAIVER

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or Services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 27 – LAW TO GOVERN; VENUE

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Napa. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Northern District of California, in San Francisco.

SECTION 28 – SEVERABILITY

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

SECTION 29 – THIRD PARTY BENEFICIARIES

Consultant's subconsultants shall agree to be bound to the terms of the Agreement to the extent of their scope of Services, including but not limited to, terms regarding indemnity and dispute resolution, and shall agree that City is deemed an express third party beneficiary of their subconsultant agreements. Nothing contained in this Agreement, however, shall operate to confer such or similar rights or benefits on persons or entities not party to this Agreement.

SECTION 30 – STATUTES OF LIMITATION

As between the parties to this Agreement, any applicable statute of limitations for action arising out of, pertaining to, or relating to any act or failure to act in connection with this Agreement shall commence to run on the date of City's issuance of the final Certificate for Payment, or termination of this Agreement, whichever is earlier, except for latent defects and/or deficiencies, for which the applicable statute of limitation shall begin to run upon discovery of the defect and/or deficiency and its cause.

SECTION 31 – SPECIAL PROVISIONS

This Agreement is subject to the following special provisions: none.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms, conditions, and provisions above stated, the day and year first above written.

Consultant:

By: ______________________________
Name: Jason Kirchmann
Title: Vice President

City:

By: ______________________________
Name: Mark T. Prestwich
Title: City Manager

Approved as to Form:

By: ______________________________
Name: Kara K. Ueda
Title: City Attorney

Exhibit A
Scope of Services

PROJECT UNDERSTANDING

Grayson Avenue and South Crane Avenue (from Grayson Avenue to Sulphur Springs Road) provide access to St. Helena High School, St Helena Primary School, residences, small businesses, Crane Park and boutique wineries. Due to its age, underlying soil conditions, maintenance schedule and drainage characteristics, the roadway's current surface of is in poor condition, with Pavement Condition Index's (PCI) of 33 and 24. Several pavement design techniques, such as full depth reconstruction, use of paving fabrics or cold-in-place recycling, will need to be considered and deployed strategically throughout the corridor to improve vehicular mobility and safety.

To enhance the non-motorized transportation experience, the City is interested in implementing bicycle and pedestrian facilities along portions of both streets. Along the westerly side of Grayson Avenue (adjacent to the current vineyard, across from St Helena Primary School) has programmed a multi-use class I pathway. Grayson Avenue (adjacent to the current vineyard, across from St Helena Primary School) and along the south side of South Crane Avenue (within the City's urban limits) the City is seeking to close sidewalk gap closures by installing new contiguous curb, gutter and sidewalk where necessary.

PROVEN APPROACH

Based on BKF's experience working on pavement rehabilitation and multi-use pathway projects, BKF has developed a 4 point approach to complete the scope of work. This method has been refined and proven over decades of experience and ensures BKF will meet the required delivery schedule, including grant requirements, while being flexible:

1. Manage the process to address stakeholders and meet the City's project goals and grant funding requirements;
2. Define opportunities and constraints to ensure the design meets the project's intended goal and grant requirements, as well as minimize risk;
3. Develop coordinated design documents;
4. Validate that the designs are both constructible and sustainable over the long term.

COMPONENT 1: MANAGING THE PROCESS

1. Project Work Program: BKF will develop a detailed project work program that identifies tasks and deliverables necessary to deliver the project. BKF will update the task and deliverables regularly and share with City staff to reflect the progress of the project.
2. Defined Schedule: BKF will develop a work program with reference to a schedule in Microsoft Project. BKF's Project Manager will update the schedule with the completion of each phase and discuss the implications with the City.
3. Design Fee: BKF has developed a fee for design services based on the work plan and schedule. This fee will be time and materials not to exceed per the defined rate schedule. BKF manages internal and external labor expenses in the Deltek computer application. This system allows BKF to track budgets daily, weekly, and monthly. BKF will not to exceed their allowed fee unless there is a change in the scope of work that is approved by the City of St. Helena in writing prior to additional expenditures.

4. Managing Issues: BKF will prepare a formal report for the City regarding schedule and status updates. BKF will highlight items requiring feedback from project partners. BKF can establish an Intranet site where consulting and City staff members can post updates, obtain information, and share ideas. Additionally, BKF finds that biweekly video conferencing meetings are a great way to coordinate the team and resolve issues.

COMPONENT 2: DEFINING OPPORTUNITIES & CONSTRAINTS

1. Field Review and Documenting Existing Conditions: BKF will review the site to understand constraints that may affect the design. BKF believes that defining the locations of underground utilities and surface improvements is essential to avoiding conflicts during construction.
2. Alternatives Analyses: Leveraging tools and techniques to consider alternatives and create flexibility into the design and bid options is fundamental to BKF's approach to project implementation.
3. Stakeholder Outreach: BKF will document the concerns of the project's stakeholders at the earliest stage in the design process is essential to preventing delays, conflicts, or expanded scope. BKF will coordinate and attend meetings to understand concerns.
4. Funding Requirements: BKF understands the City is currently funding the project design with local funds and intends to apply for grants to assist with future construction.
5. Defining Construction Risk: Risk assessment is critical to managing the overall construction budget. BKF will characterize subsurface soils and utilities to prevent as many unknowns as possible that could otherwise lead to contractor change order and/or delays.
6. Accessibility and Right of Way: Many driveways and sidewalks along the westerly portion of Grayson Avenue do not meet accessibility requirements. Because most of the design is widening of sidewalks into the public right-of-way, encroachments onto private property to make the driveways compliant should be minimal. If necessary, as with similar projects, BKF will assist with negotiating a Right to Enter process.

COMPONENT 3: DEVELOPING COORDINATED PLANS

1. Plan Design and Reports: BKF will develop plans at intermediate submittals appropriate to the task. For each submittal, BKF will provide an engineer's estimate, specifications, plans, and reports for the City review. Specifications will be coordinated with City staff.
2. Coordination: BKF's Project Manager and lead designers will be responsible for solving technical challenges while developing the design in accordance with the City goals. BKF will coordinate the work with other consultants, staff, and other agencies to ensure collaboration and obtain project approvals.
3. Facilitating Communication with Other Agencies: BKF will provide clear, direct communication and be accessible at all times during critical project stages.

COMPONENT 4: VALIDATING IMPLEMENTATION

1. Quality Begins with a Thorough Work Plan: Critical to the development and timely completion of quality documents is the development of a thorough methodology or work plan. Through initial scheduling and planning efforts, BKF will develop a clear, concise work plan that identifies the critical key issues.
2. Quality is confirmed through a Quality Assurance Program: BKF's Quality Assurance Program requires independent review of all documents by an engineer other than the design engineers prior to the signing and stamping of plans by the project manager. The quality assurance engineer will be involved early in the project to review the documents for concept and

compatibility to standards and requirements. In monitoring the project throughout, changes in scope will be identified immediately and discussed with the City. Early identification of changes and obstacles allows for corrections to be incorporated with limited consequence. In addition to BKF's independent plan checking, BKF will conduct constructability and bid-ability reviews at the completion of the Preliminary Engineering phase. The reviews will focus on the implementation of the design plans and specifications from the point of view of qualified construction administration personnel.

Recommendations will be provided to ensure that the proposed design considers construction procedures and methods that can be implemented to maximize the efficiency of the stage construction and cost benefit of the Project.

Using the process and approach, BKF will provide the City of St. Helena with quality service and help to facilitate local funds as well as seek other grant funds to enhance the community and create a safe, long lasting street.

DETAILED WORK PLAN

BKF's approach to completing the design of improvements to the St. Helena Grayson Avenue and South Crane Avenue Rehabilitation Project includes the following elements:

PROGRAM MANAGEMENT & MEETINGS

BKF will manage the design team as well as track progress, schedule, and budget. BKF will be responsible for documenting all design decisions and keeping an official record of the project. Furthermore, BKF will submit monthly progress reports identifying tasks completed, budget status, and issues status. A senior member of BKF will perform an independent quality control review of BKF's documents prior to each submittal. The review will evaluate constructability, cost, and discrepancies between the disciplines. BKF believe that at appropriate phases of the project, meetings are essential to convey ideas and resolve issues.

Kickoff Meeting. BKF will conduct a kickoff meeting with St. Helena City staff to define communication protocols and reaffirm project scope goals, schedule and budget.

TASK 1 - DATA COLLECTION

Record Data Collection and Field Review. BKF will research and collect available records from the City of St. Helena, Napa County, Caltrans and the public utilities to obtain property line, utility data, geotechnical information and traffic information. BKF will field walk the site to create a photographic log along the roadway.

BKF will take notes of any potential public/private conflicts within rights-of-way. While BKF understand that it is the City's intent to construct the project within existing public rights-of-way, should a conflict occur, BKF will address the need for easements. BKF will also define the Caltrans right-of-way for coordination and presentation during the Caltrans encroachment process.

Topographic Survey. BKF will complete field surveys along the roadway, acquiring cross sections at 25 foot intervals. BKF will create base maps including topographic, utility, and boundary information that will be based on existing as-builts, right-of-way and easement maps as provided by the City. Individual properties within the project area will be identified by tax assessor number. Based on information provided by the City, it is understood and assumed that all rights-of-way appear on survey maps of record and sufficient monumentation exists to retrace said surveys. If during the course of BKF's survey, it appears that section 8762 of the California Professional Land Surveyor's Act will be triggered, requiring a Record of Survey, BKF will notify the City and discuss the right of way mapping options. Formal boundary determination and a record of survey can be provided as an additional service.

Public Utilities Coordination. Older streets often times have shallow utilities which may conflict with full depth replacement paving or other designs implemented with this project. Additionally, in order to prolong the finished streets lifespan, it is important to coordinate any planned utility projects prior to final paving. BKF will meet with PG&E, Comcast, AT&T, the County of Napa, and the City of St. Helena Public Works Utilities Division to coordinate relocations and potential upgrades to their facilities.

Public Outreach. BKF will coordinate a community meeting to inform the public (i.e. St. Helena Unified School District, residences, small businesses, and boutique wineries) of the forthcoming project and to obtain initial feedback. It is anticipated that in addition to a general wish list from the public, this meeting will focus on understanding pedestrian accessibility and transportation concerns and needs.

Implementation of Planning Documents. BKF will review current planning documents which may impact the project limits such as the General Plan and NVTA's Countywide Pedestrian and Bicycle plans where applicable. BKF will coordinate the proposed design for general conformance with these planning documents.

Geotechnical Investigation. A site investigation and report prepared by a Geotechnical Engineer is highly recommended for paving rehabilitation projects with complex existing conditions and several potential solutions. BKF, through a subconsultant, RGH Consultants (RGH) will provide soil borings and a geotechnical investigation to describe existing conditions and recommended reconstruction improvements. BKF also have allocated time for RGH to consult during the design process. RGH is very familiar with soil and pavement conditions throughout St. Helena due to the extensive experience in the general area as well as through services they provided to the City in the past.

Deliverables. Base mapping including topography, boundary, and utility information. BKF will provide the City an electronic and hard copy (1). The data collected and studies performed under this Task will be delivered in a package entitled **Task 1, Background Data for Grayson and South Crane Rehabilitation Project.**

TASK 2: PRELIMINARY ENGINEERING PLANS

Using the data collected during Task 1 above and upon authorization by the City to move forward with the conceptual design of the project. BKF will develop a conceptual plan and commence with a City coordination meeting to review potential design cross sections, sidewalk/pathway limits and site constraints. BKF will prepare a preliminary design based on the conceptual plan. BKF's objectives during this Task include:

- Complete preliminary engineering based on the Basis of Design to further refine construction cost

- Resolve conflicts between existing conditions and proposed streetscape design
- Confirm utilities that the project may relocate or that utility companies may want to upgrade prior to paving

Preliminary Plans. The preliminary (35%) design will serve as the basis to move into final engineering the project. The plan will include drainage and stormwater quality considerations (should the City wish to pursue sustainable stormwater solutions as defined in the BASMAAA Design Guidelines); horizontal layout plan; typical cross sections; pavement plan; striping and signage plan; special provisions in an outline format; right-of-way locations; public utility relocation exhibits; cost estimate; and photometric Analysis (BKF will complete a final photometric analysis in conformance to the IESNA standards)

Confirm Utility Conflicts and Resolutions. If authorized by the City, BKF will retain a licensed general engineering contractor to pothole underground utilities at strategic locations to define the horizontal and vertical locations. Additionally, depending on the pavement rehabilitation strategy, BKF may acquire additional data in the roadway to confirm utilities are not located within the proposed structural section. BKF will acquire the location using traditional survey techniques.

Active Transportation and Sustainability Committee Meeting. To inform stakeholders and community members of the project, BKF will host a meeting with the City's Active Transportation and Sustainability Committee to discuss the proposed project to review and potentially modify or approve the Preliminary Documents. BKF will modify the documents based on comments from this meeting, with direction from City Staff.

Deliverables: BKF will provide an electronic and hardbound copy (1) of the Preliminary Engineering Plans and any supplemental reports prepared during this Task. The documents prepared will be delivered in a package entitled **Task 2, Preliminary Engineering Plans for Grayson and South Crane Rehabilitation Project.**

TASK 3: FINAL ENGINEERING

Plans, Specifications, and Estimate. The objective of this task is to develop the documents, including plans and specifications, to a level necessary for bid and construction of the project. BKF will prepare construction documents, including plans and specifications, in accordance with the City's standards for formal submittals at the 75%, 90%, and 100% level of completeness. Upon approval, BKF will include a final 100% set for bidding. Each submittal will contain the following plans: title and key map sheet; horizontal layout plan; typical cross sections; pavement repair plan; utility relocation plan (if necessary); striping and street signage plan; street lighting plan; construction details; special provisions in an outline format; temporary construction easement plats and legals (if necessary); and final Engineer's Opinion of Probable Construction Costs (cost estimate).

In the 75% submittal, BKF will incorporate the City's front end specifications into the special provisions as well as provide an engineer costs estimate.

At the 90% Final Engineering Plans and cost estimate submittal stage, BKF will schedule a follow-up meeting with the community and the City's Active Transportation and Sustainability

Committee to discuss the project developments since the meetings outlined in Task 1 and Task 2 above.

CEQA. It is anticipated that the project will receive a Categorical Exemption designation as part of the CEQA process and as defined in Article 19, Chapter 3 (Guidelines for Implementation of the California Environmental Quality Act) under Title 14 of the California Code of Regulations. BKF will assemble the necessary supportive data and studies to complete CEQA as it relates to a Class I Categorical Exemption.

Deliverable. Each progress submittal will include hard copies of plans, specifications, and construction cost estimate. BKF will additionally provide an electronic version of the submittal in both AutoCAD and Adobe Acrobat format. Upon approval of the final design documents by City Staff, BKF will provide a digital and hardbound signed copy of the documents prepared for the project, including the documents for bid and construction. The package will be delivered and entitled Task 3, Final Engineering Plans for Grayson and South Crane Rehabilitation Project.

Project Schedule. It is anticipated that final construction documents will be completed by October 2020. However, this agreement will remain in effect until completed or per the terms set forth in the recitals.

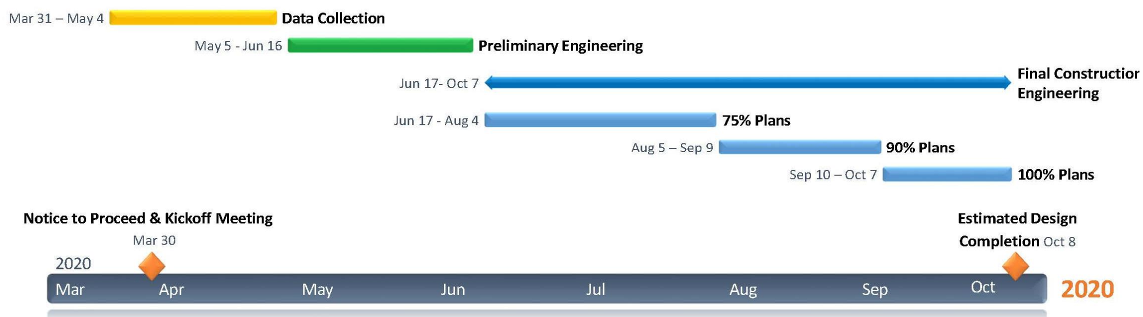


Exhibit B
Compensation

BKF 100 YEARS
ENGINEERS / SURVEYORS / PLANNERS

Grayson Avenue and South Crane Avenue Rehabilitation Fee Proposal		BKF Engineers								RGH Consultants Geotechnical Engineer		
		Project Executive	Project Manager	Sr. Project Engineer	Project Engineer	Staff Engineer	Field Crew	Total BKF Hours	BKF Fee	Principal	Staff	Total Fee
	Published Billing Rates	$251	$209	$179	$148	$137	$295					
Grayson Avenue and South Crane Avenue Rehabilitation												
Task 1	**Data Collection**											
a	Property Base Map	1	4	16		24	24	69	$14,319			$14,319
b	Fixed improvements mapping		3	5		60	40	10	$21,542			$21,542
c	Utility Upgrades and Mapping		4	16		16		36	$5,892			$5,892
d	Conflict/Clash Detection		4	8	8			20	$3,452			$3,452
e	Topography of Curb, gutter and Buildings	1	1	2		32	16	52	$9,922			$9,922
f	Temporary Construction Easements/Caltrans Encroachment Permitting		2			2		4	$692			$692
g	Address Bike/Ped improvements with Planning Documents	1	2	8				11	$2,101			$2,101
h	Public Outreach (incl. Community Meeting)	4	4		4			12	$2,432			$2,432
i	Soil Samples and Geotechnical Investigation		1					1	$209	$13,200		$13,409
j	Deliverable: Background Data for Grayson Avenue and South Crane Avenue					2		2	$274			$274
Task 1 Subtotal:		**7**	**25**	**55**	**12**	**136**	**80**	**31**	**$60,835**	**$13,200**		**$74,035**
Task 2	**Preliminary Engineering Plans**											
a	Prepare Preliminary Engineering Plans	4	16	24	40	40		12	$20,044	$2,750		$22,794
b	Identify and Resolve Conflicts between Rehabilitation and Existing Conditions	1	2	8		8		19	$3,197			$3,197
c	Identify Construction Easements and Engage Caltrans		4	6				10	$1,910			$1,910
d	Utility Relocations and Upgrades		2	4		10		16	$2,504			$2,504
e	Prepare Preliminary Engineer's Estimate	1	2	6		10		19	$3,113			$3,113
f	City Review Meeting		4					4	$836			$836
g	Active Transportation and Sustainability Committee Meeting	4	4					8	$1,840			$1,840
h	Deliverable: Preliminary Engineering Plans for Grayson Av and South Crane Ave					4		4	$548			$548
Task 2 Subtotal:		**10**	**34**	**48**	**40**	**72**	**0**	**20**	**$33,992**	**$2,750**		**$36,742**
Task 3	**Final Construction Engineering**											
a	Prepare Final Engineering Plans, Specifications and Estimate											
	75% Submittal	2	16	30	60	80		18	$29,056	$2,750		$31,806
	90% Submittal	2	12	12	24	48		98	$15,286	$2,200		$17,486
	100% Submittal	2	4	6	16	20		48	$7,520	$1,650		$9,170
b	Community and Active Transportation and Sustainability Committee Meeting	4	4					8	$1,840			$1,840
c	CEQA - Categorical Exemption	1	4	4				9	$1,803			$1,803
f	Deliverable: Final Engineering Plans for Grayson Av and South Crane Ave					4		4	$548			$548
Task 3 Subtotal:		**11**	**40**	**52**	**100**	**152**	**0**	**35**	**$56,053**	**$6,600**		**$62,653**
Subtotal Labor Fee									**$150,880**	**$22,550**		**$173,430**
Reimbursable Expenses												
Printing, Postage, and Travel									$1,509	$200		$1,709
Subtotal Reimbursable Expenses									**$1,509**	**$200**		**$1,709**
	Total Labor Plus Reimbursable Expenses								**$152,389**	**$22,750**		**$175,139**

BKF 100+ YEARS
ENGINEERS . SURVEYORS . PLANNERS

BKF ENGINEERS
PROFESSIONAL SERVICES RATE SCHEDULE

JANUARY 1, 2020 – DECEMBER 31, 2020

CLASSIFICATION	HOURLY RATE
PROJECT MANAGEMENT	
Principal/Vice President	$251.00
Senior Associate/Vice President	$225.00
Associate	$219.00
Senior Project Manager | Senior Technical Manager	$214.00
Project Manager | Technical Manager	$209.00
Engineering Manager | Surveying Manager | Planning Manager	$193.00
TECHNICAL STAFF	
Senior Project Engineer | Senior Project Surveyor | Senior Project Planner	$179.00
Project Engineer | Project Surveyor | Project Planner	$157.00
Design Engineer | Staff Surveyor | Staff Planner	$137.00
BIM Specialist I, II, III	$137.00 - $157.00 - $179.00
Technician I, II, III, IV	$130.00 - $139.00 - $152.00 - $164.00
Drafter I, II, III, IV	$102.00 - $112.00 - $121.00 - $135.00
FIELD SURVEYING	
Survey Party Chief	$179.00
Instrumentman	$154.00
Survey Chainman	$116.00
Utility Locator I, II, III, IV	$93.00 - $132.00 - $158.00 - $180.00
Apprentice I, II, III, IV	$71.00 - $95.00 - $105.00 - $111.00
CONSTRUCTION ADMINISTRATION	
Senior Consultant	$234.00
Senior Construction Administrator	$203.00
Resident Engineer	$151.00
Field Engineer I, II, III	$137.00 - $157.00 - $179.00
ASSISTANTS	
Project Assistant	$84.00
Engineering Assistant | Surveying Assistant | Planning Assistant	$82.00
Clerical | Administrative Assistant	$70.00

Expert witness rates are available upon request.

Subject to the terms of a services agreement:

- Charges for outside services, equipment, materials, and facilities not furnished directly by BKF Engineers will be billed as reimbursable expenses at cost plus 10%. Such charges may include, but shall not be limited to: printing and reproduction services; shipping, delivery, and courier charges; subconsultant fees and expenses; agency fees; insurance; transportation on public carriers; meals and lodging; and consumable materials.
- Allowable mileage will be charged at the prevailing IRS rate per mile.
- Monthly invoices are due within 30 days from invoice date. Interest will be charged at 1.5% per month on past due accounts.

Grayson and South Crane Rehab

Project No: **0207-R19-05**

Category: **Streets**

Project Location: **Grayson and South Crane**

PROJECT PURPOSE & DESCRIPTION: This project will reconstruct Grayson and South Crane Avenues. Accessibility improvements to sidewalks and curb ramps will be included as part of the project whenever applicable.

FISCAL IMPACT: The estimated cost is $200,000.

EXPENDITURE ACCOUNTS:
Fund: 741 **Dept**: 5014

EXPENDITURES	2019-20	2020-21	2021-22	2022-23	2023-24	Five Year
3110 - Design	200,000					200,000
EXPENDITURE TOTALS	200,000					200,000
FUNDING SOURCES						
240-Measure T	200,000					200,000
FUNDING TOTALS	200,000					200,000

Report to the City Council
Regular City Council - 28 Apr 2020

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and proposed approval of a resolution ratifying the City Manager's implementation of a 7-day, 53-hour work period for all Full-time and Part-time Firefighter personnel under the COVID-19 emergency declaration and approval authorizing the second amendment to the Full Time Fire Department Unrepresented Compensation Program**

CEQA Determination: **Not a CEQA project**

Prepared By: Kathy Robinson, Human Resources & IT Director

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On March 16, 2020, the City of St. Helena declared a local emergency to increase its efforts to protect the public from COVID-19. The City of St. Helena's proclamation of local emergency notes that "the imminent and proximate threat of introduction of COVID-19 in the City of St. Helena threatens the safety and health of City residents". The formal declaration of emergency allows needed flexibility in staffing decisions and steps needed to continue to deliver essential services and to protect the City's residents.

DISCUSSION

During these unprecedented times the City has taken several steps to prevent or mitigate hazards that help to reduce the impact of COVID-19 outbreak on our community, and especially our workers. Extra safety precautions were implemented at the Fire Department to minimize the potential for cross-contamination. The Fire Department moved from a 10-hour shift utilizing all part-time personnel with access to the entire Fire House, to four 48/96 hour rotating shift structure (A, B, C & D) assigned to a specified locations for each shift within the Fire House having dedicated rigs, rooms, and restrooms. For the protection of the fire fighters and their families, this control measure to supplement the social distancing policy already in effect was implemented March 25, 2020 reducing the potential contact between fire department personnel in case of contact with COVID-19

Under the formal declaration of emergency, the City Manager has implemented an indefinite 53-hour work period with a 48/96 hour rotating shift for all full-time and part-time firefighter personnel of St. Helena effective March 25, 2020 and to be ratified at a regularly scheduled meeting by the City Council. In addition to the ratification by the City Council, it is necessary to amend the Full Time Fire Department Unrepresented Compensation Program to establish a work period under Section 7(k) of the FLSA exemption for employees engaged in fire protection or law enforcement to be paid overtime on a "work period" basis.

The amendments to the City's work period for all fire safety employees and to the Full Time Fire Department Employee Compensation Program (included in the attached proposed draft) are as follows:

2.5 Overtime Pay:

Employees shall be entitled to overtime pay in accordance with the requirements of state and federal law for hours worked in excess of their regular scheduled hours. ~~*An example of this would include an employee that is regularly assigned to a 10-hour shift would be paid overtime should their work day exceed 10 hours.*~~

> **2.5.1 Work Period:** In accordance with Section 7(k) of the Fair Labor Standards Act FLSA), the work period established by the City is a 7-day, 53-hour work period.
>
> **2.5.2 FLSA Overtime:** Pursuant to Section 7(k) of FSLA, the City agrees to compensate all firefighters (full-time and part-time) for hours actually worked above the fifty-three hours per work period at the normal overtime rate of pay (time and one-half) regardless of whether employees are on any type of paid leave.

2.7 Hours of Work:

The current schedule for Full-time firefighters is a ~~10 hour~~ 48/96 hour shift – two shifts on followed by four shifts off schedule Sunday through Saturday.

FISCAL IMPACT

~~Total fiscal impact is currently under evaluation and will be available at the City Council meeting of April 28, 2020.~~The fiscal impact of the temporary shift in staff structure for the Fire Department to help to reduce the spread of COVID-19 is estimated to be an additional $15,400 per pay period. Each payroll period represents two weeks and the total costs is dependent on the duration of the emergency.

RECOMMENDED ACTION

It is recommended that the City Council approve the resolution ratifying the City Manager's declaration of establishing 7-day, 53-hour work period and approve the second amendment to the to the Full-Time Fire Department Unrepresented Program.

ATTACHMENTS

Ratification of Fire 52-hour Work Period and Approval of Second Amendment RESO
2020-04-28 Second Amendment Full Time Fire Comp Program

CITY OF ST. HELENA

RESOLUTION No. 2020 - ____

AUTHORIZING THE RATIFICATION OF THE CITY MANAGER'S IMPLEMENTATION OF A 7-DAY, 53-HOUR FLSA WORK PERIOD FOR ALL FULL-TIME AND PART-TIME FIREFIGHTER PERSONNEL UNDER THE COVID-19 EMERGENCY DECLARATION AND APPROVAL OF SECOND AMENDMENT TO THE FULL TIME FIRE DEPARTMENT UNREPRESENTED COMPENSATION PROGRAM

RECITALS

A. On March 16, 2020, the City of St. Helena declared a local emergency to increase its efforts to protect the public from COVID-19; and

B. The formal declaration of emergency allows needed flexibility in staffing decisions and steps needed to continue to deliver essential services and to protect the City's residents; and

C. During these unprecedented times the City has taken several steps to prevent or mitigate hazards that help to reduce the impact of COVID-19 outbreak on our community, and especially City workers; and

D. Extra safety precautions were implemented at the Fire Department to minimize the potential for cross-contamination; and

E. The Fire Department moved from a 10-hour shift to four 48/96 hour rotating shift structure (A, B, C & D) assigned to a specified locations for each shift within the Fire House having dedicated rigs, rooms, and restrooms; and

F. The new shift structure was implemented March 25, 2020 reducing the potential contact between fire department personnel in case of contact with COVID-19, as well as the protection of the fire fighters and their families; and

G. Effective March 25, 2020, under the formal declaration of a local emergency the City Manager has implemented a 7-day, 53-hour work period with a 48/96 hour rotating shift for all full-time and part-time firefighter personnel of St. Helena; and

H. It is necessary to amend the Full Time Fire Department Unrepresented Compensation Program to establish a work period under Section 7(k) of the FLSA exemption for employees engaged in fire protection or law enforcement to be paid overtime on a "work period" basis.

RESOLUTION

Now, therefore, the City Council of the City of St. Helena resolves as follows:

1. Approves the ratification of the City Manager's declaration of establishing a 7-day, 53-hour work period for all full- and part-time fire safety personnel in accordance with the a FSLA Section 7(k) exemption; and

2. Authorizes the second amendment to the Full Time Fire Department Unrepresented Program (Exhibit A).

Approved at a regular meeting of the St. Helena City Council on April 28, 2020 by the following vote:

Mayor Ellsworth: _____________

Vice Mayor Dohring: _____________

Councilmember Koberstein: _____________

Councilmember Chouteau: _____________

Councilmember Knudsen: _____________

APPROVED: ATTEST:

_________________________ _________________________

Geoff Ellsworth, Mayor Cindy Tzafopolous, City Clerk

Exhibit A

FULL TIME FIRE EMPLOYEE COMPENSATION PROGRAM
(~~First~~ Second Amendment)

Effective July 1, 2018

Amended ~~July 23, 2019~~ April 28, 2020

CITY OF ST. HELENA
FULL-TIME FIRE EMPLOYEE COMPENSATION PROGRAM

Table of Contents

SECTION 1: INTRODUCTION

All provisions of this resolution only apply to the full-time fire suppression employees listed in Section 1.2 (referred to hereafter as "Employees").

1.1 Purpose of the Full-Time Fire Employee Compensation Program:

This resolution sets forth all of the compensation and benefits for the positions set forth in section 1.2. No additional compensation shall be applicable to Employees covered by this Program. The provisions of this Program are subject to change in the future.

1.2 Employees Covered:

Employees covered under this program shall include only the following:

Full-time Firefighters,

Full-time Fire Engineers,

Full-time Fire Captains.

Additional job classes may be added to the Full-Time Fire Employees Compensation Program from time to time, based upon the creation of new positions, or by the reclassification of existing positions. Compensation for part-time fire personnel and the Fire Chief is established through other resolutions.

SECTION 2: EMPLOYEE SALARY COMPENSATION

2.1 Salary Schedule:

The salary ranges for Employees covered by this Full-Time Fire Employee Compensation Program are set forth in Exhibit 1, attached to this resolution, and made a part hereof by reference.

2.2 Bilingual Pay:

Bilingual pay for fluency in both English and Spanish will be paid to employees who are routinely and consistently assigned to communicate in Spanish or to provide translation for City business by communicating in Spanish. For employees who are certified as fluent in both written and verbal Spanish language, bilingual pay will be five percent (5%) of the designated employee's base salary. For employees who are certified as fluent only in verbal Spanish language, bilingual pay will be two and one-half percent (2.5%) of the designated employee's base salary. Only designated employees certified by the City as fluent in both English and Spanish are eligible for this additional pay.

2.3 Out-Of-Class Pay:

Employees who are placed in an acting Captain's position on an incident separate from any on-duty Captain shall receive out-of-class pay of 5% of the employee's base wage rate for any assignment longer than two hours.

2.4 Longevity Pay:
Longevity pay shall be provided to each permanent employee on the employee's fifth anniversary of continuous employment at the rate of two and one-half percent (2.5%) of salary. At the employee's tenth anniversary, the longevity increment shall be increased to a total of five percent (5%) of salary, at the fifteenth anniversary a total of seven and one-half percent (7.5%) of salary, and at the twentieth anniversary, a total of ten percent (10%) of salary.

2.5 Overtime Pay:
Employees shall be entitled to overtime pay in accordance with the requirements of applicable ~~state and federal~~ law for hours worked.~~ in excess of their regular scheduled hours~~. ~~*An example of this would include an employee that is regularly assigned to a 10-hour shift would be paid overtime should their work day exceed 10 hours.*~~

> **2.5.1** **Work Period:** In accordance with Section 7(k) of the Fair Labor Standards Act FSLA), the work period established by the City is a 7-day 53~~2~~-hour ~~workweek with a 48/96 schedule – two shifts on followed by four shifts off~~work period..
>
> **2.5.2** **FLSA Overtime:** Pursuant to Section 7(k) of FSLA, the City agrees to compensate all firefighters (full-time and part-time) for hours worked above the fifty-three hours per week at the normal overtime rate of pay (time and one-half) regardless of whether employees are on any type of paid leave.

2.6 Overnight Standby Pay:
In the discretion of the Fire Chief when standby coverage is required, Employees may sign up for overnight standby coverage. Employees signing up for overnight standby coverage will receive a stipend based on their rank within the department. Firefighters will receive $50 per overnight standby assignment. Engineers and officers will receive $75 per overnight standby assignment. The Stipend is paid in addition to hours worked during standby assignment.

2.7 Hours of Work:
The current schedule for Full-time firefighters is a ~~10-hour~~48/96 hour shift – two shifts on followed by four shifts off schedule ~~Mon~~Sunday through Saturday.

SECTION 3: RETIREMENT BENEFITS

Employees are provided retirement benefits under the California Public Employee Retirement System (CalPERS) as described in this Section 3.

3.1 Tier One: Employees Hired Before July 1, 2012 (Tier One Classic Members)
This section 3.1 (including subsections) shall apply to employees hired by the City of St. Helena in full-time safety positions with CalPERS membership before July 1, 2012.

> ***3.1.1 1/2 at 55 Pension Formulas:*** The "1/2 @ 55" retirement program will be available to members covered by this Section 3.1.
>
> ***3.1.2 Final Compensation Based On 36-Months:*** For the purposes of

determining a retirement benefit, final compensation for members covered by this Section 3.1 shall mean the highest annual average pensionable compensation earned during thirty-six (36) consecutive months of service as required by Government Code Section 20037.

3.1.3 Required Member Contributions:
Members covered by this Section 3.1 shall pay, through payroll deduction, the full 10.1% member contribution for the Safety Group.

3.2 PEPRA: 2% at 57 For Members Hired On or After January 1, 2013 and Not Qualified For Reciprocity (Not a Classic Member):
This Section 3.3 (including subsections) shall apply to members who were hired as full-time employees eligible for CalPERS membership on or after January 1, 2013, and who do not qualify for pension reciprocity (not a Classic Member) as stated in Government Code Section 7522.02(c).

3.3.1 2% at 57 Pension Formulas: The "2% @ 57" retirement program will be available to members covered by this Section 3.3.

3.3.2 Final Compensation Based On 36-Months: For the purposes of determining a retirement benefit, final compensation for members covered by this Section 3.3 shall mean the highest annual average pensionable compensation earned during thirty-six (36) consecutive months of service as required by Government Code Section 7522.32.

3.3.3 Required Member Contributions

Required 50% of Normal Costs: As required by Government Code Section 7522.04(g), effective January 1, 2013, members covered by this Section 4.3 shall pay, through payroll deduction, fifty percent (50%) of normal costs.

3.3 Converting Sick Leave Balance:
An employee who retires may convert his/her unused sick leave balance to service credit as provided by Government Code Section 20965. Any accrued unused sick leave credit that is paid out at termination will not be available for conversion to service credit.

3.4 Other Options Included In CalPERS Contract
Employees shall be eligible for other options included in the City's contract with CalPERS applicable to safety employees as stated in that contract, and allowed by law.

3.5 Implementation of Internal Revenue Code Section 414(h)(2):
As permitted by Internal Revenue Code Section 414(h)(2) and Government Code Section 20516, each employee shall pay, through payroll deductions, the PERS contributions described in this Article 11 with state and federal income tax on the PERS member contribution deferred to the extent permitted by Internal Revenue Code, 26 USC Section 414(h)(2).

3.6 All Provisions Subject to Requirements of Law:
The City is required to comply with all requirements of law governing the CalPERS

retirement program, including, but not limited to eligibility and reporting requirements. In implementing this Full-Time Fire Employee Compensation Program Resolution and related practices, the City will comply with the requirements of law, and those legal requirements prevail over any inconsistent prior practices or prior resolutions.

SECTION 4: INSURANCE BENEFITS

4.1 General Provisions:
The City will pay the full cost of the employee's enrollment in City offered health insurance plan to cover both the employee and the employee's dependents. The City will pay the full cost of enrollment in City offered plans for dental coverage for the employee and her/his dependents. When an employee commences work with the City, the effective date of coverage of his/her benefits distribution selection shall be established by the individual carrier. In most cases, coverage begins the first of the month following date of hire.

Employees will choose from available insurance programs and/or health and welfare plans at the time of hire or as carriers allow during Open Enrollment periods. Dependent coverage may be added or deleted between Open Enrollment periods subject to conditions imposed by the selected carriers.

4.2 Life Insurance:
The City will provide term life insurance for each employee in the amount of $25,000.

Employees may elect to increase the value of their life insurance policy by $20,000 at their own expense. Employees opting for the additional coverage will have the cost of that coverage deducted from their pay.

4.3 Short-term Disability Insurance:
The City will pay for the employee's cost to participate in the State Disability Insurance (SDI) program.

4.4 Vision Care:
The City will pay for vision care benefits, for the employee and all dependents through the City's vision insurance plan.

SECTION 5: HOLIDAYS

All Unrepresented employees shall receive 12 paid holidays per year, as follows:

Holiday	Day Observed
New Year's Day	January 1
Martin Luther King, Jr. Birthday	3rd Monday in January
President's Day	3rd Monday in February
Cesar Chavez Birthday	March 31st
Memorial Day	Last Monday in May

Independence Day	July 4^{th}
Labor Day	1^{st} Monday in September
Veteran's Day	November 11^{th}
Thanksgiving Day	4^{th} Thursday in November
Day after Thanksgiving	Friday following Thanksgiving
Christmas Eve Day	December 24^{th}
Christmas Day	December 25^{th}

It is the intent of this resolution that all full-time employees receive 12 paid holidays regardless of their assigned workweek. When a holiday falls on a Saturday, the preceding Friday shall be deemed a holiday. When a holiday falls on a Sunday, the following Monday shall be deemed a holiday. When an employee is required to work on a holiday, s/he may select another day as holiday leave with pay during the fiscal year with the consent of the Fire Chief.

Floating Holidays: Except for the calendar year they are hired, on January 1st of each year, employees earn 16 hours of Personal Convenience Holidays for use during that calendar year, taken in at least 8-hour increments. The hours must be used by the end of the calendar year and does not accrue. After five years of service, employees earn 40 hours of Personal Convenience Holidays.

SECTION 6: VACATION LEAVE

6.1 Vacation Entitlement:

Employees shall accumulate vacation in accordance with the following vacation entitlement schedule:

Years of Continuous Service	Vacation Days Earned/Year
1 – 5 years	10
6^{th} year	15
7^{th} year	16

This pattern continues until 20 days per year is reached. On the employee's 25th anniversary and every five years thereafter, one additional day will be awarded on that year.

6.2 Vacation Accrual:

Employees shall begin earning vacation upon the first day of employment. Vacation leave time shall be accrued as it is earned; odd fractions rounded to the nearest tenth. Vacation time shall not be taken until earned and shall be subject to other provisions of this resolution. When an employee is on a leave without pay status, the employee shall not be entitled to earn vacation.

For purposes of calculating vacation earned upon termination, the employee's final accrual will be prorated, based on the days worked in the employee's last month of employment. Upon termination of an employee's service with the City, the employee shall be paid a lump sum for all earned vacation not taken, at the employee's hourly rate then in effect.

Employees will not earn additional vacation leave once their accrued vacation balance has reached 280 hours.

6.3 Vacation Usage:

An employee may not use vacation until the employee has completed six months of City service in the position. An employee may take vacation at a time approved by the Fire Chief. It is the policy of the City that employees take their normal provided vacation leave each year. Vacation shall be taken in minimum increments of two hours.

SECTION 7: OTHER LEAVES OF ABSENCE

7.1 Sick Leave:

Employees shall accrue and use sick leave in accordance with City of St. Helena Personnel/Administrative Policy on Sick Leave as outlined in the Employee Handbook.

7.2 Family Care:

To the extent required by law, sick leave may be used to care for ill family members.

7.3 Bereavement Leave:

Leave with pay up to 3 days per year in state/5 days out of state shall be granted by the Fire Chief to employees in case of the death of spouse or domestic partner regardless of gender, parent or step-parent, grand-parent, child, or stepchild, brother or sister, parent-in-law, brother/sister-in-law, son/daughter-in-law, or any relative in the immediate household of the employee. Bereavement leave shall not be charged against any accumulated leave. Additional time off (vacation, executive leave) may be taken if approved by the Fire Chief.

7.4 Industrial Accident Leave:

The City shall provide paid leave and benefits consistent with the State's Worker's Compensation laws.

7.5 Miscellaneous Leave With Pay:

Employees shall be granted a leave of absence with full pay for jury duty; subpoena of the employee as a witness; or attendance in court resulting from the employee's official duties as assigned by the City Manager. Any compensation received by the employee for the above, except for travel reimbursement, shall be promptly remitted to the City by the employee.

7.6 Leave Pursuant to the Family and Medical Care Leave Act and the California Family Rights Act:

Employees shall be entitled to take leave in response to the birth or adoption of a child, or the placement of a child with the employee for foster care; the employee's own serious health condition, or to care for a child, parent or spouse of the employee who has a serious health condition; for a "qualifying exigency" arising from the foreign deployment of the employee's spouse, son, daughter, or parent with the Armed Forces; or to care for a servicemember with a serious injury or illness if the employee is the servicemember's spouse, son, daughter, parent or next of kin, as specified in the federal Family and Medical Care Leave Act (FMLA) and the California Family Rights Act (Government Code Section 12945.2). Employees may use their accrued leave balances during such leave.

If the period of leave exceeds the employer's accrued leave balances, the employee shall take the balance of the leave as unpaid leave.

7.7 Leave for Pregnancy, Childbirth and Related Medical Conditions (California Government Code Section 12945):

In addition to leave authorized by Section 7.6, eligible employees may take leave based on pregnancy, childbirth, or related medical conditions pursuant to California Government Code Section 12945. Generally, this leave should not exceed six (6) weeks for a normal pregnancy, childbirth, or related conditions, but may be taken for a period of up to a total of four (4) months if the employee is disabled due to pregnancy, childbirth, or other medical conditions. The need for leave beyond six (6) weeks due to disability shall be verified in writing by the employee's physician. The employee may use accrued leave balances during leave taken pursuant to this Section. If the period of leave exceeds the employee's accrued leave balances, the balance of the leave shall be taken as unpaid leave.

7.8 Leave of Absence Without Pay:

Upon the written request of any employee, the City Manager may approve in writing a leave of absence without pay for a period up to thirty (30) calendar days. Except in the cases of illness or maternity, an employees' request for Leave Without Pay shall be submitted to the City Manager, accompanied by a recommendation or an explanation from the manager as to how an adequate level of service can be maintained during her/his absence. Such leave may be extended up to one calendar year by action of the City Council.

7.9 Military Leave:

An employee called to active duty in any reserve component of the Armed Forces of the United States or the National Guard shall be granted a leave of absence for the duration of said active duty. Any full-time employee on a military leave of absence shall be compensated as outlined in the City's Employee Handbook if the employee provides proper documentation from the Commanding Officer concerning their active duty; or, if the employee is a Commanding Officer, with a copy of the order to report to active duty and any applicable extension orders.

SECTION 8: TRAINING AND PROFESSIONAL GROWTH

To promote continued development of skills, knowledge, and abilities among the Employee, the Fire Chief may grant time off to employee(s) for educational leave. Such leave may be received in order to attend professional, technical, or managerial workshops, courses, conferences, conventions, seminars, or related activities. The cost of attendance at these activities, including travel, per diem, registration, tuition, materials or other reasonable costs, are legitimate City expenditures as provided for in the annual City Budget.

SECTION 9: OTHER BENEFITS

9.1 ***Uniform Allowance:***
Employees shall receive an annual uniform allowance in the amount of $750. The Uniform Allowance will be paid twice a year: in December and June, in equal amounts.

SECTION 10: PROBATIONARY PERIOD AND APPLICABILITY OF FIREFIGHTERS BILL OF RIGHTS ACT

Employees covered by this Program shall serve a probationary period of eighteen (18) months. Probationary employees may be terminated without cause. As required by the Firefighters Bill of Rights Act, employees who have passed the probationary period shall be covered by the provisions of the Act, and the applicable disciplinary procedures for such employees is covered in established City policies.

Report to the City Council
Regular City Council - 28 Apr 2020

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and proposed approval of a Resolution 1) approving Amendment No. 2 to the Updated Employment Agreement STH Contract: 2019-092 entered into as of May 28, 2019, between the City of St. Helena and John Sorensen, to serve in a temporary full-time assignment as Fire Chief during the COVID-19 local emergency effective April 12, 2020 and to remain in effect for the duration of the local health emergency or return to prior staffing schedule; and 2) in accordance with the requirement of California Code Section 5953(c)(3) approving the recommended final action for the Fire Chief to serve in this full-time capacity with a temporary annualized base salary of $176,800; and 3) increase prorated fringe benefits to full vacation accruals, holiday pay, and executive leave; and 4) duly adopting and approving publicly available pay schedules in accordance with the requirement of California Code of Regulations Title 2, Section 570.5 to include the temporary assignment annualized salary for the Fire Chief.**

CEQA Determination: **Not a CEQA project**

Prepared By: Kathy Robinson, Human Resources & IT Director

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On March 16, 2020, the City of St. Helena declared a local emergency to increase its efforts to protect the public from COVID-19. In addition to the immediate implementation of the CDC's and Napa County Health's social distancing recommendation, the City took several steps to prevent and mitigate hazards that helped to reduce the impact of

COVID-19 outbreak on our community, and for our City workers. The safety measures implemented on March 17 at the Fire Department to minimize the potential for cross-contamination included separation of four rotating shifts which required a declaration of a 53-hour work week with a 48/96 hour rotating shifts comprised of both full-time and part-time firefighter personnel.

At the time of this mid-March transition, the Fire Chief was working three 10-hour days, with department oversight of seven days per week. However, during the week of April 12, C Shift experienced a driver shortage due to the return to work of a part-time firefighter as well as an injury of one of the City's part-time firefighters while on duty at another Fire Department a week later. As a result, effective April 12, the Fire Chief was assigned to the 48/96 hour C Shift to fill this shortage as needed until the return of a driver to the C Shift or until the department returns to the previous six day per week 10 hour per day staffing model. The Fire Chief remains responsible for department oversight seven days per week.

DISCUSSION

The temporary full-time assignment requires an amendment to the Fire Chief employment agreement. Specific amendments to contact are as follows (amendment language in ***bold and italicized***):

Section 5. Compensation and Benefits

(a) **Salary.** City agrees to pay Chief for his services pursuant to the City's publicly available salary schedule for the Fire Chief. Chief's current annual salary is $132,600. Chief's salary shall be payable in installments at the same time as other employees of City are paid and subject to all applicable payroll taxes and withholding's. Chief shall be an "exempt" employee under all applicable state and federal labor laws, including, but not limited to, the Federal Labor Standards Act and the regulations of the California Industrial Welfare Commission. In addition, while in the course of his employment and away from his official duty station and assigned to an emergency incident, in support of an emergency incident, or pre-positioned for emergency response the Fire Chief’s local government fire and emergency base hourly rate is established to be $85.00 and the Average Actual Rate to be $91.50.

(1) Temporary Full-time Assignment Salary. City agrees to pay Chief for services pursuant to the City's publicly available salary schedule for the Fire Chief. Chief's temporary full-time assignment’s annualized salary is $176,800.

(g) **Vacation.** Chief shall receive prorated accruals based on original date of hire as Fire Chief which was February 1, 2010. Chief shall be entitled to accumulate 3/4 of that which a regular full-time employee accumulates in accordance to the following full-time vacation entitlement schedule:

(1) Temporary Full-time Assignment Vacation. Chief shall receive full accrual of that which a regular full-time employee accumulated in accordance to the following full-time vacation entitlement schedule.

Years of Continuous Service	Full-time Employee Vacation Days Earned Per Year	Fire Chief prorated (3/4) Vacation Days Earned Per Year
Year 1 - 5	10	7.50
Year 6	15	11.25
Year 7	16	12.00
Year 8	17	12.75
Year 9	18	13.50
Year 10	19	14.25
Years 11 - 24	20	15.00
Year 25	21	15.75
Year 30	22	16.50
Year 35	23	17.25
Year 40	24	18.00

(h) **Floating Holidays and Executive Leave**. Chief shall receive prorated (3/4) accruals that department heads receive for floating holidays and executive leave as follows. Chief shall receive three and three-quarters (3.75) floating holidays awarded January 1st of each full year of employment. Chief shall receive three and three-quarters (3.75) days of executive leave awarded January 1st of each full year and shall receive another three and three-quarters (3.75) days executive leave awarded July 1st of each full year. All floating holidays and executive leave must be used in the year accrued or the time shall be forfeited.

(1) Temporary Full-time Assignment Floating Holidays and Executive Leave. Chief shall receive full accruals that department heads receive for floating holidays and executive leave.

(i) **Regular Holidays**. Chief shall receive an equivalent prorated (3/4) share of 12 paid holidays that full-time employees are entitled to as defined by the Unrepresented Compensation Program for department heads and mid-managers.

(1) Temporary Full-time Assignment Regular Holidays. Chief shall receive an equivalent share of 12 paid holidays that full-time employees are entitled to as defined by the Unrepresented Compensation Program for department heads and mid-managers

(n) **Hours of Work.** Chief is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the Chief position. These hours shall include, at a minimum, work at the City offices at least *three 10-hour days* per week as determined by the City Manager, and attendance at weekly Department Head meetings. In addition, Chief shall respond to calls and provide other services for the hours necessary to fulfill the duties of the Chief position.

(1) Temporary Full-time Assignment Hours of Work. Chief is an exempt employee but is expected to engage in those hours of work

that are necessary to fulfill in a full-time capacity the obligations of the Chief position throughout the duration of the COVID-19 local emergency . These hours will be equivalent to that of other full-time department heads which are typically a minimum of 40-hours per week.

FISCAL IMPACT

The fiscal impact for the remainder of FY 2019-20 is approximately $7,147 with an effective date of April 12, 2020. A budget increase of $7,147 to Fire Department Salary and Benefits is necessary and use of General Fund Reserves of the same.

RECOMMENDED ACTION

City staff recommends approval of Amendment No. 2 to the Updated Employment Agreement STH Contract: 2019-092; and duly adopting and approving publicly available pay schedules in accordance with the requirement of California Code of Regulations Title 2, Section 570.5 to include the temporary assignment annualized salary for the Fire Chief.

ATTACHMENTS

RESO Amendment 2 Fire Chief Updated Employment Agreement
Exhibit A. Amendment No. 2 to John Sorensen Updated Employment Contract
Exhibit B. Salary Schedule.Fire Chief-2020.04.28

CITY OF ST. HELENA

RESOLUTION NO. 2020-XX

Resolution authorizing 1) approve Amendment No. 2 to the Updated Employment Agreement STH Contract: 2019-092 entered into as of May 28, 2019, between the City of St. Helena and John Sorensen, to serve in a temporary full-time assignment as Fire Chief during the COVID-19 local emergency effective April 12, 2020 and to remain in effect for the duration of the local health emergency or until return to the previous staffing schedule; and 2) in accordance with the requirement of California Code Section 5953(c)(3) approve the recommended final action for the Fire Chief to serve in this full-time capacity with a temporary annualized base salary of $176,800; and 3) increase his prorated fringe benefits to full vacation accruals, holiday pay, and executive leave; and 4) duly adopt and approve publicly available pay schedules in accordance with the requirement of California Code of Regulations Title 2, Section 570.5 to include the temporary assignment annualized salary for the Fire Chief.

RECITALS

A. On February 25, 2020, Resolution 2020-19 approved Amendment No. 1 to the updated Employment

Agreement STH Contract 2019-092 dated May 28, 2019; and

B. On March 16, 2020, the City of St. Helena declared a local emergency to increase its efforts to protect the public from COVID-19; and

C. The City took several steps to prevent or mitigate hazards that help to reduce the impact of COVID-19 outbreak on our community, and especially City workers; and

D. Extra safety precautions were implemented at the Fire Department to minimize the potential for cross-contamination; and

E. On March 25, 2020, under the formal declaration of a local emergency the City Manager implemented a 52-hour work period with a 48/96 hour rotating shift structure (A, B, C, & D) for all full-time and part-time City firefighter personnel; previously the hybrid full and part-time staffed Fire Department was staffed six days per week 10-hours per day staffing model; the resulting rotating shift structure (A, B, C & D) was assigned to specified locations for each shift within the Fire House having dedicated rigs, rooms, and restrooms; reducing the potential contact between fire department personnel to reduce the potential transmission of COVID-19 associated with the hybrid staffing model, as well as the protection of the firefighters and their families; and

F. At the time of the initial temporary transition to the 48/96 hour rotating shift schedule, the Fire Chief continued to work three 10-hour days per week in a separate room inside the Fire House, and remained responsible for department oversight seven days per week; and

G. Due to the recent loss of two previously available engine drivers on the C Shift due to work availability and injury, it became necessary to assign the Fire Chief to the C Shift to fulfill driving duties effective April 15, 2020 to ensure continuity of operations during the COVID-19 emergency; and

H. Effective April 12, 2020 (the beginning of the pay period), the City desires to have the Fire Chief serve in a temporary full-time assignment for the duration of the

COVID-19 local emergency or return to the previous six days per week 10 hours per day schedule, whichever comes first.

RESOLUTION

The City Council of the City of St. Helena hereby resolves as follows:

1. Approve Amendment 2 to Updated Employment Agreement STH Contract: 2019-092 dated May 28, 2019 with Fire Chief John Sorensen (Exhibit A) to Increase the Fire Chief temporary full-time assignment annualized base salary to $176,800; and

2. Increase prorated fringe benefits to full vacation accruals, holiday pay, and executive leave for the duration of this temporary full-time assignment; and

3. This assignment (and these associated contract modifications approved on April 28) will conclude automatically on the business day following the City Council's declaration of the end of the emergency or return to the previous six days per week 10 hours per day schedule, whichever comes first; and

4. Duly adopt and approve publicly available pay schedules in accordance with the requirement of California Code of Regulations Title 2, Section 570.5 to include the temporary full-time assignment annualized salary for the Fire Chief (Exhibit B).

Approved at a Regular Meeting of the St. Helena City Council on April 28, 2020, by the following vote:

Mayor Ellsworth: ___

Vice Mayor Dohring: ___

Councilmember Koberstein: ___

Councilmember Chouteau: ___

Councilmember Knudsen: ___

APPROVED: ATTEST:

Geoff Ellsworth, Mayor Cindy Tzafopoulos, City Clerk

Exhibit A

Amendment No. 2 to STH Contract: 2019-092

EMPLOYMENT AGREEMENT FOR FIRE CHIEF
Between
CITY OF ST. HELENA AND JOHN SORENSEN

As authorized by the City Council through Resolution 2020-__, approved on April 28, 2020, this Amendment No 2 is made and effective April 12, 2020 between the City of St. Helena ("City"), a municipal corporation (City) and JOHN SORENSEN ("Fire Chief," "Chief" or "Employee"), collectively "the Parties."

WITNESSETH:

WHEREAS, on February 25, 2020, Resolution 2020-19 approved Amendment No. 1 to the updated Employment Agreement STH Contract 2019-092 increasing the Fire Chief hours to 30 hours over three 10-hour workdays, increasing his leave accruals proportionally to the increased hours and increasing the annualized salary to $132,600.

WHEREAS, on March 16, 2020, the City of St. Helena declared a local emergency to increase its efforts to protect the public from COVID-19.

WHEREAS, the City took several steps to prevent or mitigate hazards that help to reduce the impact of COVID-19 outbreak on our community, and especially City workers.

WHEREAS, extra safety precautions were implemented at the Fire Department to minimize the potential for cross-contamination.

WHEREAS, the Fire Department moved from a 10-hour shift to four 48/96 hour rotating shift structure (A, B, C & D) assigned to a specified locations for each shift within the Fire House having dedicated rigs, rooms, and restrooms; reducing the potential contact between fire department personnel in case of contact with COVID-19, as well as the protection of the fire fighters and their families.

Exhibit A

WHEREAS, on March 25, 2020, under the formal declaration of a local emergency the City Manager implemented a 52-hour work period with a 48/96 hour rotating shift for all full-time and part-time firefighter personnel of St. Helena.

WHEREAS, the City desires to have full-time oversight of overall management, suppression, and fire prevention duties of the Fire Department.

WHEREAS, effective April 12, 2020 the City desires to have the Fire Chief serve in a temporary full-time assignment for the duration of the COVID-19 local emergency; and

WHERE AS, this assignment (and these associated contract modifications approved on April 28) will conclude automatically on the business day following the City Council's declaration of the end of the emergency or return to the previous six days per week 10 hours per day schedule, whichever comes first; and

NOW, THEREFORE, inconsideration of the mutual premises, covenants and conditions herein contained, the Parties agree to revise to read in its entirely as follow:

5. Compensation and Benefits

(a) **Salary**. City agrees to pay Chief for services pursuant to the City's publicly
available salary schedule for the Fire Chief. Chief's current annual salary is $132,600. Chief's salary shall be payable in installments at the same time as other employees of City are paid and subject to all applicable payroll taxes and withholdings. Chief' s salary may be adjusted from time to time at the sole discretion of the City Manager. Chief shall be an "exempt" employee under all applicable state and federal labor laws, including, but not limited to, the Federal Labor Standards Act and the regulations of the California Industrial Welfare Commission. In addition, while in the course of employment and away from official duty station and assigned to an emergency incident, in support of an

Exhibit A

emergency incident, or pre-positioned for emergency response the Fire Chief's local government fire and emergency base hourly rate is established to be $91.50.

(1) **Temporary Full-time Assignment Salary**. City agrees to pay Chief for services pursuant to the City's publicly available salary schedule for the Fire Chief. Chief's temporary full-time assignment's annualized salary is $176,800.

(g) **Vacation.** Chief shall receive prorated accrual of 3/4 of that which a regular full-time employee accumulated in accordance to the following full-time vacation entitlement schedule:

Years of Continuous Service	Full-time Employee Vacation Days Earned Per Year	Fire Chief prorated (3/4) Vacation Days Earned Per Year
Year 1 - 5	10	7.50
Year 6	15	11.25
Year 7	16	12.00
Year 8	17	12.75
Year 9	18	13.50
Year 10	19	14.25
Years 11 - 24	20	15.00
Year 25	21	15.75
Year 30	22	16.50
Year 35	23	17.25
Year 40	24	18.00

(1) **Temporary Full-time Assignment Vacation**. Chief shall receive full accrual of that which a regular full-time employee accumulated in accordance to the following full-time vacation entitlement schedule.

(h) **Floating Holidays and Executive Leave.** Chief shall receive prorated (3/4) accruals that department head receive for floating holidays and executive leave as follows. Chief shall receive three and three-quarters (3.75) floating holidays awarded January 1st of each full year of employment. Chief shall receive three and three-quarters (3.75) days of executive leave awarded January 1st of each

Exhibit A

full year and shall receive another three and three-quarters (3.75) days awarded July 1st of each full year. All floating holidays and executive leave must be used in the year accrued or the time shall be forfeited.

(1) **Temporary Full-time Assignment Floating Holidays and Executive Leave.** Chief shall receive full accruals that department head receive for floating holidays and executive leave.

(i) **Regular Holidays**. Chief shall receive an equivalent prorated (3/4) share of 12 paid holidays that full-time employees are entitled to as defined by the Unrepresented Compensation Program for department heads and mid-managers.

(1) **Temporary Full-time Assignment Regular Holidays.** Chief shall receive an equivalent share of 12 paid holidays that full-time employees are entitled to as defined by the Unrepresented Compensation Program for department heads and mid-managers

(n) **Hours of Work**. Chief is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the Chief position. These hours shall include, at a minimum, work at the City offices at three 10-hour days per week as determined by the City Manager, and attendance at weekly Department Head meetings. In addition, Chief shall respond to calls and provide other services for the hours necessary to fulfill the duties of the Chief position.

(1) **Temporary Full-time Assignment Hours of Work.** Chief is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill in a full-time capacity the obligations of the Chief position throughout the duration of the COVID-19 local emergency. These hours will be equivalent to that of other

Exhibit A

full-time department heads which are typically a minimum of 40-hours per week.

IN WITNESS WHEREOF, the Parties hereto have accepted, made, and executed this Agreement upon the terms, conditions, and provision above stated, the day and year first above written.

CITY OF ST. HELENA
A Municipal Corporation

By: ____________________________ By: ____________________________
Mark T. Prestwich John Sorensen
City Manager Fire Chief

Approved as to Form:

By: ____________________________
Kara Ueda
City Attorney

CITY OF ST. HELENA PUBLICY AVAILABLE SALARY SCHEDULE

Executive Management - Department Heads

Approved and Adopted April 28, 2020

Includes a temporary increase to the Fire Chief's salary from 1,560 hours annually to 2,080 hours annually effective April 12, 2020

FY 2019-2020

Position	Timebase*	A	B	C	D	E
				Steps		
Fire Chief [(1)] (1,560 annual hours)	Annual					132,600
	Monthly					11,050
	Hourly					85.00
Fire Chief [(1)] COVID-19 (2,080 temporary annual hours)	Annual					176,800
	Monthly					14,733
	Hourly					85.00
City Clerk	Annual	103,871	109,064	114,517	120,243	126,255
	Monthly	8,656	9,089	9,543	10,020	10,521
	Hourly	49.94	52.43	55.06	57.81	60.70
Library Director	Annual	124,833	131,074	137,628	144,509	151,735
	Monthly	10,403	10,923	11,469	12,042	12,645
	Hourly	60.02	63.02	66.17	69.48	72.95
Parks & Recreation Director	Annual	126,426	132,747	139,385	146,354	153,672
**Formerly Recreation Director*	Monthly	10,535	11,062	11,615	12,196	12,806
	Hourly	60.78	63.82	67.01	70.36	73.88
Human Resources/IT Director	Annual	128,417	134,838	141,580	148,659	156,092
	Monthly	10,701	11,236	11,798	12,388	13,008
	Hourly	61.74	64.83	68.07	71.47	75.04
Finance Director	Annual	129,916	136,412	143,233	150,394	157,914
	Monthly	10,826	11,368	11,936	12,533	13,160
	Hourly	62.46	65.58	68.86	72.31	75.92
Planning & Building Director	Annual	139,909	146,905	154,250	161,963	170,061
**Formerly Planning & Community Services Director*	Monthly	11,659	12,242	12,854	13,497	14,172
	Hourly	67.26	70.63	74.16	77.87	81.76
Police Chief	Annual	148,786	156,226	164,037	172,239	180,851
	Monthly	12,399	13,019	13,670	14,353	15,071
	Hourly	71.53	75.11	78.86	82.81	86.95
Public Works Director	Annual	151,792	159,382	167,351	175,719	184,505
	Monthly	12,649	13,282	13,946	14,643	15,375
	Hourly	72.98	76.63	80.46	84.48	88.70
City Manager [(1)]	Annual					196,526
	Monthly					16,377
	Hourly					94.48

(1) Positions do not have a pay range

**Annual timebase payrate is rounded up to the nearest whole dollar, while all other timebase payrates are rounded to the nearest cent.*

Report to the City Council
Regular City Council - 28 Apr 2020

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and support of the Downtown Streetscape ad hoc subcommittee's recommendation to not expedite the City Project No. R18-81 Downtown Sidewalk Improvements Project at this time and maintain the original planned start date of January 2021**

CEQA Determination: **CEQA will be completed as part of project design**

Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

Due to the COVID-19 shelter in place order, members of City Council recently expressed interest evaluating the potential of expediting the Downtown Sidewalk Improvement Project. The focus of this inquiry was to evaluate opportunities to lessen the project impact on everyone by getting this work done while most businesses are closed. The project, supported by grant funding, was originally programmed to start in early 2021. However, City staff began researching the possibilities of moving the timeframe up to the 2020 construction season as businesses are expected to return incrementally once the order is lifted.

DISCUSSION

On April 14, 2020, City Council directed City staff to meet with the Downtown Streetscape ad hoc subcommittee, comprised of Vice Mayor Dohring and Councilmember Koberstein, to discuss timing on the downtown pedestrian improvements project and how a portion or all of the project may be expedited in the 2020 construction season. The subcommittee convened with City staff on Thursday, April 17 and discussed impacts to businesses, what portions of the project could take place as early as May, and how the rest of the project could be scheduled later this year or early next year as originally planned.

City staff subsequently evaluated the logistics of how the City could fund or assist with the following topics of discussion:

- Expediting overall sidewalk construction schedule with Caltrans approvals
- Tree removal
- Sewer lateral replacements
- Replacement of private property alcoves/entrances contiguous to the City maintained sidewalk

The subcommittee held a follow-up meeting with City staff on Thursday, April 23 to discuss the outcome of the prior discussion and the advantages and disadvantages of expediting the project. Caltrans informed City staff that they are working to turn around project approvals in two weeks when requested. Tree removal could happen almost immediately with the use of City staff work forces which would minimize noise and disruption to businesses in early January 2021. The committee also reviewed a conceptual project schedule premised on accelerated permitting review that would have accelerated project completion approximately five weeks faster (by September 28) than the earlier expedited schedule presented to the City Council on April 14.

While there were potentially some advantages of expediting the project under an accelerated schedule, the subcommittee is recommending the City Council maintain the originally planned schedule of January 2021. The subcommittee's primary concern with the expedited timing related to repair or replacement of sewer laterals. Private property owners are responsible for maintaining and repairing the sewer laterals (the underground line from the property to the City's sewer main). If the City were to do this work, the City Attorney recommends the City enter into an agreement with each affected property owner. As there are potentially 27 different property owners, and no agreement drafted as of yet, the subcommittee did not see an advantage to expediting this project given the presumptive time it will take to both negotiate and sign agreements.

FISCAL IMPACT
Not applicable.

RECOMMENDED ACTION
Pass a motion supporting the Downtown Streetscape ad hoc subcommittee's recommendation to not expedite the City Project No. R18-81 Downtown Sidewalk Improvements Project at this time and maintain the original planned start date of January 2021

Report to the City Council
Regular City Council - 28 Apr 2020

Agenda Section: **PUBLIC HEARINGS**

Subject: **Introduction and first reading of an ordinance amending Title 13, Public Services of the St. Helena Municipal Code and consideration of a resolution approving City Council Policy P-FI-0019 Disconnection of Water Service for Nonpayment to comply with SB998 mandates.**

CEQA Determination: **Not a CEQA project**

Prepared By: Jennifer Weeks, Senior Accounting Technician

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

Senate Bill No. 998 requires all public water systems to have a written policy on water service discontinuation for nonpayment. Specifically, the provision of the bill would require amendment to the City's existing ordinance related to water billing and the adoption of a written policy. The policy would be applicable to all residential water customers and result in expanded notification procedures prior to service shut off for nonpayment.

DISCUSSION

Through the adoption of SB998, the California Legislature intends to protect Californians from losing access to water service due to inability to pay without proper notice and enough time to remedy. The Water Shutoff Protection Act (SB998), applies to public water providers supplying water to more than 200 service connections. The objective of the statute is to minimize the number of customers losing access to water service due to financial limitations. Compliance with SB998 is required by all water utility agencies by April 2020.

Specifically, the bill requires an adopted policy by the City, which must fulfill the following key requirements:

- SB998 stipulates that the City shall not discontinue residential water service for nonpayment until a customer is delinquent for at least 60 days.; while the delinquent payment is under investigation by the City or under review for appeal; and while the customer is enrolled in an alternative payment agreement.

- Provide written or telephone notice at least 15 days before discontinuation. The notice must contain information on the delinquent amount, a deadline to contact the City to arrange for alternative payment arrangements, procedures to avoid discontinuation, and a description of the bill review and appeals process.

- Provide the customer with information on how to restore service and include the City's contact information to discuss options for averting service discontinuation.

- For residential customers who demonstrate a household income below 200% of the federal poverty line, waive interest charges on delinquent bills and limit the reconnection service fees to a maximum of $50 during business hours and $150 after hours.

- Prohibit discontinuation under certain medical and financial circumstances if the customer agrees to an alternative payment arrangement and provides certification.

- Require the City to make good faith effort to inform by written both the customer of record and residential tenants that water service will be discontinued if payment or payment arrangements are not arranged.

To ensure transparency and accessibility, SB998 requires translations of the adopted policy in the following languages: English, Spanish, Chinese, Vietnamese, Tagalog, Korean, and any other language spoken by 10% of the service area. The policy in the listed languages must be posted on the City's website and made available upon request.

The City is required to annually report the number of disconnections of residential service for inability to pay to the State Water Resources Control Board (SWRCB), and post on the City website. The SWRCB may enforce a penalty for noncompliance of $1,000 for each day that the violation occurs.

It is important to note SB998 was passed prior to the COVID-19 pandemic. This action modifies the current Municipal Code and adopts a shut-off policy. The recommended action is based on the bill's requirements; however, during the existence of the COVID-19 emergency, via City Council's ratification of the proclamation of a local emergency on March 23, 2020, disconnection of utility services for non-payment have been suspended during the duration of the emergency and for 30 days thereafter.

FISCAL IMPACT

The fiscal impact of this resolution is not clear at this time. Costs associated with printing notices and translation will be absorbed in the operating budget.

RECOMMENDED ACTION

1. Introduce and conduct first reading of the draft Ordinance (Attachment 1), by title only and waive further reading.
2. Adopt a Resolution approving City Council Policy P-FI-0019 Disconnection of Water Service for Nonpayment to comply with SB998 mandates.

ATTACHMENTS

Redline - Ordinance 2020-XX Adopting Change in Municipal Code Chapter 13
Ordinance 2020-XX Adopting Change in Municipal Code Chapter 13
Resolution 2020- Authorizing Policy P-FI-0019
P-FI-0019 Discontinuation of Water Service for Non-Payment
Senate Bill No. 998

CITY OF ST. HELENA

ORDINANCE NO. 2020-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA AMENDING CHAPTER 13 OF THE ST. HELENA MUNICIPAL CODE TO REVISE CHAPTERS 13.04.130 THROUGH 13.04.160 REGARDING THE WATER SYSTEM.

The City Council of the City of St. Helena does hereby ordain as follows:

SECTION 1: Code Amendment. Section 13.04.130 through 13.04.160 of Chapter 13.04 of the St. Helena Municipal Code is hereby amended to read as follows:

13.04.130 Enforcement—Discontinuance of service upon delinquency.

A. Discontinuance of Service to Abate Dangerous Conditions, Waste, Etc. The city may refuse to furnish water and may discontinue service to any premises where apparatus, appliances or equipment using water is found by the director of public works or designee to be dangerous or unsafe or where the use of water on such premises is found by the director of public works or designee to be detrimental or injurious to the water service furnished by the city to other consumers, or where the director of public works or designee finds that negligent or wasteful use of water exists on any premises which affects the city's water service. The city shall have the right to refuse or discontinue water service to any premises if necessary to protect itself against fraud or abuse.

B. Enforcement by Director of Public Works. The director of public works is charged with the enforcement of all the provisions of this chapter and Chapters 13.08 and 13.12.

C. Discontinuance for Certain Violations. In the event of violation, other than nonpayment of water service charges, of any terms of this chapter and Chapters 13.08 and 13.12, the director of public works may disconnect any premises from the water system after first notifying in writing the person causing, allowing or committing such violation, specifying the violation and, if applicable, the time after which, upon the failure of such person to prevent or rectify the violation, the director of public works will exercise his or her authority to disconnect the premises from the water system; provided, that such time shall not be less than five days after the deposit of such notice in the United States Post Office at St. Helena, Napa County, California, addressed to the person to whom notice is given; provided, however, that in the event such violation results in a public hazard or menace, then the director of public works may enter upon the premises without notice and do such things and expend such sums as may be necessary to abate such hazard, and the reasonable value of the things done and the amounts expended in so doing shall be a charge upon the person so in violation.

D. Failure to Pay Bill. Bills are due and payable upon presentation and delinquent after thirty (30) days. Upon failure of any consumer billed or the owner of any premises to pay any water service charge prior to the delinquency, the following action or actions shall be taken by the city to enforce such payment after such bill becomes delinquent:

1. Impose a penalty for delinquency of ten percent (10%) of the amount then delinquent;

2. Assess interest in the amount of one percent per month or fraction thereof on the amount delinquent from the date on which the bill remittance first became delinquent until paid;

~~3. Disconnect the premises from the water system for nonpayment of water bills with proper notice as set forth in Division 5, Chapter 1, Article 1 of the California Public Utilities Code;~~

3. If a payment by a customer has been delinquent for at least 60 days, the City may disconnect the premises from the water system for nonpayment of water bills following proper notice.. Water shutoff shall occur consistent with the Disconnection of Water Service for Nonpayment Policy adopted by a resolution of the City Council;

4. Cause an action at law to be brought on behalf of the city against the person responsible for payment of such bill to recover the amount of such bill and the cost of such action including reasonable attorney fees incurred in an amount fixed by the court;

5. Any person wishing to appeal penalties and interest imposed in this section shall adhere to provisions in accordance with Section 13.04.180, Appeals.

E. Disconnection ~~for Nonpayment. No person shall refuses to pay the charges for water services provided for in this code. If any such person shall fail or refuse to pay these lawful charges, including both delinquent and current charges, the water service to the premises, regardless of tenancy, shall be shut off. Water shutoff shall occur consistent with the Disconnection for~~of Water Service for Nonpayment Policy ~~adopted by Resolution of the~~. The City Council~~. Water service shall only be disconnected for non-payment if a customer has been delinquent for at least 60 days.~~may adopt, by resolution, a Disconnection of Water Service for Nonpayment Policy. Such policy may include, but may not be limited to, provisions concerning additional billing procedures, disconnection of service, notification procedures, restoration of service, procedures to contest or appeal a water bill, extensions or other alternative payment arrangements, protections available to qualified low-income customers, procedures for becoming a customer of the city under specified circumstances, and related matters. To the extent a policy adopted pursuant to this section conflicts with any provisions of this chapter, this chapter shall control.

1. ~~**Notice of Disconnecton for Nonpayment**. The account holder shall be mailed a final notice at least 15 days before discontinuation of water service informing him or her that the shutoff will be enforced if payment is not made with the time specified by the notice. In addition a copy of the final notice shall be posted on the property in questions. Written notice shall include:~~
    - ~~**a. The customer's name and address;**~~
    - ~~**b. The amount of the delinquency;**~~
    - ~~**c. The date by which payment or arrangement for payment is required to avoid discontinuation of residential service;**~~
    - ~~**d. The procedure and form to apply for a Hardship Agreement;**~~
    - ~~**e. The procedure and form to petition for bill review and appeal;**~~
    - ~~**f. The telephone number of the City of St. Helena Water Department representative, who can provide additional information or institute arrangements for payments.**~~

2. ~~**Notice to Tenants.** If there is a landlord-tenant relationship between residential occupants and the owner, manager, or operator of the property, the City shall also make resonable, good faith effort to inform the occupants, by means of written notice, when the water service account~~ is in arrears and subject to disconnection.

~~a. If tenants reside in a multi-unit complex served through a master meter, written notice shall be hung on the door of each residence. The written notice will advise the tenants/occupants that they have the right to become customers of the City of St.~~

~~Helena without being required to pay the amount due on the delinquent account, as~~ long as they are willing to assume financial responsibility for subsequent changes for ~~water service at the address(es) served by the mater meter. If one of more of the occupants are willing and able to assume responsibility for the subsequent charges for water service to the satisfaction of the City of St. Helena., or if there is a physical means legally available to the City, of selectively terminating service to those occupants who have not met the requirements for service, the City will make service available to the occupants who have met those requirements. Such notice shall be given at least 15 days before water service is shut off, in accordance with the following provisions.~~

~~b. If tenants reside in an individually metered residence, the written notice shall advise the tenants/occupants that they have the right to become customers of the City without being required to pay the amount due on the delinquent account, as long as they are willing to assume financial responsibility for subsequent charges for water service at that address. In order for the amount due on delinquent account to be waived, the tenant/occupant must provide verification of tenancy in the form of a rental agreement~~

~~or proof of rent payments. Such notice shall be given at least 15 days before water service is shut off, in accordance with the following provisions.~~

3. ~~**Specified Properties not Subject to Disconnection.** Properties that meet all of the following requirements are not subject to disconnection:~~

~~a. The customer, or tenant of the customer, submits to the City a primary care provider certification, as defined in Welfare and Institutions Code section 14088(A)(1)(b), such as that discontinuation of service would be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where the service is provided.~~

~~b. The customer demonstrates that he or she is financially unable to pay for the service within the City's normal billing cycle. A customer may be deemed financially uanble to pay if~~:

~~1. Any member of the cvustomer's household is a current recipient of CalWORKS, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants and Children; or~~

~~2. The customer declares that the household's annual income is less than 200 percent of the federal poverty level.~~

~~3. The customer is willing to enter into a Hardship Agreement consistent with the City's written policies, with respect to all delinquent charges.~~

~~4. **Options for Specified Properties.** Prior to discontinuation of water services for delinquent payment, properties that meet the requirements of subdivision 3 of this section shall be offered the option to apply for a Hardship Agreement for the unpaid balance consistent with the City's Disconnection of Water Service for Nonpayment Policy.~~

~~5. **Disconnection for Specified Properties.** Properties on a Hardship Agreement may have water service discontinued if, after the City posted a notice that meets the requirements of Subdivision 1 of this section on the property at least 5 business days before discontinuation, the customer:~~

~~a. Fails to comply with a Hardship Agreement for delinquent charges for 60 days or more; or~~
~~b. Does not pay current service charges for 60 days while on a Hardship Agreement for delinquent charges.~~

~~6. **Disconnection While Awaiting Appeal.** The City shall not discontinue water services while an appeal of a water nill from that residence is pending.~~
~~7. **Post-Termination Procedures.** The City shall provide any disconnected customer with~~ information on how to restore service.

F.. Hardship Agreements. City finance department may in its discretion offer hardship agreements which create payment plans for delinquent bills. All requests for hardship agreements and payment plans must be submitted in writing. Hardship agreements are approved at the discretion of the finance director based on amount owed and payment history.

G~~.~~. Reconnection Fee. Whenever any premises have been disconnected from the water system for any violation of this chapter or Chapters 13.08 and 13.12, such premises shall not be reconnected to the water system until all delinquent fees, charges, penalties and interest have been paid, together with a reconnection charge as may be set by resolution of the city council.

For ~~customer's~~customers who demonstrate they are financially unable ~~to pay in~~ accordance with ~~this code section 13.04.130(E)(1), the reconnection fee shall be set at the actual cost of reconnection,. Such~~as provided in the Disconnection of Water Service for Nonpayment Policy, the reconnection fee shall not exceed $50 during normal operating hours or $150 ~~durning~~during nonoperational hours, which amounts shall be subject to inflation as described in the policy.

H. Lien for Delinquencies. In addition and as an alternative to any other remedy for enforcement and collection, all delinquent water service charges, including late charges and interest for nonresidential properties, shall become a lien upon the nonresidential real property upon which water is furnished prior to all other liens, encumbrances or exemptions, other than state and county taxes, and shall have the force and effect of a tax lien. The lien shall continue until it is paid together with the penalties and interest set forth in this section. The lien shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All acts applicable to levy, collection and enforcement of municipal taxes apply to this lien. (Ord. 16-13 § 5 (Att. 6 (part)): Ord. 02- 5 § 18 (part): prior code § 18.13)

13.04.140 When water charges become effective Discontinuance of service at consumer's request.

A. Water charges shall become effective against all premises immediately upon connection to the water system.

B. Any consumer may have his or her water service discontinued by giving notice requesting discontinuance at least two business days prior to the requested date of discontinuance. Each such consumer shall pay all water charges up to and including the date of discontinuance stated in such notice. In any case where such notice is not given, the consumer shall be required to pay for water service until two business days after the city has knowledge that the consumer has vacated the premises or otherwise discontinued water service. The city shall set a charge per council resolution for restoring water service to any consumer whose water service has been discontinued at his or her request. Water service will be turned off by a city representative during normal working hours, defined as after eight a.m. and prior to three-thirty p.m., Monday through Friday excluding legal holidays. Water service turn off shall not be made after three-thirty p.m. or prior to eight a.m., Monday through Friday, nor on Saturday, Sunday or legal holidays unless the customer agrees to pay the appropriate fee as set by resolution for such after-hours service.

C. If the discontinuance of a water service under subsection B of this section continues more than thirty (30) days, the consumer may request that the water service be placed on a standby basis. While on a standby basis, the water service rates established by council resolution will apply. In order to reestablish water service, the customer will be responsible for the fee associated with restoring water service and must pay any delinquent charges for which the customer is legally liable before service will be reconnected. (Ord. 16-13 § 5 (Att. 6 (part)): Prior code § 18.14)

13.04.150 Service interruptions.

A. Temporary Suspension of Service. The city will exercise reasonable diligence to provide continuous and adequate water service to consumers and to avoid any shortage or interruption of delivery of water, but cannot guarantee complete freedom from interruption. The city shall have the right to suspend water service temporarily to make necessary repairs or improvements to the water system. In each case of temporary suspension of service, the city will notify the consumers affected as soon as circumstances permit and will prosecute the work of repair or improvement with due diligence and with the least possible inconvenience to consumers.

B. Apportionment Among Consumers. During any period of threatened or actual water shortage the city shall have the right to apportion its available water supply among consumers in such manner as appears most suitable under the circumstances then prevailing and with due regard to public health and safety.

C. City's Responsibility. The city shall not be liable for interruption, shortage or insufficiency of water supply or water pressure or any loss or damage occasioned thereby. (Ord. 16-13 § 5 (Att. 6 (part)): Prior code § 18.15)

13.04.160 Duties of director of public works and director of finance.

It shall be the duty of the director of public works to supervise all connections to the water system, to fix all connection charges and to enforce all provisions of this chapter. It shall be the duty of the director of finance to collect all water bills and charges and all connection and other fees herein provided for, and to deposit the same with the appropriate account. The director of finance shall keep an accurate accounting and records showing the source, amount and disposition of all monies received by them hereunder. The city will carry fidelity insurance with respect to all city officers and employees who respectively receive, collect or have in their care or custody any moneys referred to in this section, such insurance to be in an amount at least equal in the aggregate to the maximum amount of such moneys at any one time in the care or custody of all such officers or employees. (Ord. 16-13 § 5 (Att. 6 (part)): Prior code § 18.16)

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the 28th day of April 2020, and was adopted at a regular meeting of the St. Helena City Council on the 12th day of May 2020, by the following vote:

Mayor Ellsworth:	________________
Vice Mayor Dohring:	________________
Councilmember Chouteau:	________________
Councilmember Knudsen:	________________
Councilmember Koberstein:	________________

APPROVED:

____
Geoff Ellsworth, Mayor

I, CINDY TZAFOPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 28th day of April 2020. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 12th day of May 2020, by the following vote:

Mayor Ellsworth:	________________
Vice Mayor Dohring:	________________
Councilmember Chouteau:	________________
Councilmember Knudsen:	________________
Councilmember Koberstein:	________________

APPROVED:

____
Cindy Tzafopoulos, City Clerk

Summary report: **Litéra® Change-Pro 7.5.0.135 Document comparison done on 1/17/2020 5:49:06 PM**	
Style name: Nick Style	
Intelligent Table Comparison: Active	
Original DMS: iw://iManage/iManage/32639642/1	
Modified DMS: iw://iManage/iManage/32639642/2	
Changes:	
Add	13
~~Delete~~	34
~~Move From~~	3
Move To	3
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	53

CITY OF ST. HELENA

ORDINANCE NO. 2020-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA AMENDING CHAPTER 13 OF THE ST. HELENA MUNICIPAL CODE TO REVISE CHAPTERS 13.04.130 THROUGH 13.04.160 REGARDING THE WATER SYSTEM.

The City Council of the City of St. Helena does hereby ordain as follows:

SECTION 1: Code Amendment. Section 13.04.130 through 13.04.160 of Chapter 13.04 of the St. Helena Municipal Code is hereby amended to read as follows:

13.04.130 Enforcement—Discontinuance of service upon delinquency.

A. Discontinuance of Service to Abate Dangerous Conditions, Waste, Etc. The city may refuse to furnish water and may discontinue service to any premises where apparatus, appliances or equipment using water is found by the director of public works or designee to be dangerous or unsafe or where the use of water on such premises is found by the director of public works or designee to be detrimental or injurious to the water service furnished by the city to other consumers, or where the director of public works or designee finds that negligent or wasteful use of water exists on any premises which affects the city's water service. The city shall have the right to refuse or discontinue water service to any premises if necessary, to protect itself against fraud or abuse.

B. Enforcement by Director of Public Works. The director of public works is charged with the enforcement of all the provisions of this chapter and Chapters 13.08 and 13.12.

C. Discontinuance for Certain Violations. In the event of violation, other than nonpayment of water service charges, of any terms of this chapter and Chapters 13.08 and 13.12, the director of public works may disconnect any premises from the water system after first notifying in writing the person causing, allowing or committing such violation, specifying the violation and, if applicable, the time after which, upon the failure of such person to prevent or rectify the violation, the director of public works will exercise his or her authority to disconnect the premises from the water system; provided, that such time shall not be less than five days after the deposit of such notice in the United States Post Office at St. Helena, Napa County, California, addressed to the person to whom notice is given; provided, however, that in the event such violation results in a public hazard or menace, then the director of public works may enter upon the premises without notice and do such things and expend such sums as may be necessary to abate such hazard, and the reasonable value of the things done and the amounts expended in so doing shall be a charge upon the person so in violation.

D. Failure to Pay Bill. Bills are due and payable upon presentation and delinquent after thirty (30) days. Upon failure of any consumer billed or the owner of any premises to pay any water service charge prior to the delinquency, the following action or actions shall be taken by the city to enforce such payment after such bill becomes delinquent:

1. Impose a penalty for delinquency of ten percent (10%) of the amount then delinquent.

2. Assess interest in the amount of one percent per month or fraction thereof on the amount delinquent from the date on which the bill remittance first became delinquent until paid.

3. If a payment by a customer has been delinquent for at least 60 days, the City may disconnect the premises from the water system for nonpayment of water bills following proper notice. Water shutoff shall occur consistent with the Disconnection of Water Service for Nonpayment Policy adopted by a resolution of the City Council.

4. Cause an action at law to be brought on behalf of the city against the person responsible for payment of such bill to recover the amount of such bill and the cost of such action including reasonable attorney fees incurred in an amount fixed by the court;

5. Any person wishing to appeal penalties and interest imposed in this section shall adhere to provisions in accordance with Section 13.04.180, Appeals.

E. Disconnection of Water Service for Nonpayment Policy. The City Council may adopt, by resolution, a Disconnection of Water Service for Nonpayment Policy. Such policy may include, but may not be limited to, provisions concerning additional billing procedures, disconnection of service, notification procedures, restoration of service, procedures to contest or appeal a water bill, extensions or other alternative payment arrangements, protections available to qualified low-income customers, procedures for becoming a customer of the city under specified circumstances, and related matters. To the extent a policy adopted pursuant to this section conflicts with any provisions of this chapter, this chapter shall control.

F. Hardship Agreements. City finance department may in its discretion offer hardship agreements which create payment plans for delinquent bills. All requests for hardship agreements and payment plans must be submitted in writing. Hardship agreements are approved at the discretion of the finance director based on amount owed and payment history.

G. Reconnection Fee. Whenever any premises have been disconnected from the water system for any violation of this chapter or Chapters 13.08 and 13.12, such premises shall not be reconnected to the water system until all delinquent fees, charges, penalties and interest have been paid, together with a reconnection charge as may be set by resolution of the city council.

For customers who demonstrate they are financially unable to pay as provided in the Disconnection of Water Service for Nonpayment Policy, the reconnection fee shall not exceed $50 during normal operating hours or $150 during nonoperational hours, which amounts shall be subject to inflation as described in the policy.

H. Lien for Delinquencies. In addition and as an alternative to any other remedy for enforcement and collection, all delinquent water service charges, including late charges and interest for nonresidential properties, shall become a lien upon the nonresidential real property upon which water is furnished prior to all other liens, encumbrances or exemptions, other than state and county taxes, and shall have the force and effect of a tax lien. The lien shall continue until it is paid together with the penalties and interest set forth in this section. The lien shall be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All acts applicable to levy, collection and enforcement of municipal taxes apply to this lien. (Ord. 16-13 § 5 (Att. 6 (part)): Ord. 02-5 § 18 (part): prior code § 18.13)

13.04.140 When water charges become effective—Discontinuance of service at consumer’s request.

A. Water charges shall become effective against all premises immediately upon connection to the water system.

B. Any consumer may have his or her water service discontinued by giving notice requesting discontinuance at least two business days prior to the requested date of discontinuance. Each such consumer shall pay all water charges up to and including the date of discontinuance stated in such notice. In any case where such notice is not given, the consumer shall be required to pay for water service until two business days after the city has knowledge that the consumer has vacated the premises or otherwise discontinued water service. The city shall set a charge per council resolution for restoring water service to any consumer whose water service has been discontinued at his or her request. Water service will be turned off by a city representative during normal working hours, defined as after eight a.m. and prior to three-thirty p.m., Monday through Friday excluding legal holidays. Water service turn off shall not be made after three-thirty p.m. or prior to eight a.m., Monday through Friday, nor on Saturday, Sunday or legal holidays unless the customer agrees to pay the appropriate fee as set by resolution for such after-hours service.

C. If the discontinuance of a water service under subsection B of this section continues more than thirty (30) days, the consumer may request that the water service be placed on a standby basis. While on a standby basis, the water service rates established by council resolution will apply. In order to reestablish water service, the customer will be responsible for the fee associated with restoring water service and must pay any delinquent charges for which the customer is legally liable before service will be reconnected. (Ord. 16-13 § 5 (Att. 6 (part)): Prior code § 18.14)

13.04.150 Service interruptions.

A. Temporary Suspension of Service. The city will exercise reasonable diligence to provide continuous and adequate water service to consumers and to avoid any shortage or interruption of delivery of water but cannot guarantee complete freedom from interruption. The city shall have the right to suspend water service temporarily to make necessary repairs or improvements to the water system. In each case of temporary suspension of service, the city will notify the consumers affected as soon as circumstances permit and will prosecute the work of repair or improvement with due diligence and with the least possible inconvenience to consumers.

B. Apportionment Among Consumers. During any period of threatened or actual water shortage the city shall have the right to apportion its available water supply among consumers in such manner as appears most suitable under the circumstances then prevailing and with due regard to public health and safety.

C. City’s Responsibility. The city shall not be liable for interruption, shortage or insufficiency of water supply or water pressure or any loss or damage occasioned thereby. (Ord. 16-13 § 5 (Att. 6 (part)): Prior code § 18.15)

13.04.160 Duties of director of public works and director of finance.

It shall be the duty of the director of public works to supervise all connections to the water system, to fix all connection charges and to enforce all provisions of this chapter. It shall be the duty of the director of finance to collect all water bills and charges and all connection and other fees herein provided for, and to deposit the same with the appropriate account. The director of finance shall keep an accurate accounting and records showing the source, amount and disposition of all monies received by them hereunder. The city will carry fidelity insurance with respect to all city officers and employees who respectively receive, collect or have in their care or custody any moneys referred to in this section, such insurance to be in an amount at least equal in the aggregate to the maximum amount of such moneys at any one time in the care or custody of all such officers or employees. (Ord. 16-13 § 5 (Att. 6 (part)): Prior code § 18.16)

THE FOREGOING ORDINANCE was introduced at a regular meeting of the St. Helena City Council on the 28th day of April 2020, and was adopted at a regular meeting of the St. Helena City Council on the 12th day of May 2020, by the following vote:

Mayor Ellsworth: ___
Vice Mayor Dohring: ___
Councilmember Chouteau: ___
Councilmember Knudsen: ___
Councilmember Koberstein: ___

APPROVED:

____
Geoff Ellsworth, Mayor

I, CINDY TZAFOPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Ordinance was regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 24th day of March 2020. That thereafter said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 7th day of April 2020, by the following vote:

Mayor Ellsworth: ___
Vice Mayor Dohring: ___
Councilmember Chouteau: ___
Councilmember Knudsen: ___
Councilmember Koberstein: ___

APPROVED:

____
Cindy Tzafopoulos, City Clerk

Attachment 2

CITY OF ST. HELENA

RESOLUTION NO. 2020-

A Resolution Approving City Council Policy P-FI-0019 Disconnection of Water Service for Nonpayment to comply with SB998 mandates.

RECITALS

A. On September 28, 2018, Governor Brown signed Senate Bill No. 998 (Water Shutoff Protection Act), which imposes new requirements for shutting off residential water service for unpaid bills; and

B. California Health and Safety Code Section 116906 requires each urban and community water system, including the City of St. Helena ("City"), to have a written policy on discontinuation of residential service for nonpayment, and such written policy must address specified subjects required by law; and

C. Senate Bill No. 998 will also require the City to take several steps before discontinuing water service, and to also report the number of water discontinuations to the State of California; and

D. The City Council desires to adopt the Policy P-FI-0019 Discontinuation of Residential Water Service for Nonpayment, as required by Senate Bill No. 998 and Health and Safety Code section 11690; and

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena hereby resolves as follows:

1. The foregoing recitals are true and correct; and
2. The City Council hereby adopts the attached Policy P-FI-0019 for Discontinuation of Residential Water Service.
3. The Resolution is hereby adopted and becomes effective and in full force immediately upon adoption.

Approved at a Regular Meeting of the St. Helena City Council on April 28, 2020, by the following vote:

Mayor Ellsworth: ___________
Vice Mayor Dohring: ___________
Councilmember Koberstein: ___________
Councilmember Chouteau: ___________
Councilmember Knudsen: ___________

APPROVED: ATTEST:

_________________________ _________________________
Geoff Ellsworth, Mayor Cindy Tzafopoulos, City Clerk

	City of St. Helena Policy Finance	Policy Disconnection of Water Service for Nonpayment Page 1 of 6

Title: **Disconnection of Water Service for Nonpayment**		Policy #	P-FI-0019
		Revision #	Release
		Implementation Date	Immediate
		Last Update Date	
Approval by City Council		Date Approved	

I. Purpose, Overview, and Scope of this Policy

The City of St. Helena is committed to ensure sound financial practices, proper controls over revenues and general oversight. The Finance Department is committed to providing best practices in developing efficient revenue management programs. This policy establishes a minimum standard to be upheld and enforced by all City of St. Helena's employees.

The purpose of the Disconnection of Water Service for Nonpayment Policy sets forth guidelines that govern the Senate Bill No. 998 (Water Shutoff Protection Act) for interruption of water service for non-payment of unpaid bills for residential water service. Furthermore, this policy is intended to supersede any other prior policies.

II. Authority

Updates to this policy require City Council approval.

III. Policy

On September 28, 2018, Senate Bill No. 998 (Water Shutoff Protection Act) was passed which imposes new requirements for shutting off residential water service for unpaid bills effective April 2020. This will outline the procedure of enforcement once water/wastewater bills are delinquent after sixty (60) days.

1. **Definitions**
   - **a.** "Residential" means all living or dwelling units (as defined by the Uniform Building Code) of a permanent, rather than transient, nature, including but not limited to single-family residences, apartments, mobile homes, manufactured homes, duplexes, townhouses, apartment buildings and condominiums. A "dwelling unit" shall be defined as any structure containing sleeping, eating, cooking and sanitation facilities.
   - **b.** "Customer" means the person responsible for paying each water and/or wastewater service account on the water distribution system, both inside and outside city limits, of the water enterprise owned by the city of St. Helena.
   - **c.** "Owner" means the legal property owner of a parcel.
   - **d.** "Tenant" means the leaseholder of a house, apartment, condominium or similar residential dwelling OR the owner of an individual mobile/manufactured home.

2. **Rules and Regulations Generally**
    - **a.** Bills for water and/or water waste charges will be invoiced by the City on a bi-monthly basis. Invoices will be prepared after the 10th of each month, but no later than the 15th of each month.
    - **b.** All bills are due within thirty (30) days from the date of billing.
3. **Responsibility for payment of charges**
    - **a.** All water charges shall be billed to the person making application for water service, unless requested by the owner to be billed differently. Where allowed by law, all shall be the responsibility of the owner of the premises upon which the charges fixed are levied and assessed or their successor in interest.
4. **Enforcement – Penalty & Interest upon delinquency (after 30 days)**
    - **a.** Bills delinquent after thirty (30) days. Upon failure of any customer billed or the owner of any premises to pay any water and/or wastewater service charge prior to delinquency, the following action or actions shall be taken by the City.
        - **i.** Impose a penalty for delinquency of ten percent (10%) on the amount delinquent.
        - **ii.** Assess interest in the amount of one percent (1%) per month or fraction thereof on the amount delinquent from the date on with the bill remittance first became delinquent until paid.
5. **Enforcement – Reminder notice of delinquency (after 45 days)**
    - **a.** Bills delinquent after forty-five (45) days upon failure of any customer billed or the owner of any premises to pay any water and/or wastewater service charge prior to delinquency, the following action shall be taken by the City.
        - **i.** Customers will receive a reminder notice by mail for the amount delinquent, which will include a Hardship Agreement form to set up a payment plan if needed.
6. **Enforcement – Final Notice of delinquency (after 60 days)**
    - **a.** Bills delinquent after sixty (60) days upon failure of any customer billed or the owner of any premises to pay any water and/or wastewater service charge prior to delinquency, the following action or actions shall be taken by the City to enforce such payment after such bill became delinquent.
        - **i.** Customers will receive a reminder notice by mail for the amount delinquent. In addition, a copy of the letter will be left at the service address in a prominent and conspicuous location. This will include:
            1. The customer's name and address.
            2. The amount of the delinquency.

3. The date by which payment or arrangement for payment is required to avoid discontinuation of residential service.
4. The procedure and form to file for a Hardship Extension Request (Payment Plan).
    a. 12 months is the maximum breakdown of payments allowed.
    b. These payments must be made in addition to any future water bills due.
    c. No penalties or interest will accrue if the payment terms defined are met.
    d. Failure to meet the terms of the agreement could result in disconnection of the premises from the water system for non-payment and/or could cause action at law to be brought on behalf of the City against the person responsible for payment of such bill to recover the amount of such bill and the cost of such action including reasonable attorney fees incurred in an amount fixed by the court.
5. The procedure and form to file for an Appeal with City Council.
    a. All forms are to be given to the City Clerk or designee for review and tracking.
    b. The City Manager has the authority to resolve specified appeals up to $2,000.00. The City Council has the authority to resolve appeals over $2,000.00.
    c. Service will not be interrupted while the appeal is pending
    d. No penalties or interest will accrue while the appeal is pending.
6. The telephone number of the City of St. Helena Water Department representative who can provide additional information or institute arrangements for payments.

b. Notice to Tenants. If there is a landlord-tenant relationship between residential occupants and the owner, manager, or operator of the property, the City shall also make reasonable, good faith effort to inform the occupants, by means of written notice, when the water service account is in arrears and subject to disconnection.

i. If tenants reside in a multi-unit complex served through a master meter, written notice shall be hung on the door of each residence. The written notice will advise the tenants/occupants that they have the right to become customers of the City of St. Helena without being required to pay the amount due on the delinquent account, as long as they are willing to assume financial responsibility for subsequent changes for water service at the address(es) served by the mater meter. If one of more of the occupants are willing and able to assume responsibility for the subsequent charges for water service to the satisfaction of the City of St. Helena, or if there is a physical means legally available to the City, of selectively terminating service to those occupants who have not met the requirements for service, the City will make service available to the occupants who have met those requirements. Such notice shall be given at least 15 days before water service is shut off, in accordance with the following provisions.

ii. If tenants reside in an individually metered residence, the written notice shall advise the tenants/occupants that they have the right to become customers of the City without being required to pay the amount due on the delinquent account, as long as they are willing to assume financial responsibility for subsequent charges for water service at that address. For the amount due on delinquent account to be waived, the tenant/occupant must provide verification of tenancy in the form of a rental agreement or proof of rent payments. Such notice shall be given at least 15 days before water service is shut off, in accordance with the following provisions.

c. Specified Properties not Subject to Disconnection. Properties that meet all the following requirements are not subject to disconnection:

i. The customer, or tenant of the customer, submits to the City a primary care provider certification, as defined in Welfare and Institutions Code section 14088(A)(1)(b), such as that discontinuation of service would be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where the service is provided.

ii. The customer demonstrates that they are financially unable to pay for the service within the City's normal billing cycle. A customer may be deemed financially unable to pay if:

1. Any member of the customer's household is a current recipient of CalWORKs, Cal Fresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants and Children; or

2. The customer declares that the household's annual income is less than 200 percent of the federal poverty level.

3. The customer is willing to enter into a Hardship Agreement consistent with the City's written policies, with respect to all delinquent charges.

d. **Options for Specified Properties.** Prior to discontinuation of water services for delinquent payment, properties that meet the requirements of subdivision 3 of this section shall be offered the option to apply for a Hardship Agreement for the unpaid balance consistent with the City's Disconnection of Water Service for Nonpayment Policy.

e. **Disconnection for Specified Properties.** Properties on a Hardship Agreement may have water service discontinued if, after the City posted a notice that meets the requirements of Subdivision 1 of this section on the property at least 5 business days before discontinuation, the customer:

   i. Fails to comply with a Hardship Agreement for delinquent charges for 60 days or more: or

   ii. Does not pay current service charges for 60 days while on a Hardship Agreement for delinquent charges.

7. **Enforcement – Discontinuance of Service upon delinquency**

   a. Bills delinquent after seventy (70) days upon failure of any customer billed or the owner of any premises to pay any water and/or wastewater service charge prior to delinquency, the following action or actions shall be taken by the City.

      i. City Staff will make courtesy calls to the customer informing them if payment is not received their water service will be shut-off for non-payment.

      ii. The Finance Department will inform the Water Distribution department of each account to be shut-off for non-payment.

      iii. If the Water Distribution department has been dispatched to shut-off water service, a shut-off fee shall be accessed to the fees that are due and payable.

      iv. Service will not be restored until full payment has been made or a Hardship Agreement has been approved by the Finance Director, or designee.

      v. Failure to pay can cause an action at law to be brought on behalf of the City against the person responsible for payment of such bill to recover the amount of such bill and the cost of such action including reasonable attorney fees incurred in an amount fixed by the court.

   b. **Disconnection While Awaiting Appeal.** The City shall not discontinue water services while an appeal of a water bill from that residence is pending.

   c. **Post-Termination Procedures.** The City shall provide any disconnected customer with information on how to restore service.

8. **Enforcement – Reconnection Fee**

a. Reconnection of Service: In order to resume or continue service that has been disconnected for non-payment, the customer must pay a reconnection fee. The City will endeavor to reconnect service as soon as practicable but, at a minimum, will restore service before the end of the next working day following payment of any past due amount, delinquent fees attributable to the termination of service, and a deposit for reconnection of the account. Water service that is turned on by any person other than City personnel without City authorization may be subject to fines or additional charges or fees. Any damages that occur as a result of unauthorized restoration of service are the responsibility of the customer.

b. Reconnection of Service After Business Hours: Service restored after 4:00pm Monday through Friday, or on weekends or holidays will be charged an after-hours reconnection fee. Service will not be restored after regular business hours unless the customer has been informed of the after-hours reconnection fee and following payment of any past due amount, delinquent fees attributable to the termination of service, and a deposit for reconnection of the account. The after-hours reconnection fee is in addition to the regular reconnection fee and the late charge for a past due account. Customers requesting reconnection of service after business hours will contact the St. Helena Police Dispatch non-emergency number to arrange for payment of any past due amount, delinquent fees attributable to the termination of service, and a deposit for reconnection of the account.

Sometimes water service is discontinued because the service is a new account the City has not received a request to establish service. If service is being restored after regular business hours because the customer has yet to establish service, the customer must agree to contact the Water Department to establish service the next business day.

If service is discontinued for any reason not identified above, the customer is advised to contact the Water Department to resolve the issue as quickly as possible. No after-hours reconnection fee will be charged in this instance.

c. For customers who demonstrate they are financially unable to pay in accordance with this code section 13.04.30(E)(1), the reconnection fee shall be set at the actual cost of reconnection. Such reconnection fee shall not exceed $50 during normal operating hours or $150 during nonoperational hours.

Senate Bill No. 998

CHAPTER 891

An act to add Chapter 6 (commencing with Section 116900) to Part 12 of Division 104 of the Health and Safety Code, relating to water.

[Approved by Governor September 28, 2018. Filed with Secretary of State September 28, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

SB 998, Dodd. Discontinuation of residential water service: urban and community water systems.

Existing law, the California Safe Drinking Water Act, requires the State Water Resources Control Board to administer provisions relating to the regulation of drinking water to protect public health. Existing law declares it to be the established policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including water corporations. Existing law requires certain notice to be given before a water corporation, public utility district, municipal utility district, or a municipally owned or operated public utility furnishing water may terminate residential service for nonpayment of a delinquent account, as prescribed.

This bill would require an urban and community water system, defined as a public water system that supplies water to more than 200 service connections, to have a written policy on discontinuation of water service to certain types of residences for nonpayment available in prescribed languages. The bill would require the policy to include certain components, be available on the system's Internet Web site, and be provided to customers in writing, upon request. The bill would provide for enforcement of these provisions, including making a violation of these provisions punishable by a civil penalty issued by the board in an amount not to exceed $1,000 for each day in which the violation occurs, and would require the enforcement moneys collected by the board to be deposited in the Safe Drinking Water Account. The bill would prohibit an urban and community water system from discontinuing residential service for nonpayment until a payment by a customer has been delinquent for at least 60 days. The bill would require an urban and community water system to contact the customer named on the account and provide the customer with the urban and community water system's policy on discontinuation of residential service for nonpayment no less than 7 business days before discontinuation of residential service, as prescribed.

This bill would prohibit residential service from being discontinued under specified circumstances. The bill would require an urban and community water system that discontinues residential service to provide the customer with information on how to restore service. The bill would require an urban and community water system to waive interest charges on delinquent bills for, and would limit the amount of a reconnection of service fee imposed on, a residential customer who demonstrates, as prescribed, to the urban and community water system household income below 200% of the federal poverty line. The bill would require an urban and community water system that furnishes individually metered residential service to residential occupants of a detached single-family dwelling, a multiunit structure, mobilehome park, or permanent residential structure in a labor camp, and that the owner, manager, or operator of the dwelling, structure, or park is the customer of record, to make every good faith effort to inform the residential occupants by written notice that service will be terminated and that the residential occupants have the right to become customers, as specified. The bill would require an urban and community water system to report the number of annual discontinuations of residential service for inability to pay on its Internet Web site and to the board, and the bill would require the board to post on its Internet Web site the information reported. The bill would require an urban water supplier, as defined, or an urban and community water system regulated by the commission, to comply with the bill's provisions on and after February 1, 2020, and any other urban and community water system to comply with the bill's provisions on and after April 1, 2020. The bill would provide that the provisions of the bill are in addition to the provisions in existing law duplicative of the bill and that where the provisions are inconsistent, the provisions described in the bill apply.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) All Californians have the right to safe, accessible, and affordable water as declared by Section 106.3 of the Water Code.

(b) It is the intent of the Legislature to minimize the number of Californians who lose access to water service due to inability to pay.

(c) Water service discontinuations threaten human health and well-being, and have disproportionate impact on infants, children, the elderly, low-income families, communities of color, people for whom English is a second language, physically disabled persons, and persons with life-threatening medical conditions.

(d) When there is a delinquent bill, all Californians, regardless of whether they pay a water bill directly, should be treated fairly, and fair treatment includes the ability to contest a bill, seek alternative payment schedules, and demonstrate medical need and severe economic hardship.

(e) The loss of water service causes tremendous hardship and undue stress, including increased health risks to vulnerable populations.

(f) It is the intent of the Legislature that this act provide additional procedural protections and expand upon the procedural safeguards contained in the Public Utilities Code and Government Code as of January 1, 2018, relating to utility service disconnections.

SEC. 2. Chapter 6 (commencing with Section 116900) is added to Part 12 of Division 104 of the Health and Safety Code, to read:

Chapter 6. Discontinuation of Residential Water Service

116900. This chapter shall be known, and may be cited, as the Water Shutoff Protection Act.

116902. For the purposes of this chapter, the following definitions apply:

(a) "Board" means the State Water Resources Control Board.

(b) "Public water system" has the same meaning as defined in Section 116275.

(c) "Residential service" means water service to a residential connection that includes single-family residences, multifamily residences, mobilehomes, including, but not limited to, mobilehomes in mobilehome parks, or farmworker housing.

(d) "Urban and community water system" means a public water system that supplies water to more than 200 service connections.

(e) "Urban water supplier" has the same meaning as defined in Section 10617 of the Water Code.

116904. (a) An urban water supplier not regulated by the Public Utilities Commission shall comply with this chapter on and after February 1, 2020.

(b) An urban and community water system regulated by the Public Utilities Commission shall comply with this chapter on and after February 1, 2020. The urban and community water system regulated by the Public Utilities Commission shall file advice letters with the commission to conform with this chapter.

(c) An urban and community water system not described in subdivision (a) or (b) shall comply with this chapter on and after April 1, 2020.

116906. (a) An urban and community water system shall have a written policy on discontinuation of residential service for nonpayment available in English, the languages listed in Section 1632 of the Civil Code, and any other language spoken by at least 10 percent of the people residing in its service area. The policy shall include all of the following:

(1) A plan for deferred or reduced payments.

(2) Alternative payment schedules.

(3) A formal mechanism for a customer to contest or appeal a bill.

(4) A telephone number for a customer to contact to discuss options for averting discontinuation of residential service for nonpayment.

(b) The policy shall be available on the urban and community water system's Internet Web site, if an Internet Web site exists. If an Internet Web site does not exist, the urban and community water system shall provide the policy to customers in writing, upon request.

(c) (1) The board may enforce the requirements of this section pursuant to Sections 116577, 116650, and 116655. The provisions of Section 116585 and Article 10 (commencing with Section 116700) of Chapter 4 apply to enforcement undertaken for a violation of this section.

(2) All moneys collected pursuant to this subdivision shall be deposited in the Safe Drinking Water Account established pursuant to Section 116590.

116908. (a) (1) (A) An urban and community water system shall not discontinue residential service for nonpayment until a payment by a customer has been delinquent for at least 60 days. No less than seven business days before discontinuation of residential service for nonpayment, an urban and community water system shall contact the customer named on the account by telephone or written notice.

(B) When the urban and community water system contacts the customer named on the account by telephone pursuant to subparagraph (A), it shall offer to provide in writing to the customer the urban and community water system's policy on discontinuation of residential service for nonpayment. An urban and community water system shall offer to discuss options to avert discontinuation of residential service for nonpayment, including, but not limited to, alternative payment schedules, deferred payments, minimum payments, procedures for requesting amortization of the unpaid balance, and petition for bill review and appeal.

(C) When the urban and community water system contacts the customer named on the account by written notice pursuant to subparagraph (A), the written notice of payment delinquency and impending discontinuation shall be mailed to the customer of the residence to which the residential service is provided. If the customer's address is not the address of the property to which residential service is provided, the notice also shall be sent to the address of the property to which residential service is provided, addressed to "Occupant." The notice shall include, but is not limited to, all of the following information in a clear and legible format:

(i) The customer's name and address.

(ii) The amount of the delinquency.

(iii) The date by which payment or arrangement for payment is required in order to avoid discontinuation of residential service.

(iv) A description of the process to apply for an extension of time to pay the delinquent charges.

(v) A description of the procedure to petition for bill review and appeal.

(vi) A description of the procedure by which the customer may request a deferred, reduced, or alternative payment schedule, including an amortization of the delinquent residential service charges, consistent with the written policies provided pursuant to subdivision (a) of Section 116906.

(2) If the urban and community water system is unable to make contact with the customer or an adult occupying the residence by telephone, and written notice is returned through the mail as undeliverable, the urban and community water system shall make a good faith effort to visit the residence and leave, or make other arrangements for placement in a conspicuous place of, a notice of imminent discontinuation of residential service for nonpayment and the urban and community water system's policy for discontinuation of residential service for nonpayment.

(b) If an adult at the residence appeals the water bill to the urban and community water system or any other administrative or legal body to which such an appeal may be lawfully taken, the urban and community water system shall not discontinue residential service while the appeal is pending.

116910. (a) An urban and community water system shall not discontinue residential service for nonpayment if all of the following conditions are met:

(1) The customer, or a tenant of the customer, submits to the urban and community water system the certification of a primary care provider, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (b) of Section 14088 of the Welfare and Institutions Code, that discontinuation of residential service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises where residential service is provided.

(2) The customer demonstrates that he or she is financially unable to pay for residential service within the urban and community water system's normal billing cycle. The customer shall be deemed financially unable to pay for residential service within the urban and community water system's normal billing cycle if any member of the customer's household is a current recipient of CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children, or the customer declares that the household's annual income is less than 200 percent of the federal poverty level.

(3) The customer is willing to enter into an amortization agreement, alternative payment schedule, or a plan for deferred or reduced payment, consistent with the written policies provided pursuant to subdivision (a) of Section 116906, with respect to all delinquent charges.

(b) (1) If the conditions listed in subdivision (a) are met, the urban and community water system shall offer the customer one or more of the following options:

(A) Amortization of the unpaid balance.

(B) Participation in an alternative payment schedule.

(C) A partial or full reduction of the unpaid balance financed without additional charges to other ratepayers.

(D) Temporary deferral of payment.

(2) The urban and community water system may choose which of the payment options described in paragraph (1) the customer undertakes and may set the parameters of that payment option. Ordinarily, the repayment option offered should result in repayment of any remaining outstanding balance within 12 months. An urban and community water system may grant a longer repayment period if it finds the longer period is necessary to avoid undue hardship to the customer based on the circumstances of the individual case.

(3) Residential service may be discontinued no sooner than 5 business days after the urban and community water system posts a final notice of intent to disconnect service in a prominent and conspicuous location at the property under either of the following circumstances:

(A) The customer fails to comply with an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges for 60 days or more.

(B) While undertaking an amortization agreement, an alternative payment schedule, or a deferral or reduction in payment plan for delinquent charges, the customer does not pay his or her current residential service charges for 60 days or more.

116912. An urban and community water system that discontinues residential service for nonpayment shall provide the customer with information on how to restore residential service.

116914. (a) For a residential customer who demonstrates to an urban and community water system household income below 200 percent of the federal poverty line, the urban and community water system shall do both of the following:

(1) Set a reconnection of service fee for reconnection during normal operating hours at fifty dollars ($50), but not to exceed the actual cost of reconnection if it is less. Reconnection fees shall be subject to an annual adjustment for changes in the Consumer Price Index beginning January 1, 2021. For the reconnection of residential service during nonoperational hours, an urban and community water system shall set a reconnection of service fee at one hundred fifty dollars ($150), but not to exceed the actual cost of reconnection if it is less. Reconnection fees shall be subject to an annual adjustment for changes in the Consumer Price Index beginning January 1, 2021.

(2) Waive interest charges on delinquent bills once every 12 months.

(b) An urban and community water system shall deem a residential customer to have a household income below 200 percent of the federal poverty line if any member of the household is a current recipient of CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income/State Supplementary Payment Program, or California Special Supplemental Nutrition Program for Women, Infants, and Children, or the customer declares that the household's annual income is less than 200 percent of the federal poverty level.

116916. (a) This section applies if there is a landlord-tenant relationship between the residential occupants and the owner, manager, or operator of the dwelling.

(b) If an urban and community water system furnishes individually metered residential service to residential occupants of a detached single-family dwelling, a multiunit residential structure, mobilehome park, or permanent residential structure in a labor camp as defined in Section 17008, and the owner, manager, or operator of the dwelling, structure, or park is the customer of record, the urban and community water system shall make every good faith effort to inform the residential occupants, by means of written notice, when the account is in arrears that service will be terminated at least 10 days prior to the termination. The written notice shall further inform the residential occupants that they have the right to become customers, to whom the service will then be billed, without being required to pay any amount which may be due on the delinquent account.

(c) The urban and community water system is not required to make service available to the residential occupants unless each residential occupant agrees to the terms and conditions of service and meets the requirements of law and the urban and community water system's rules and tariffs. However, if one or more of the residential occupants are willing and able to assume responsibility for the subsequent charges to the account to the satisfaction of the urban and community water system, or if there is a physical means legally available to the urban and community water system of selectively terminating service to those residential occupants who have not met the requirements of the urban and community water system's rules and tariffs, the urban and community water system shall make service available to those residential occupants who have met those requirements.

(d) If prior service for a period of time is a condition for establishing credit with the urban and community water system, residence and proof of prompt payment of rent or other credit obligation acceptable to the urban and community water system for that period of time is a satisfactory equivalent.

(e) Any residential occupant who becomes a customer of the urban and community water system pursuant to this section whose periodic payments, such as rental payments, include charges for residential water service, where those charges are not separately stated, may deduct from the periodic payment each payment period all reasonable charges paid to the urban and community water system for those services during the preceding payment period.

(f) In the case of a detached single-family dwelling, the urban and community water system may do any of the following:

(1) Give notice of termination at least seven days prior to the proposed termination.

(2) In order for the amount due on the delinquent account to be waived, require an occupant who becomes a customer to verify that the delinquent account customer of record is or was the landlord, manager, or agent of the dwelling. Verification may include, but is not limited to, a lease or rental agreement, rent receipts, a government document indicating that the occupant is renting the property, or information disclosed pursuant to Section 1962 of the Civil Code.

116918. An urban and community water system shall report the number of annual discontinuations of residential service for inability to pay on the urban and community water system's Internet Web site, if an Internet Web site exists, and to the board. The board shall post on its Internet Web site the information reported.

116920. (a) The Attorney General, at the request of the board or upon his or her own motion, may bring an action in state court to restrain by temporary or permanent injunction the use of any method, act, or practice declared in this chapter to be unlawful.

(b) For an urban and community water system regulated by the Public Utilities Commission, the commission may bring an action in state court to restrain by temporary or permanent injunction the use by an urban and community water system regulated by the commission of any method, act, or practice declared in this chapter to be unlawful.

116922. All written notices required under this chapter shall be provided in English, the languages listed in Section 1632 of the Civil Code, and any other language spoken by 10 percent or more of the customers in the urban and community water system's service area.

116924. Where provisions of existing law are duplicative of this chapter, compliance with one shall be deemed compliance with the other. Where those provisions are inconsistent, the provisions of this chapter shall apply. Nothing in this chapter shall be construed to limit or restrict the procedural safeguards against the disconnection of residential water service existing as of December 31, 2018.

116926. This chapter does not apply to the termination of a service connection by an urban and community water system due to an unauthorized action of a customer.

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Report to the City Council

Regular City Council - 28 Apr 2020

Agenda Section: **NEW BUSINESS**

Subject: **Consideration and approval of an Urgency Ordinance temporarily suspending Sections 3.28.070 and 3.28.080 of the St. Helena Municipal Code concerning payments of Transient Occupancy Tax, and declaring the urgency thereof.**

CEQA Determination: **Not a CEQA project**

Prepared By: April Mitts, Finance Director

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On March 23, 2020, the City Council of the City of St. Helena declared a local emergency due to conditions, and threatened conditions, of COVID-19, a contagious virus with no known cure that has become a global pandemic. The City's actions followed the Governor of the State of California declaring a state of emergency on March 4, 2020, the President of the United States declaring a national emergency on March 13, 2020, and the Napa County Board of Supervisors ratifying a local and public health emergency on March 17, 2020. The Napa County Health Officer issued a Shelter in Place Order on March 18, 2020, amended on March 20, 2020, and subsequently reordered and continued on April 2, 2020.

The effects of the various orders and actions needed to slow the spread of COVID-19 and protect the health and safety of the public has resulted in significant economic impacts in the City of St. Helena. For example, restaurants have closed or converted to take-out businesses, "non-essential" businesses have closed temporarily, and may have to close permanently, and events have been cancelled or postponed indefinitely. Hotels are suffering dramatically decreased rates of occupancy (most with no occupancy), and thus have experienced a significant loss of business and revenue.

Some hotels in the City have already been forced to close as a result of the ongoing COVID-19 emergency, and more hotels may similarly be forced to close under current conditions. There is likely to be a significant delay in such hotels reopening, which will result in both the temporary and possibly permanent reduction in the number of hotel rooms available in the City and loss of City revenue.

DISCUSSION

Hotels in the City are subject to Chapter 3.28 of the City of St. Helena Municipal Code and Measure E adopted November 6, 2018, which collectively require hotels to collect from hotel guests a 13% occupancy tax, referred to as the transient occupancy tax or TOT (Chapter 3.28 imposes a 12% occupancy tax, and Measure E adds an additional 1% occupancy tax to be used to provide programs and services for affordable and workforce housing). This tax is collected from guests based on the cost of a room night and is then remitted to the City. Section 3.28.060 of the Municipal Code requires hotel operators to make the payments on or before the last day of the month following the close of each calendar quarter. However, the Tax Administrator is authorized to establish shorter reporting periods, and thus the City has historically collected TOT on a monthly basis. Sections 3.28.070 and 3.28.080 impose penalties and interest, and authorize and mandate additional enforcement actions by the Tax Administrator, when and if TOT payments are not timely remitted to the City.

Multiple hotel operators have already reached out to the City regarding their current financial hardship, limited booking of hotel nights, and uncertainty regarding current and future operation. Some hotels have already closed, and this reduction in hotel revenues is likely to have an extended impact and delay on hotels' ability to reopen. Hotels are a vital amenity in the City, as their ability to remain open and viable businesses both in the short-term and long-term impacts the City's ability to attract and retain visitors, and thus also impacts the City's overall tourism and revenues. Local hotels are also a major source of employment and critical to providing needed accommodations for essential business travel and emergency service workers.

Based on direction provided at the April 14, 2020, Council Council meeting, staff recommends an urgency ordinance that, if adopted, will temporarily suspend two provisions of the Municipal Code concerning the imposition of fines and penalties for delinquent transient occupancy tax payments to the City and the related enforcement mechanisms. Specifically, Section 3.28.070, concerning penalties and interest imposed when transient occupancy taxes are not timely remitted, and Section 3.28.080, requiring the Tax Administrator to take certain actions when an operator fails to timely remit transient occupancy taxes, would be suspended (meaning they would not apply or be enforceable).

The effect of suspending these sections would be to permit the deferral of the applicable TOT payments until a later time free of interest and penalties, in order to provide temporary financial relief to hotels during this local emergency. The proposed ordinance provides that all operators who collected transient occupancy tax during the months of January, February, and March 2020 (Quarter 1) are not expected to remit payments owed to the City until June 30, 2020 (normally due no later than April 30, 2020). Operators who will collect transient occupancy tax during the months of April, May, and June 2020 (Quarter 2) are not expected to remit payments owed to the City until July 31, 2020, consistent with the regularly scheduled Quarter 2 payments already established in the Municipal Code (but different from the typical monthly collection). From and after those deadlines, the regular interest and penalties set forth in Section 3.28.070 would resume and begin accruing, and the enforcement provisions in Section 3.28.080 may be enforced by the Tax Administrator. The ordinance does not waive or eliminate the obligation to still collect TOT, and operators would still be required to timely report their total rents charged and received and the amount of any taxes.

The proposed ordinance does not affect, waive, or amend any other tax or assessment that may be due, expressly including the Tourism Improvement District (TID) assessments on hotel room nights. The TID assessment is currently imposed at a rate of 2% of hotel room nights, and is to be remitted to the City along with TOT payments, which the City in turn remits to the county-wide Napa Valley Tourism Improvement District pursuant to a Memorandum of Understanding. The City will be charged penalties and interest for failure to remit the applicable TID assessments to the County, and thus the TID assessments will be due on a monthly basis irrespective of the proposed urgency ordinance.

As an urgency ordinance, the City Council must adopt the ordinance by a minimum four-fifths (4/5) vote. Upon adoption, the ordinance will take effect immediately.

FISCAL IMPACT

It is anticipated there will be minimal fiscal impact in temporarily suspending Sections 3.28.070 and 3.28.080 of the St. Helena Municipal Code concerning payments of Transient Occupancy Tax (TOT), and declaring the urgency thereof. Because TOT is still due to the City, the fiscal impact of deferring payments is a temporary loss of an estimated $250,000 in cash flow until July 31, 2020. Funds received at this time will be booked to FY 2019-20.

RECOMMENDED ACTION

Staff recommends the City Council approve an Urgency Ordinance temporarily suspending Sections 3.28.070 and 3.28.080 of the St. Helena Municipal Code concerning payments of Transient Occupancy Tax, and declaring the urgency thereof.

ATTACHMENTS

COSH Urgency Ordinance COVID-19-TOT Deferral-c1

URGENCY ORDINANCE _____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. HELENA TEMPORARILY SUSPENDING SECTIONS 3.28.070 AND 3.28.080 OF THE ST. HELENA MUNICIPAL CODE CONCERNING PAYMENT OF TRANSIENT OCCUPANCY TAX, AND DECLARING THE URGENCY THEREOF

WHEREAS, on March 23, 2020, the City Council of the City of St. Helena declared a local emergency due to conditions and threatened conditions of COVID-19, a contagious virus with no known cure that has become a global pandemic; and

WHEREAS, the City's actions followed the Governor of the State of California declaring a state of emergency on March 4, 2020, the President of the United States declaring a national emergency on March 13, 2020, and the Napa County Board of Supervisors ratifying a local and public health emergency on March 17, 2020; and

WHEREAS, the Napa County Health Officer issued a Shelter in Place Order on March 18, 2020, amended on March 20, 2020, and subsequently reordered and continued on April 2, 2020, and the Governor issued a similar Executive Order ordering all residents to stay at home except for certain essential needs and activities on March 19, 2020; and

WHEREAS, the effects of the various orders and actions needed to slow the spread of COVID-19 and protect the health and safety has resulted in significant economic impacts in the City of St. Helena, including restaurants closing or converting to take-out only businesses, "non-essential" businesses closing temporarily and in some cases permanently, events being cancelled or postponed indefinitely, and hotel occupancies, and thus revenue, dramatically decreasing; and

WHEREAS¸ hotels are a significant and important amenity of the City, as they provide a place for visitors to stay in and experience the City, and they in turn generate revenue in the form of increased sales tax dollars from visitors' purchases at local stores and restaurants; and

WHEREAS, some hotels in the City have already been forced to close as a result of the ongoing COVID-19 emergency and its effect on hotel room occupancy and more hotels may similarly be forced to close under current conditions, and further there is likely to be a significant delay in such hotels reopening; and

WHEREAS, both the temporary and possibly permanent reduction in the number of hotel rooms available in the City will result in reductions in City revenue and the elimination of an essential amenity for future visitors to the City; and

WHEREAS, hotels in the City are subject to Chapter 3.28 of the City of St. Helena Municipal Code and Measure E adopted November 6, 2018, which collectively require hotels to collect from hotel guests a 13% occupancy tax, referred to as the transient occupancy tax, which is then remitted to the City; and

WHEREAS¸ in this time of economic uncertainty and declining hotel revenues, the City Council finds that it is vital to assist the hotels in the City to remain open and viable businesses in the short-term and long-term, so that visitors can stay in hotels both during this period of local emergency but also in the future when the City returns to typical operating conditions; and

WHEREAS, the City Council finds that enforcing all of the provisions of the St. Helena Municipal Code regarding collection of the transient occupancy tax from hotels in the City, specifically the provisions regarding imposition of interest and penalties in the event of non-payment, is not in the public interest as it may result in further or longer inability for hotels to operate or reopen; and

WHEREAS, the City Council further finds that it is in the best interest of the public's health, safety, and welfare for hotels to be able to continue to operate during and after the local emergency caused by COVID-19, and that assisting hotels through the temporary suspension of the provisions of the Municipal Code requiring penalties and interest to be paid in the event of non-payment and other enforcement procedures is thus necessary in this time of emergency for the immediate preservation of the public's health, safety and welfare; and

WHEREAS¸ this Ordinance is temporary in nature and is intended only to provide temporary financial relief to hotels within the City of St. Helena during, and immediately following, the City's response to the COVID-19 pandemic outbreak, and this Ordinance does not otherwise waive the obligations to impose, collect, and remit transient occupancy taxes; and

WHEREAS, this Ordinance is adopted pursuant to the City's police powers and powers afforded to the City in time of national, state, county, and local emergency during an unprecedented health pandemic, such powers being afforded by the State Constitution, State Law, and Chapter 2.64 of the Woodland Municipal Code to protect the peace, health, and safety of the public; and

WHEREAS, the City Council of the City of St. Helena finds that there is urgency in approving this Ordinance for the immediate preservation of the public peace, health, and safety of residents living within the City, and therefore finds such urgency to approve this Ordinance immediately based on the facts described herein, and detailed in the staff report.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of St. Helena as follows:

Section 1. The City Council finds that the above recitals are true and correct and hereby adopts them as findings of urgency necessitating the immediate adoption of this Ordinance upon a four-fifths vote.

Section 2. Section 3.28.070 of the St. Helena Municipal Code, concerning penalties and interest imposed when transient occupancy taxes are not timely remitted, is hereby suspended. The effect and duration of this suspension is set forth below in Section 4 of this Ordinance.

Section 3. Section 3.28.080 of the St. Helena Municipal Code, requiring the Tax Administrator to take certain actions when an operator fails to timely remit transient occupancy taxes, is hereby suspended. The effect and duration of this suspension is set forth below in Section 4 of this Ordinance.

Section 4. The effect of the City Council's suspension of St. Helena Municipal Code Sections 3.28.070 and 3.28.080 is to permit the deferral of transient occupancy tax payments by operators to the City, free of interest, penalties, and other enforcement procedures, as follows:

A. All operators, as defined in Chapter 3.28 of the Municipal Code, who collected transient occupancy tax during the months of January, February, and March 2020 (Quarter 1) are expected to remit all payments owed to the City by June 30, 2020.

B. All operators, as defined in Chapter 3.28 of the Municipal Code, who will collect transient occupancy tax during the months of April, May, and June 2020 (Quarter 2) are expected to remit all payments owed to the City by July 31, 2020.

C. From and after the date the taxes are due to be paid as set forth above, all applicable interest and penalties set forth in Section 3.28.070 shall begin accruing, and the enforcement provisions in Section 3.28.080 may be enforced by the Tax Administrator.

D. To the extent the Tax Administrator has established shorter reporting periods, as permitted by Section 3.28.060, the Tax Administrator shall instead comply the provisions of this Ordinance.

Section 5. Nothing in this Ordinance shall relieve an operator of the obligation to collect from transients the amounts required to be collected, as specified in Section 3.28.020 of the St. Helena Municipal Code and Measure E adopted November 6, 2018. This Ordinance also does not relieve any operator from its obligation to remit to the City the transient occupancy tax collected.

Section 6. Each operator that collects, or has collected, transient occupancy tax shall continue to be required to comply with Section 3.28.060 of the St. Helena Municipal Code requiring an operator to report to the City's Tax Administrator the total rents charged and received and the amount of tax collected for transient occupancies.

Section 7. This Ordinance applies only to transient occupancy taxes established by Chapter 3.28 of the St. Helena Municipal Code, and does not otherwise modify, suspend, or waive any other tax or assessment that may be due, expressly including Tourism Improvement District (TID) assessments that fund the Napa Valley Tourism Improvement District.

Section 8. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published or posted in the manner required by law.

THE FOREGOING URGENCY ORDINANCE was adopted at a regular meeting of the St. Helena City Council by a four-fifths vote, on April 28, 2020, by the following vote:

Mayor Ellsworth: ______
Vice Mayor Dohring: ______

Councilmember Koberstein: _____
Councilmember Chouteau: _____
Councilmember Knudsen: _____
APPROVED:

____
Geoff Ellsworth, Mayor

ATTEST:
CITY OF ST. HELENA

____
Cindy Tzafopoulos, City Clerk

I, CINDY TZAFOPOULOS, CITY CLERK of the City of St. Helena, California, do hereby certify that the foregoing Urgency Ordinance was adopted at a regular meeting of the City Council on the 28th day of April, 2020.

Report to the City Council
Regular City Council - 28 Apr 2020

Agenda Section: **NEW BUSINESS**

Subject: **Request to Form Council Ad Hoc Subcommittee for Farmstead Development Agreement**

CEQA Determination: **Not a CEQA project**

Prepared By: Maya DeRosa, Planning & Building Director

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

The City of St. Helena Zoning Ordinance, Chapter 17.156, provides the authority for the City to enter into development agreements with an applicant. The City is currently processing entitlement applications for the Farmstead lodging proposal and one of the items requested is a development agreement approval. A draft development agreement was received from the applicant, Ted Hall, on February 26, 2020 for review by City staff and the City Attorney.

DISCUSSION

The proposed Farmstead project includes the construction of a 65 key lodging establishment, in addition to ancillary retail and related amenities. The project requires a number of public infrastructure improvements, payment of fees, and consistency with the City's Inclusionary Housing Ordinance. The applicant has prepared a draft development agreement which identifies respective responsibilities of the developer and the City during the term of the agreement. The development agreement will formally be presented to the City Council in a public hearing for review, comment and approval concurrent with the other entitlement applications which include Design Review, Variance, Use Permit and Lot Line Adjustment.

In order to allow the City Council to comment on important policy terms in the development agreement early in the negotiation process, it is recommended the City

Council appoint two members to participate in an ad hoc subcommittee to work alongside staff in the review and comment process. While the draft development agreement and other entitlements require a review and recommendation by the Planning Commission prior to a formal City Council meeting, the work of the ad hoc subcommitee should help streamline the final approval process.

Once the ad hoc subcommittee is formed, they will review the draft agreement and meet with City staff and City Attorney to review comments. The draft agreement will be modified as needed and then a meeting with the applicant will be scheduled to begin negotiations.

FISCAL IMPACT

The creation of an ad hoc Council subcommittee would not have any fiscal impact.

RECOMMENDED ACTION

Appoint two city council members to serve on ad hoc subcommittee for Farmstead Development Agreement.