



## REGULAR CITY COUNCIL MEETING AGENDA

City Hall - Council Chambers  
4381 Broadway St., Suite 201, American Canyon  
**June 20, 2023**  
**6:30 PM**

**Mayor:** Leon Garcia  
**Vice Mayor:** Pierre Washington  
**Councilmembers:** Mariam Aboudamous, Mark Joseph, David Oro

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*City Council and other public meetings will be conducted in person at City Hall, 4381 Broadway, Suite 201, American Canyon, CA 94503. This meeting is also available via Zoom Teleconferencing as a convenience for public participation. This meeting will be broadcast live to residents on Napa Valley TV, on our website [here](#) and on YouTube [here](#). Should technical issues with Zoom occur, please select another viewing option.*

### **PUBLIC PARTICIPATION**

**Oral comments, during the meeting:** Oral comments can be made in person during Open and Closed Session. A Zoom Webinar has been established for public comments made via zoom, during Open Session only. To give your public comment via zoom, connect via the below Zoom link and use the “raise your hand” tool, or call into the zoom meeting at 408-638-0968 and press \*9 to “raise your hand” when the item is called. To avoid confusion, all hands raised outside of Public Comment periods will be lowered.

**Written comments, via eComments:** Please submit written comments through the eComments link, located on the Meetings & Agendas page of our website [here](#). Comments will be available to council members in real time. To allow for review of comments, eComments will close at 3:00 pm on the day of the meeting. All comments received will be posted online and become part of the meeting record.

**Zoom Meeting Link:** [Click here](#).  
**Webinar ID:** 852 5117 7763 **Passcode:** 123456

The above-identified measures exceed all legal requirements for participation in public comment, including those imposed by the Ralph M. Brown Act. For more information, please call the Office of the City Clerk at (707) 647-4369 or email [cityclerk@cityofamericancanyon.org](mailto:cityclerk@cityofamericancanyon.org).

**AGENDA MATERIALS:** City Council agenda materials are published 72 hours prior to the meeting and are available to the public via the City’s website at [www.cityofamericancanyon.org](http://www.cityofamericancanyon.org).

**AMERICANS WITH DISABILITIES ACT:** The City Council will provide materials in appropriate alternative formats to comply with the Americans with Disabilities Act. Please send a written request to City Clerk at 4381 Broadway, Suite 201, American Canyon, CA 94503 or by email to [cityclerk@cityofamericancanyon.org](mailto:cityclerk@cityofamericancanyon.org). Include your name, address, phone number and brief description of the requested materials, as well as your preferred alternative format or auxiliary aid, at least three calendar days before the meeting.

## **5:30 P.M. – CLOSED SESSION**

*The Mayor will call the meeting to order and conduct role call. Council will immediately convene into Closed Session after hearing any public comment on Closed Session items. At 6:30 p.m. the Council will reconvene into Open Session and then resume Closed Session at the end of the meeting to address outstanding items, if necessary.*

### CALL TO ORDER - CLOSED SESSION

### ROLL CALL - CLOSED SESSION

## **PUBLIC COMMENTS - CLOSED SESSION ITEMS**

*This time is reserved for members of the public to address the City Council on Closed Session Items only. Comments must be made in person and are limited to 3 minutes. Comments for items on the Open Session agenda will be taken when the item is called in Open Session. Comments for Items not on the Closed Session or Open Session agenda will be heard during the Open Session Public Comment period.*

### MEETING RECESS - COUNCIL TO CONVENE IN CLOSED SESSION

## **5:30 P.M. CLOSED SESSION ITEMS**

1. **Conference with Legal Counsel - Existing Litigation. Authorized pursuant to Government Code Section 54956.9(d)(1):**
  - a. **American Canyon I , LLC vs. Napa Unified School District (Napa Superior Court Case No. 22CV001145).**
  - b. **City of American Canyon v. City of Vallejo, et al. (Sacramento Superior Court Case No. 34-2022-00327471).**
  - c. **City of American Canyon v. Leon Dale Schmidt, Napa County Superior Court Case No. 22CV001041.**
  - d. **Center for Biological Diversity v. City of American Canyon et al., Napa County Superior Court Case No. 23CV000511.**
  - e. **Golden State Environmental Justice Alliance v. City of American Canyon et al., Napa Superior Court Case No. 23cv000510.**
  - f. **City of Vallejo v. City of American Canyon et al., Napa County Superior Court Case No. 23CV000517.**
  
2. **Conference with Legal Counsel – Anticipated Litigation. Authorized pursuant to Government Code Section 54956.9 (d)(2).  
One Matter.**

## **6:30 P.M. OPEN SESSION - REGULAR MEETING**

### CALL TO ORDER - COUNCIL TO RECONVENE IN OPEN SESSION

### PLEDGE OF ALLEGIANCE

### ROLL CALL - OPEN SESSION

### REPORT ON CLOSED SESSION/CONFIRMATION OF REPORTABLE ACTION

## PROCLAMATIONS AND PRESENTATIONS

3. **Proclamation honoring Sherri Cassidy for 20 Years of Public Service**
4. **Presentation - Fair Housing Napa Valley Annual Report**  
**Recommendation:** Receive and File Fair Housing Napa Valley Presentation.

## PUBLIC COMMENTS - ITEMS NOT ON CLOSED SESSION OR OPEN SESSION AGENDA

*This time is reserved for members of the public to address the City Council on items that are not on the Closed Session or Open Session agenda and are within the subject matter jurisdiction of the City Council. Comments are limited to 3 minutes. Comments for items on the Open Session agenda will be taken when the item is called in Open Session. The City Council is prohibited by law from taking any action on matters discussed that are not on the agenda, and no adverse conclusions should be drawn if the City Council does not respond to public comment at this time.*

## AGENDA CHANGES

*The Mayor and Council may change the order of the Agenda or request discussion of a Consent Item. A member of the Public may request discussion of a Consent Item by making that request during Public Comment.*

## CONSENT CALENDAR

5. **Minutes of the Regular City Council meeting of June 6, 2023**  
**Recommendation:** Approve the minutes of the Regular City Council meeting of June 6, 2023.
6. **Report Upon Return from Closed Session for the Regular City Council Meeting of June 6, 2023**  
**Recommendation:** Approve the Report Upon Return from Closed Session for the Regular City Council meeting of June 6, 2023.
7. **NBCAP - 2023-24 Chemical Purchases**  
**Recommendation:** Adopt a Resolution authorizing the purchase of chemicals for the Water Treatment Plant in the amount of \$488,400 and Wastewater Treatment Plant in the amount of \$81,000 for FY 2023/24.
8. **Annual Communications Services Agreement**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to enter into an agreement with Tripepi Smith for an annual contract amount not to exceed \$157,000 for Strategic Communication, Graphic Design, and Marketing Support Services.
9. **Annual Granicus Agreement FY 2023-24**  
**Recommendation:** Adopt a Resolution authorizing the City Manager to execute agreement(s) with Granicus for a combined amount not to exceed \$56,653.00 for website and meeting management applications.
10. **Law Enforcement Services Contract Amendment**  
**Recommendation:** Adopt a Resolution approving Amendment 19 to Napa County Agreement No.200005B (previously known as Agreement No. 3220)with the Napa County

Sheriff's Office for equipment services for the period July 1, 2023, through June 30, 2024, and Law Enforcement services for the period October 14, 2023, through June 30, 2024.

**11. OpenGov Procurement Software Module Agreement**

**Recommendation:** Adopt a Resolution to enter into an agreement with OpenGov for the procurement software module.

**12. Recycled Water System Expansion Project (RW17-0100)**

**Recommendation:** Take the following action related to the Recycled Water System Expansion Project:

1. Adopt a Resolution amending the FY2023/24 Project Budget;
2. Authorize the City Manager to award a construction contract to the second lowest responsible and responsive bidder in an amount not to exceed the project budget; and
3. Authorize the Public Works Director to approve and execute contract change orders in an aggregate amount not to exceed the project budget in conjunction with the Recycled Water System Expansion Project (RW17-0100).

**13. Napa River Ecology Center at American Canyon Wetlands**

**Recommendation:** Adopt by Minute Order a Term Sheet with the American Canyon Community and Parks Foundation for development of the Napa River Ecology Center at the former City Corporation Yard (205 Wetlands Edge Road).

## **PUBLIC HEARINGS**

There are no Public Hearing Items.

## **BUSINESS**

**14. Project Labor Agreement with the Napa Solano Building and Construction Trades Council**

**Recommendation:** Adopt a Resolution approving a Project Labor Agreement with the Napa Solano Building and Construction Trades Council and its affiliated local Unions.

## **MANAGEMENT AND STAFF ORAL REPORTS**

## **MAYOR/COUNCIL COMMENTS, COMMITTEE REPORTS, AND FUTURE AGENDA ITEMS**

*The Mayor and Council may comment on matters of public concern and announce matters of public interest; no collective council action will be taken.*

**15. City Council Committee Report - Councilmember Mark Joseph**

**16. Future Agenda Items of Note:**

**July 4, 2023, Regular City Council Meeting. 6:30 p.m.**  
**NO MEETING DUE TO HOLIDAY**

**July 18, 2023, Regular City Council Meeting. 6:30 p.m.**  
**Parks and Recreation Month**

**Watson Ranch Lot 8 Single Family Subdivision Map  
LLAD Annual Budget**

**ADJOURNMENT**

**CERTIFICATION**

I, Cherri Walton CMC, Deputy City Clerk for the City of American Canyon, do hereby declare that the foregoing agenda of the City Council was posted in compliance with the Brown Act prior to the meeting date.

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Cherri Walton, CMC, Deputy City Clerk

# CITY OF AMERICAN CANYON PROCLAMATION



## **HONORING SHERRI CASSIDY FOR 20 YEARS OF DEDICATED SERVICE**

**WHEREAS**, Sherri Cassidy began her service to the City of American Canyon on December 9, 2002 as an Administrative Clerk II in the Public Works Department Streets. She was promoted on September 10, 2005, to Administrative Assistant and to Administrative Technician on February 9, 2019, and

**WHEREAS**, Sherri has served four different departments over the years including Public Works, Community Development, Parks and Recreation, and Maintenance and Utilities; and

**WHEREAS**, Sherri was an expert in City policies and procedures having played an integral part of the evolution of City operations as the community grew, coordinating several office relocations and openings of new facilities, chairing the Safety Committee, and development and implementation of new policies and administrative procedures to address the increasing complexity of City operations; and

**WHEREAS**, Sherri was staff support for many years to the Parks & Community Services Commission and the Open Space Advisory Committee. She was part of the implementation of many technologies and systems that became part of routine City operations, including the Records Retention Program, Granicus, Laserfiche, ActiveNet, the City website, and social media; and

**WHEREAS**, Sherri also played a role in numerous community events, including grand openings of City Hall, Veterans Memorial Park, Shenandoah Park, the Water Treatment Plant, the annual Volunteer Recognition Ball, and the Community Garden; and

**WHEREAS**, Sherri was recognized by members of the community and staff for going the extra mile and being an important part of the team willing to assist whenever and wherever she could across all City departments and operations, and

**NOW, THEREFORE, THEREFORE, BE IT RESOLVED**, that the City Council of the City of American Canyon hereby recognizes and thanks Sherri Cassidy upon her retirement for her loyal and generous public service to the City for more than 20 years.

Dated: June 20, 2023

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**Leon Garcia, Mayor**



## **TITLE**

Presentation - Fair Housing Napa Valley Annual Report

## **RECOMMENDATION**

Receive and File Fair Housing Napa Valley Presentation.

## **CONTACT**

Brent Cooper, AICP, Community Development Director

## **BACKGROUND & ANALYSIS**

The Fair Housing Act prohibits discrimination on the basis of race, color, religion, gender, disability, familial status, and national origin. The Act applies to private housing, housing that receives federal financial assistance, and state and local government housing.

The City of American Canyon partners with Fair Housing of Napa Valley (FHNV) for housing related services. Fair Housing Napa Valley ("FHNV") is a private 501 (c)(3) non-profit corporation dedicated to promoting and developing fairness and equal housing opportunity for all people. FHNV works to eliminate housing discrimination and ensure equal housing opportunity through leadership, education, outreach, training, advocacy, and enforcement. For several years, the City has successfully partnered with FHNV to provide these services to American Canyon residents and property owners. Pablo Zatarain, FHNV Executive Director will provide a summary of fair housing activities in American Canyon for Fiscal Year 2022/23. The annual report is included as Attachment 1.

## **COUNCIL PRIORITY PROGRAMS AND PROJECTS**

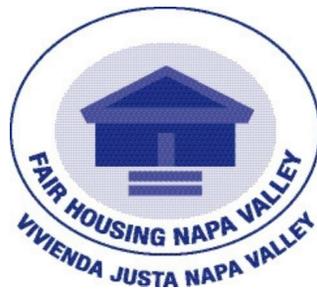
Organizational Effectiveness: "Deliver exemplary government services."

## **FISCAL IMPACT**

Fair Housing Napa Valley funding contributions are included in the current and upcoming fiscal year budgets.

**ATTACHMENTS:**

[FHNV- 2022-23 American Canyon Report](#)



June 15, 2023

Sent via Email

Brent Cooper, Community Development Director  
Jason B. Holley, City Manager  
City of American Canyon  
4381 Broadway Street, Suite 201  
American Canyon, CA 94503  
[jholley@cityofamericancanyon.org](mailto:jholley@cityofamericancanyon.org)  
[bcooper@cityofamericancanyon.org](mailto:bcooper@cityofamericancanyon.org)

### City of American Canyon Narrative Report- FY 2022-23

Dear American Canyon City Council and Staff,

Fair Housing Napa Valley (FHNV) is grateful to submit the enclosed report, reflecting cases opened and resolved within the City of American Canyon during FY 2022-2023. The cases selected reflect the diversity and complexity of the various intakes that the agency receives and illustrate FHNV's ability to resolve various housing issues to the benefit of the client, as well as educate landlords and tenants of their rights and responsibilities. Particularly since the onset of the Covid-19 pandemic, the diversity and dynamics of cases have changed. Specifically, the pitfalls and risks around housing insecurity are more precarious now due to a shortage of rental/ alternate housing stock and a collectively increased susceptibility to housing insecurity due to lingering challenges borne out of the pandemic. For this reason, FHNV prioritizes addressing/ preserving housing security when assisting all clients. Not all cases have the desired outcome that the agency seeks, sometimes due to a landlord's unwillingness to mediate or resolve the conflict, or due to a client's non-responsiveness or lack of forthrightness.

#### American Canyon Demographics

From July 2022 to present, Fair Housing Napa Valley served 42 American Canyon households, totaling 126 individuals (48 of which were children). 66 individuals (52%) of those assisted were Hispanic, 17 (13%) were White, 14 (11%) Asian, and 29 (23%) were African American. 27 of the 42 households assisted had Extremely Low income- less than 30% of the Average Median Income (AMI); three had Very Low income (< 50% AMI); three had Low income (< 80% AMI); and two households assisted had Moderate income. Seven cases had unreported income, partially accounted for by the four landlord-initiated cases with which FHNV assisted; landlord income is not requested during the intake process. 34 Of the 42 cases opened in American Canyon regarded Landlord/Tenant inquiries, while 8 were Fair Housing (discriminatory) allegations.

Landlord/Tenant cases can be initiated by a tenant or a landlord and consist of rental housing questions or complaints pertaining to their legal rights and responsibilities regarding any number of issues,



including notices to vacate, lease questions, and repair/ maintenance requests. In these cases, discrimination is not alleged at the time of intake. Fair Housing cases can also have Landlord/Tenant components but involve a specific allegation of housing discrimination based on a state or federally protected class (i.e. Race, Disability, Familial Status, etc.). While FHNV educates and assists all clients with their housing concerns/ inquiries, the agency’s primary mission is to identify and eliminate discriminatory housing practices in Napa County. Because housing discrimination is often subtle, careful consideration is required of all cases, so that any illegal housing practices may be identified and addressed.

## **American Canyon Landlord/ Tenant Cases**

### **Landlord/Tenant: Lease Issues**

“Lease Issues” refer to a variety of general housing concerns/ inquiries that do not otherwise apply to more specific case descriptions, such as a notice to vacate, eviction, or repair/ maintenance request. This description is deliberately broad to capture all general/ miscellaneous housing inquiries.

**2022-22351-** A senior mobile home park resident called Fair Housing Napa Valley for assistance with a utilities-related dispute with her park’s manager. She alleged her utilities had been increased excessively and that the manager had not responded to numerous requests to discuss the increased rate. After reviewing the resident’s bills, FHNV contacted the park manager. The manager found an error in her billing and refunded the excess amount that had been charged. The refund was especially impactful as the resident lived on a fixed income and the incorrectly increased utilities rate had created a financial strain on this client. This dynamic is unfortunately common in American Canyon and Napa County, as many households are one financial crisis away from housing insecurity and possible displacement. For seniors on a fixed income, increases in their cost of living have a particularly adverse impact on their housing security.

### **Landlord/Tenant: Maintenance and Repairs**

These cases frequently involve tenants with repair requests and needs that aren’t being met after multiple verbal requests. From mold, pests, or a multitude of other issues, FHNV educates and empowers both tenants and landlords regarding the process of the written requests, record keeping or creating a “paper trail,” taking photos, and sometimes involving Code Enforcement agencies if necessary. Because of the lack of vacant rental housing stock in Napa County, illegal housing units are a continuing concern, as are unreported repair requests; vulnerable clients sometimes will not report a repair need out of fear of possible eviction or rent increase in response. There are laws to protect both the landlord and the tenant in this context, and FHNV works to ensure housing remains safe and compliant with local ordinances.



**2022-22060-** A senior Housing Choice Voucher (HCV, formerly Section 8) holder contacted FHNV after her unit failed an inspection by the Housing Authority of the City of Napa. In working with the tenant, FHNV learned of several tenancy related issues involved with this matter, including illegal entry to the property by the landlord and lease related questions. The tenant lived with her daughter and granddaughter and stated she was afraid of escalating the issue because the property manager had threatened to evict her in the past. She was educated regarding her rights and responsibilities in this context, including that retaliation against a tenant as a result of filing a housing inquiry with an agency like FHNV was illegal. FHNV staff got in touch with the landlord and made her aware of her responsibilities, including the legal manner in which to access a tenant's property (at least 24 hour's written notice). Through continued correspondence with both parties, FHNV ensured that the tenant's property was repaired and ultimately passed Housing Authority inspection. FHNV staff also worked with the landlord to ensure she understood her obligations under housing law and HCV regulations.

Educating all clients regarding their rights and responsibilities in any given context is at the core of FHNV's counseling approach. The tenant/ landlord relationship is dependent on both parties upholding their part of the lease and housing laws/ ordinances; educating clients to this effect helps prevent future disputes and potential illegal practices, preventing potential risks to housing security for American Canyon and Napa County residents.

**2023-23397-** A mobile home park resident contacted FHNV seeking resources for financial assistance to repair the roof of her mobile home. FHNV staff referred her to several potential resources, including the City of American Canyon's Home Repair Loan Program.

Housing-related assistance does not always come in the form of counseling. Education and outreach to all Napa County residents is an essential component of FHNV's services and a desired outcome for every case resolution. This includes informing clients about the broad range of resources available to both tenants and housing providers. FHNV is grateful to be a part of a robust and diverse referral network in American Canyon and Napa County, including a variety of local government and community partners who provide vital services that our clients rely on. These networks ensure that residents have increased access to comprehensive and overlapping services and resources that are vital to their housing security and household health/ well-being.

### **Landlord/Tenant: Notice to Vacate**

When Fair Housing Napa Valley receives an inquiry regarding a notice to vacate, there are a variety of questions the agency must take into consideration. Tenants can have several concerns, and FHNV staff review all documents and correspondence between the tenant and landlord- including the lease and the notice to vacate- to determine possible discrimination as the basis for the notice. Napa County does not have rent control laws and while there are limited just cause protections under state law (where a landlord or property manager is required to provide a valid "cause" to issue a notice to vacate), options can be limited once a tenant receives a notice. Given the lack of housing options in Napa County



currently, FHNV prioritizes preserving clients' housing where necessary. As a precursor to the legal eviction process, FHNV also encourages tenants to contact the agency as soon as possible upon receiving a notice to vacate to ensure sufficient time to investigate and address the matter. When a client contacts the agency with little time left to vacate, his/ her options are often even more limited.

**2023-23369-** A mobile home park resident was served notice to vacate after her partner (and owner of the mobile home) passed away. The mobile home was co-owned by her partner's sister, who wished to retain possession of it and was threatening to involve law enforcement if the client did not vacate the home after receiving, and exceeding, a 30 Day notice to vacate. The resident acknowledged she never signed a lease and was willing to vacate, though she asked for an extra week to vacate. FHNV worked with both parties to secure the brief extension to vacate, allowing the resident to avoid any potential legal action and move in with family while she searched for alternate housing.

Mobile Home Residency Law is enforced by the California Dept. of Housing and Community Development, and not traditional landlord-tenant laws/ ordinances. However, fair housing protections apply in all mobile home related matters, and MRL's also rely on the utilization of tenancy related notices to initiate specific actions, particularly by the housing provider.

### **Landlord/Tenant: Eviction**

Eviction cases vary in type and can be a result of non-payment of rent, or non-compliance with a previously received notice to the tenant, such as a 3-day notice to pay or quit or a 30 day notice to vacate. Tenants must receive an Unlawful Detainer (UD) order- the lawsuit filed in court by the housing provider- to start the eviction process. As a legal order, UD's and evictions are reflected on a tenant's background report, adversely affecting their ability to secure future housing for years in a similar manner to a negative credit history (perhaps more so because an eviction indicates a failure to pay rent, and/ or non-compliance with a lease notice).

Due to the extremely competitive rental housing market in Napa County and the Bay Area generally, as well as the overall lack of supply to meet current demand, clients with an eviction in their background are at a substantial disadvantage in securing alternate housing. As mentioned above, FHNV prioritizes preserving a client's current housing when appropriate, especially in cases where he/ she is at risk for a UD/ eviction. While FHNV strives for a successful outcome whenever a client is at risk of displacement, when their tenancy is not salvageable the agency ensures that client/ household has access to the appropriate partners and resources to address their legal needs. FHNV works closely with staff of the Napa County Superior Court's Self Help Desk, and legal services partners, to ensure referred clients receive the appropriate assistance in filing responses and complying with their order.



## **Landlord/Tenant: Security Deposit Return**

Security-deposit related complaints are one of the most common issues seen by Fair Housing Napa Valley. These cases are generally addressed in the same manner, with the exception being a discriminatory allegation by the client during the process of recouping their security deposit. Given case similarities, FHNV will list general advice given to clients in lieu of specific case anecdotes:

Tenants should document their pre-move in inspection with photos and a checklist of noted deficiencies where possible, making the move-out inspection more reliable. It is the landlord's responsibility to initiate the move-out walk-through at least two weeks before the move-out date in order to give the tenant time to fix anything noted during the inspection. (If the landlord doesn't initiate the walk-through as is their responsibility, the tenant should insist on one). The tenant should also take pictures and utilize a detailed move-in checklist (when possible) to verify any prior damage while conducting the move-out inspection. Taking pictures at both move-in and move-out inspections, as well as documenting any other related damage or concerns through dated checklists, is vital.

California law allows the landlord twenty-one days to provide an itemized list of deductions made from the security deposit and must be accompanied by receipts and/or estimates made by professionals. If this has not been provided within twenty-one days, the tenant is entitled to their entire security deposit, which is addressed via the Small Claims process. FHNV provides tenants with a Demand for Deposit form when appropriate, and an instruction sheet explaining the process of submitting the Demand for Deposit form. If the tenant receives no/ an unfavorable response, the client is referred to the Self-Help Desk at the Napa County Courthouse to proceed with their complaint.

## **American Canyon Fair Housing Cases Fair Housing and Protected Classes**

Fair Housing Napa Valley is dedicated to promoting and developing fairness and equality of housing opportunities for all people. While FHNV offers tenant/landlord services to all of Napa County, the agency's primary mission is to investigate and eliminate housing discrimination in Napa County. Landlord/ tenant cases provide the agency the opportunity to investigate additional complaints where housing discrimination may be present. Fair Housing Napa Valley strives to ensure equal housing opportunity through leadership, education, facilitation, outreach, training, advocacy, and enforcement.

Both State and Federal laws prohibit discrimination in the rental or sale of residential housing on any of the following basis: National Origin, Ancestry, Race, Color, Religion, Age, Disability, Medical Condition, Marital Status, Sex, Sexual Orientation, Source of Income, Arbitrary Reasons, or Familial Status (the presence of children under 18); these are known as "protected classes." A fair housing allegation occurs anytime a resident contacts Fair Housing Napa Valley and claims they feel discriminated against based on a protected class. A fair housing case can concurrently be a



landlord/tenant case; however, the fair housing component of a case always takes precedence as the agency is primarily striving to eradicate discriminatory practices.

Some examples of discriminatory practices are: falsely stating that housing is unavailable (or otherwise making housing unavailable); having different terms, conditions, rules, or service because of membership in a protected class; “steering” a buyer or renter to a different neighborhood or portion of a complex (children in a ground floor unit); making discriminatory statements during the course of business; and threatening, coercing, intimidating, or interfering with anyone who is exercising their fair housing rights. These are only a few examples, and discriminatory practices have manifested themselves in evolving ways with changes to housing policy/ ordinance, as well as regional market dynamics.

FHNV opened eight fair housing-related cases in American Canyon during the current FY 2022-23 reporting period (7/1/17- 6/15/23). Two are pending investigation, one case was closed with a referral, and two cases were closed due to no response from the client. This is an unfortunate reality for some of FHNV’s cases, as tenants fear retaliation from their landlords, or- in the case of the substantial Latino population in Napa County- may also face immigration-related retaliation/ consequences as a result of pursuing a housing complaint. Additionally, three cases were closed as mediated, meaning the resolution was to the benefit of the client. This is the most ideal resolution; FHNV conciliated the matter to the satisfaction of all parties involved, minimizing the risk of further dispute and violation of our client’s housing rights.

### **Reasonable Accommodations & Reasonable Modifications**

Under federal fair housing law, persons with disabilities are entitled to additional protections to increase the accessibility of their unit, or to accommodate their disability as it relates to existing housing/ lease policies. FHNV may submit a Reasonable **Accommodation** (RA) or a Reasonable **Modification** (RM) request on the client’s behalf for a variety of disability-related reasons. RA or RM requests cannot pose an undue financial or administrative burden to the housing provider and may be amended or revised through ongoing dialogue with the housing provider regarding the request/ specific tenant need.

A **Reasonable Accommodation** (RA) is generally defined as a request to make an exception or revision to an existing housing policy or condition to better accommodate the individual. A physician’s recommendation is typically required to support the request. For example, Service Animal exemptions may be requested in housing with “no pet” policies; similarly, a tenant may ask to have an assigned parking spot moved closer to their unit for ease of access.

A **Reasonable Modification** (RM) is a physical change to a disabled tenant’s home to improve accessibility, such as bathroom grab bars or a wheelchair ramp. Like the RA process, a request is made to the resident’s housing provider regarding the needed modification. Once approved, the modification requested is the tenant’s financial responsibility, unless the tenant resides in a federally subsidized property (landlord’s obligation in those cases). Although modifications sometimes involve a substantial



financial investment, there are a number of agencies and other resources that can assist low-income residents with costs and installation. Unless otherwise allowed by the housing provider, modifications must be removed by the tenant prior to moving out.

### **Disability: Reasonable Modification**

**2022-23197-** This case involved a resident with physical and mental disabilities who was leaving a rehabilitation facility and returning to her mobile home. She lived on a low, fixed income and initially requested a permanent ramp to enter/ exit her home due to recent mobility challenges. A community partner came forward, willing to donate a wheelchair-lift to the client and this helped substantially, particularly given her income. She also needed the stairs to her home substantially repaired. FHNV secured a \$10,000 grant from the National Fair Housing Alliance (NFHA) to cover modification costs, and the lift installation and stair repair was completed soon after. The client now has full access to her home of her bathroom, and can enter/ exit her home at her convenience.

### **In Closing**

Following the Covid-19 pandemic, the rental housing market in Napa County is extremely limited and presents a litany of obstacles to equal housing choice for many households. The vacancy rate for rental housing stock is between 1- 2%, and the high demand gives a significant advantage to housing providers and the most qualified applicants for available housing. This particularly affects Napa County's low income and vulnerable populations, including Latino households, families with children, seniors, and disabled individuals. Though additional tenant protections have been implemented in recent years, particularly the Tenant Protection Act, these protections are not enough to bridge many of the existing inequities that prevent equal access to rental housing.

FHNV's mission to eradicate housing discrimination in Napa County begins with ensuring equal housing choice for the region's most vulnerable populations. The agency has an obligation to those residents, and all residents in Napa County, to maximize exposure and awareness of its services by engaging the general public and community partners through increased workshops and presentations. To this end, FHNV will focus additional educational efforts in South Napa County for the next year. This will include additional outreach to the Spanish and Tagalog speaking communities of American Canyon to identify households in need of assistance.

By increasing awareness of the services FHNV provides and how staff can specifically assist clients, residents will be better prepared to recognize discriminatory housing practices or other illegal action(s) by their housing provider/ tenant. These presentations will also provide attendees with a better understanding of possible actions- and preparations- an individual can take to assist FHNV staff in corroborating their complaints and resolving them to the client's benefit. Through increased awareness, engagement and collaborative efforts with the agency's community partners and the public, FHNV will



continue to further its mission and expand its footprint within American Canyon and the diverse communities our agency serves.

Please contact me should you have any questions regarding this report. Thank you for your continued support of Fair Housing Napa Valley, and the services the agency provides. Our staff looks forward to assisting the residents of American Canyon and Napa County for years to come.

Respectfully Submitted,

A handwritten signature in blue ink, consisting of a large, stylized 'P' followed by a horizontal line that extends to the right.

Pablo Zatarain  
Executive Director  
Fair Housing Napa Valley  
[pablo@napafairhousing.org](mailto:pablo@napafairhousing.org)

**CITY OF AMERICAN CANYON  
REGULAR CITY COUNCIL MEETING**

**ACTION MINUTES**

*June 6, 2023*

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**5:30 P.M. – CLOSED SESSION**

**CALL TO ORDER - CLOSED SESSION**

The meeting was called to order at 5:37 p.m.

**ROLL CALL - CLOSED SESSION**

**Present:** Councilmember Mariam Aboudamous, Councilmember Mark Joseph, Councilmember David Oro, Vice Mayor Pierre Washington, Mayor Leon Garcia

**Absent:** None

**Excused:** None

**PUBLIC COMMENTS - CLOSED SESSION ITEMS**

Mayor Leon Garcia called for public comments on Closed Session items. Written comments: none. Oral comments: none. The public comment period was closed.

**MEETING RECESS - COUNCIL TO CONVENE IN CLOSED SESSION**

The meeting recessed to Closed Session at 5:37 p.m.

**CLOSED SESSION ITEMS**

1. Conference with Legal Counsel - Existing Litigation. Authorized pursuant to Government Code Section 54956.9(d)(1): American Canyon I, LLC vs. Napa Unified School District (Napa Superior Court Case No. 22CV001145).

a. City of American Canyon v. City of Vallejo, et al. (Sacramento Superior Court Case No. 34-2022-00327471).

b. City of American Canyon v. Leon Dale Schmidt, Napa County Superior Court Case No. 22CV001041.

c. Center for Biological Diversity v. City of American Canyon et al., Napa County Superior Court Case No. 23CV000511.

d. Golden State Environmental Justice Alliance v. City of American Canyon et al., Napa Superior Court Case No. 23cv000510.

e. City of Vallejo v. City of American Canyon et al., Napa County Superior Court Case No. 23CV000517.

2. Conference with Legal Counsel – Anticipated Litigation. Authorized pursuant to Government Code Section 54956.9 (d)(2). One Matter.

## **6:30 P.M. OPEN SESSION - REGULAR MEETING**

### **CALL TO ORDER - COUNCIL TO RECONVENE IN OPEN SESSION**

Council reconvened in Open Session, calling the meeting to order at 6:34 p.m.

### **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

### **ROLL CALL - OPEN SESSION**

**Present:** Councilmember Mariam Aboudamous, Councilmember Mark Joseph, Councilmember David Oro, Vice Mayor Pierre Washington, Mayor Leon Garcia

**Absent:** None

**Excused:** None

### **REPORT ON CLOSED SESSION/CONFIRMATION OF REPORTABLE ACTION**

A report on Closed Session and confirmation of reportable action was given by City Attorney William Ross.

## **PROCLAMATIONS AND PRESENTATIONS**

### **3. Proclamation - Juneteenth Independence Day**

Mayor Garcia announced the proclamation. It was received by community member Brenda Knight with her team.

### **4. Proclamation June 2023 - Pride Month**

Mayor Garcia announced the proclamation. It was received by Jenesis Diwa, American Canyon Chapter of LGBTQ+ Connection Napa County.

### **5. Presentation - City of Napa Housing Authority Annual Report**

Council received the presentation from Jonathen Sakamoto, Affordable Housing Representative, City of Napa Housing Authority.

### **6. Presentation - Fair Housing Napa Valley Annual Report**

This item was continued at the request of Fair Housing Napa Valley.

## **PUBLIC COMMENTS - ITEMS NOT ON CLOSED SESSION OR OPEN SESSION AGENDA**

Mayor Garcia called for public comments. Written comments: none. Oral comments: Victor Roman was called to speak; Ken Leary was called to speak; Fran Lemos was called to speak; Hugh Marquez was called to speak. The public comments period was closed.

## **AGENDA CHANGES**

There were no changes to the agenda.

## **CONSENT CALENDAR**

**Action:** Motion to adopt CONSENT CALENDAR made by Councilmember Mark Joseph, seconded by Vice Mayor Pierre Washington, and CARRIED by roll call vote.

**Ayes:** Councilmember Mariam Aboudamous, Councilmember Mark Joseph, Councilmember David Oro, Vice Mayor Pierre Washington, Mayor Leon Garcia

**Nays:** None

**Abstain:** None

**Absent:** None

### **7. Minutes of the Regular City Council meeting of May 16, 2023**

**Action:** Approved the minutes of the Regular City Council meeting of May 16, 2023.

### **8. Report Upon Return from Closed Session for the Regular City Council Meeting of May 16, 2023**

**Action:** Approved the Report Upon Return from Closed Session for the Regular City Council meeting of May 16, 2023.

### **9. Design of the Knightsbridge Rehabilitation and Water Main Project (TR23-0100)**

**Action:** Adopted Resolution 2023-40 authorizing the City Manager to enter into an agreement (Agreement 2023-62) with Bellecci and Associates for the Knightsbridge Rehabilitation and Water Main Project (TR23-0100) for an amount not to exceed \$189,694.

### **10. Notice of Completion for the Elliot Drive Enhanced Crosswalk (TR22-0600)**

**Action:** Adopted Resolution 2023-41 accepting the Elliot Drive Enhanced Crosswalk Project (TR22-0600) project as complete and authorizing the Public Works Director to file a Notice of Completion (Recorded Document 2023-15-R).

### **11. Notice of Completion for 189 Theresa Avenue Demolition (CF23-0200)**

**Action:** Adopted Resolution 2023-42 increasing the Cal, Inc. agreement (Agreement 2023-63) from a not to exceed amount of \$65,000 to \$69,617, accepting the 189 Theresa Avenue Demolition Project (CF23-0200) as complete and authorizing the Public Works Director to file a Notice of Completion (Recorded Document 2023-16-R).

### **12. Design of the Rancho Del Mar Paving and Utility Improvements (TR24-0300)**

**Action:** Adopted Resolution 2023-43 authorizing the City Manager to enter into an agreement (Agreement 2023-64) with Bennett Engineering Services for the Rancho Del Mar Paving and Utility Improvements Project (TR24-0300) for an amount not to exceed \$534,022.

### **13. Safe Gun Storage Ordinance**

**Action:** Waived second reading, read by title only, and adopted Ordinance (2023-06) amending Title 9 of the City of American Canyon Municipal code to add Chapter 8.19 Safe Firearm Storage requiring residents to safely store firearms in their residences.

### **14. High Strength Waste and Energy Efficiency Project**

**Action:** Adopted Minute Order 2023-12 authorizing the City Manager to negotiate "feedstock agreements" with Significant Industrial Users (SIUs), and to add a task order (Agreement 2023-65) to evaluate the infrastructure and/or process modifications of the SIUs under an existing on-call agreement with GHD for a not to exceed amount of One Hundred Thirty-Two Thousand (\$132,000).

### **15. Appropriations Limit for Fiscal Year 2023/24**

**Action:** Adopted Resolution 2023-44 establishing the Appropriations Limit of \$23,142,393 for Fiscal Year 2023/24.

## **PUBLIC HEARINGS**

### **16. Fiscal Year 2023/24 Recommended Budget for Adoption**

Council received a staff report from Finance Director Juan Gomez. Mayor Garcia opened the public hearing and called for public comments. Written comments: none. Oral comments: Fran Lemos was called to speak; Hugh Marquez was called to speak. The public comment period was closed.

**Action:** Motion to adopt Resolution 2023-45 to approve the Recommended Budget for Fiscal Year 2023/24 and authorize the City Manager to increase the appropriations for FY 2023/24 expenditures in an amount not to exceed the amount encumbered for expenses that did not occur prior to the end of FY 2022/23 but are expected to be expended in FY 2023/24 consistent with the original purpose made by Councilmember Mark Joseph, seconded by Councilmember Mariam Aboudamous, and CARRIED by roll call vote.

**Ayes:** Councilmember Mariam Aboudamous, Councilmember Mark Joseph, Councilmember David Oro, Vice Mayor Pierre Washington, Mayor Leon Garcia

**Nays:** None

**Abstain:** None

**Absent:** None

## **BUSINESS**

### **17. Engineer's Report for Citywide LLAD Fiscal Year 2023/24**

Council received a staff report from Public Works Director Erica Ahman Smithies. Mayor Garcia called for public comments. Written comments: none. Oral comments: none.

**Action:** Motion to adopt Resolution 2023-46 initiating proceedings, preliminarily approving the Fiscal Year 2023/24 Annual Engineer’s Report, declaring the intention to levy and collect annual assessments, and setting the Public Hearing for consideration of the American Canyon Landscaping and Lighting Assessment District assessments for FY2023/24 for July 18, 2023, at 6:30 p.m. in the Council Chambers made by Councilmember Mark Joseph, seconded by Vice Mayor Pierre Washington, and CARRIED by roll call vote.

**Ayes:** Councilmember Mariam Aboudamous, Councilmember Mark Joseph, Councilmember David Oro, Vice Mayor Pierre Washington, Mayor Leon Garcia

**Nays:** None

**Abstain:** None

**Absent:** None

### **18. Five-Year Capital Improvement Program (Fiscal Year 23/24-27/28)**

Council received a staff report from Public Works Director Erica Ahman Smithies. Mayor Garcia called for public comments. Written comments: none. Oral comments: Hugh Marquez was called to speak. The public comments period was closed.

**Action:** Motion to adopt Adopted Resolution 2023-47 approving the Five-year Capital Improvement Program (Fiscal Years 23/24-27/28) made by Councilmember Mark Joseph, seconded by Councilmember Mariam Aboudamous, and CARRIED by roll call vote.

**Ayes:** Councilmember Mariam Aboudamous, Councilmember Mark Joseph, Councilmember David Oro, Vice Mayor Pierre Washington, Mayor Leon Garcia

**Nays:** None

**Abstain:** None

**Absent:** None

### **19. Adoption of Fiscal Year 2023/2024 Salary Schedule**

Council received a staff report from Assistant City Manager Maria Ojeda. City Attorney William Ross read required language. Mayor Garcia called for public comments. Written comments: none. Oral comments: none.

**Action:** Motion to adopt Resolution 2023-48 approving the Fiscal Year 2023/2024 Salary Schedule made by Vice Mayor Pierre Washington, seconded by Councilmember Mariam Aboudamous, and CARRIED by roll call vote.

**Ayes:** Councilmember Mariam Aboudamous, Councilmember Mark Joseph, Councilmember David Oro, Vice Mayor Pierre Washington, Mayor Leon Garcia

**Nays:** None

**Abstain:** None

**Absent:** None

## **MANAGEMENT AND STAFF ORAL REPORTS**

### **20. Public Works Department Quarterly Update**

Council received a Public Works Department Quarterly Update from Public Works Director Erica Ahman Smithies. Mayor Garcia called for public comments. Oral comments: Hugh Marquez was called to speak. The public comments period was closed.

Council received oral updates from Parks & Recreation Director Alexandra Ikeda and Communications Manager Jen Kansanback.

## **MAYOR/COUNCIL COMMENTS, COMMITTEE REPORTS, AND FUTURE AGENDA ITEMS**

Councilmembers provided oral updates on their assigned committees and announced items of community interest.

21. City Council Committee Report - Councilmember Mark Joseph

22. Future Agenda Items of Note:

June 20, 2023, Regular City Council Meeting 6:30 p.m.

Eco-Center Term Sheet; Citywide PLA

June 20, 2023, Special City Council /OSATS Joint Session Meeting 7:30 p.m.

OSATS FY 23/24 Annual Work Plan

June 20, 2023, Special City Council / PCS Joint Session Meeting 8:30 p.m.

PCS FY 23/24 Annual Work Plan

July 4, 2023, Regular City Council Meeting. 6:30 p.m.

NO MEETING DUE TO HOLIDAY

July 18, 2023, Regular City Council Meeting. 6:30 p.m.

Parks and Recreation Month; Watson Ranch Lot 8 Single Family Subdivision Map; LLAD Annual Budget

## **ADJOURNMENT**

The meeting was adjourned at 9:25 p.m.

## **CERTIFICATION**

Respectfully Submitted,

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Taresa Geilfuss, CMC, City Clerk



**TITLE**

NBCAP - 2023-24 Chemical Purchases

**RECOMMENDATION**

Adopt a Resolution authorizing the purchase of chemicals for the Water Treatment Plant in the amount of \$488,400 and Wastewater Treatment Plant in the amount of \$81,000 for FY 2023/24.

**CONTACT**

Felix Hernandez, III, Maintenance and Utilities Director

Dominic Patrick, Water Systems Manager

**BACKGROUND & ANALYSIS**

The City cooperates with other local agencies to obtain bulk pricing for chemicals to aid in the treatment of drinking water, solid waste, and recycled water. The “North Bay Agency Chemical Pool” is comprised of the cities of American Canyon, Napa, Vallejo, Fairfield, Vacaville and others. The City has participated in the “Pool” since 1994. Each Fiscal Year, this process ensures the City receives the best possible prices from vendors.

Sodium Hydroxide is used to adjust pH depending on source water quality and Sodium Hypochlorite is used in the disinfection process of finished water. The disinfection process and pH adjustments help control and mitigate the formation of disinfection byproducts and operational changes made in this regard can result in a change of consumables. Aluminum sulfate is used in water purification and as a mordant in dyeing and printing textiles. In water purification, it causes suspended impurities to coagulate into larger particles and then settle to the bottom to be filtered out. As such, staff would like the flexibility to adjust P.O.’s should the need arise based on actual consumption in FY 2023/24. It should be noted that a mid-year adjustment most likely will be needed as chemicals and shipping has increased more significantly than originally estimated.

For FY 2023/24, the lowest responsive and responsible bidders and estimated quantities for the Consortium are as follows:

Vendor	Chemical	Estimated Quantity
Chemtrade	Aluminum Sulfate (Acid Alum, Full)	320 Dry Tons (DT) @ \$508/DT - WTP

Univar	Sodium Hydroxide (15% NaOH, Full)	130 Dry Tons (DT) @ \$1008 - <b>WTP</b>
Thatcher	Sodium Hypochlorite (12.5% NaOCl, Short)	20,000 Gallons (Gal) @ \$2.79/Gal - <b>WTP</b> 29,000 Gallons (Gal) @ \$2.79/Gal - <b>WRF</b>

Other chemicals outside the Consortium are ADVFLOC and CC950S which are advanced engineered coagulants that enhances organic removal assisting in reduction of Disinfection-By-Products and improves overall plant performances. By using Advanced Flocc (ADVFLOC) and CC950S it reduces other chemicals. Citric Acid is weak acid made of citrus fruits, it is used in water chemistry for stabilization, neutralization and removes inorganic material from the membrane filters.

Estimate quantities for other chemicals needed:

Vendor	Chemical	Estimated Costs
BWS, Inc.	ADVFLOC	\$90,000 - <b>WTP</b>
USALCO, LLC	CC950S	\$90,000 - <b>WTP</b>
Thatcher	Citric Acid (50% solution)	\$25,000 - <b>WTP</b>

## COUNCIL PRIORITY PROGRAMS AND PROJECTS

Infrastructure: "Develop and maintain infrastructure resources to support sustainable growth."

## FISCAL IMPACT

Sufficient funds are budgeted in the FY 2023/24 Water Operations Budget Line item 510-50-560-43115 – Operating Supplies, the Wastewater Operations Budget Line Item 540-50-570-43115 – Operating Supplies and the Recycled Water Operating Supplies Budget Line Item 580-50-590-43115 to implement the Recommended Action.

## ENVIRONMENTAL REVIEW

15378(b) - The action is not a "Project" subject to the California Environmental Quality Act ("CEQA") because it does not qualify as a "Project" under Public Resources Code Sections 21065 and 21080 and in Section 15378(b) of Title 14 of the California Code of Regulations.

## ATTACHMENTS:

1. [Resolution Purchase of Chemicals](#)
2. [Final BID Tabulation FY 2023-2024](#)

**RESOLUTION NO. 2023-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON  
AUTHORIZING THE PURCHASE OF CHEMICALS FOR THE WATER TREATMENT PLANT  
IN THE AMOUNT OF \$488,400 AND THE WASTE WATER TREATMENT PLANT  
IN THE AMOUNT OF \$81,000 FOR FY 2023/24**

**WHEREAS**, the City of American Canyon with other local agencies to obtain bulk pricing for chemicals to aid in the treatment of drinking water, solid waste, and recycled water. The “North Bay Agency Chemical Pool” is comprised of the cities of American Canyon, Napa, Vallejo, Fairfield, Vacaville and others; and

**WHEREAS**, the lowest responsive and responsible bidders and estimated quantities for the fiscal year 2023/24 are as follows:

<b>Vendor</b>	<b>Chemical</b>	<b>Estimated Quantity</b>
Chemtrade	Aluminum Sulfate (Acid Alum, Full)	320 Dry Tons (DT) @ \$508/DT – <b>WTP</b>
Univar	Sodium Hydroxide (25% NaOH, Full)	130 Dry Tons (DT) @ \$1008 – <b>WTP</b>
Thatcher	Sodium Hypochlorite (12.5% NaOCl, Short)	20,000 Gallons (Gal) @ \$2.79/Gal – <b>WTP</b>  29,000 Gallons (Gal) @ \$2.79/Gal – <b>WRF</b>

**WHEREAS**, the adjustment to increase or decrease Sodium Hypochlorite, Sodium Hydroxide, and Aluminum Sulfate varies based on actual consumption of each of these products and process of disinfection of byproducts in finished water; and

**WHEREAS**, the City of American Canyon obtains other chemicals outside of the Consortium. Estimate quantities for fiscal year 2023/24 are as follows:

<b>Vendor</b>	<b>Chemical</b>	<b>Estimated Costs</b>
BWS Inc.	ADVFLCOC	\$90,000 – <b>WTP</b>
USALCO, LLC	CC950S	\$90,000 – <b>WTP</b>
Thatcher	Citric Acid (50% solution)	\$25,000 – <b>WTP</b>

**WHEREAS**, the FY 2023/24 Water Operating Budget, Line Item 510-50-560-43115, Operating Supplies, sufficient funds were budgeted; and

**WHEREAS**, the FY 2023/24 Waste Water Operating Budget, Line Item 540-50-570-43115, Operating Supplies sufficient funds were budgeted; and

**WHEREAS**, the FY 2023/24 Recycled Water Operating Budget, Line Item 580-50-590-43115, Operating Supplies sufficient funds were budgeted.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of American Canyon authorizes the purchase of chemicals from Chemtrade, Univar, Thatcher, BWS, and USALCO in amounts totaling \$488,400 for the treatment of drinking water at the Water Treatment Plant and \$81,000 for the treatment of solid waste at Waste Water Treatment Plant during Fiscal Year 2023/24.

**PASSED, APPROVED and ADOPTED** at a regularly scheduled meeting of the City Council of the City of American Canyon held on the 20<sup>th</sup> day of June, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Leon Garcia, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Teresa Geilfuss, CMC, City Clerk

\_\_\_\_\_  
William D. Ross, City Attorney

**NORTH BAY AGENCY CHEMICAL POOL (NBACP) - PRIMARY CHEMICAL BID RESULTS MAY 5, 2021  
FY 2021 - 2022**

CHEMICAL VENDOR	ALUM	ACID ALUM	50% NaOH	50% NaOH	25% NaOH	25% NaOH	LOX	CO <sub>2</sub>	LIQUID Cl <sub>2</sub> (GAS)		12.5% NaOCl			FERRIC	25% SODIUM BISULFITE	40% SODIUM BISULFITE	FLUORIDE		Orthopolyphosphate		
	(Dry Ton)	(Dry Ton)	(Dry ton)	(Dry ton)	(Dry Ton)	(Dry Ton)	(CCF)	lb	(1-ton Cylinder)		(gallon)	(gallon)	55 gal drum	(Dry Ton)	(gallon)	(gallon)	(Dry Ton)	(adjusted)	(gallon)	(gallon)	(gallon)
	Full	Full	Full	Short	Full	Short	100%	100%	Full	Short	Full	Short		Full	Full	Full	100%	24%	Full	short	tote
Brenntag Pacific, Inc.			\$819.00*	\$915.00	\$983.00*	\$1098.00*													\$1.14	\$1.36	\$14.50
Carus LLC.																			\$1.41	\$1.56	\$19.78
Chemtrade Chem	\$304.00	\$508.00																			
Kemira														\$1,443.00							
Linde Inc.							\$1.38	\$0.16													
Olin Corporation													\$2.57	\$2.87							
Pencco, Inc.														\$1,397.00			\$2,487.50	\$597.00			
Sterling Water Tech																			\$0.9384	\$1.0279	\$12.4721
Thatcher Co.of CA Inc	\$321.12	\$549.00							\$2,650.00		\$1.82	\$2.79	\$7.75				\$2,755.60	\$661.34			
Univar Solutions			\$868.00	\$868.00	\$1,008.00	\$1,840.00					\$3.07	\$3.77			\$2.450	\$2.845					
<b>FISCAL YEAR</b>																					
FY 23-24																					
FY 22-23	\$386.00	\$550.00	\$742.12	\$1,086.33	\$885.70	\$1,319.67	\$1.15	\$0.14	\$1,800.00		\$1.62	\$1.80		\$1,195.00	\$1.795		\$2,333.33	\$560.00	\$0.99	\$1.09	\$13.56
FY 21-22	\$266.00	\$450.00	\$402.99		\$499.90		\$1.05	\$0.09		\$1,185.00	\$0.69	\$0.8027		\$900.00	\$1.12		\$2,226.09	\$534.26	\$0.4488	\$0.4491	\$27.0545
FY 20-21	\$285.00	\$375.00	\$443.00		\$567.00		\$1.00	\$0.07		\$1,140.00	\$0.70	\$0.82		\$810.00	\$1.09		\$1,604.35	\$385.04	\$5.50	\$5.75	\$6.50
FY 19-20	\$255.00	\$297.70	\$674.60		\$762.55		\$756.00	\$0.26	\$0.00	\$850.00	\$0.65	\$0.65		\$1.05	\$1,352.17		\$325.50			\$0.05	
FY 18-19	\$255.00	\$297.70	\$674.60		\$762.55		\$0.26	\$0.0506	\$0.00	\$850.00	\$0.65	\$0.65		\$756.00	\$1.05		\$1,352.17	\$325.50			
FY 17-18	\$232.00	\$257.00	\$538.22		\$630.88		\$0.28	\$98.32	\$0.00	\$800.00	\$0.53	\$0.59		\$500.00	\$1.03		\$1,421.74	\$341.22			
FY 16-17	\$229.00	\$229.00	\$395.00		\$444.06		\$0.27		\$615.00	\$645.00	\$0.47	\$0.57		\$438.78	\$0.94		\$1,661.00	\$398.64			
FY 15-16	\$204.00	\$204.00	\$399.13		\$463.26		\$0.28		\$459.00	\$462.00	\$0.50	\$0.57		\$493.70	\$0.89		\$1,789.83	\$429.56			
FY 14-15	\$184.00	\$184.00	\$445.00		\$483.80		\$0.27		\$519.00	\$555.00	\$0.51	\$0.58		\$517.00	\$0.91		\$2,065.21	\$495.65			
FY 13-14	\$277.60	\$277.60	\$452.00		\$479.00		\$0.24		\$565.00	\$540.00	\$0.62	\$0.50		\$597.00	\$0.75		\$2,480.39	\$595.29			
FY 12-13	\$398.00	\$398.00	\$475.00		\$505.00		\$0.21		\$565.00	\$540.00	\$0.58	\$0.48		No Bid	\$0.75		\$2,550.00	\$612.00			



**TITLE**

Annual Communications Services Agreement

**RECOMMENDATION**

Adopt a Resolution authorizing the City Manager to enter into an agreement with Tripepi Smith for an annual contract amount not to exceed \$157,000 for Strategic Communication, Graphic Design, and Marketing Support Services.

**CONTACT**

Jen Kansanback, Communications Manager

**BACKGROUND & ANALYSIS**

American Canyon regularly communicates with residents, businesses, and other stakeholders and organizations about various matters, including emergency preparedness, City policy, traffic, public safety, news and events, key issues and areas of interest, department programs, projects, campaigns, and news. These efforts require support from graphic design, marketing, and strategic communication professionals.

In July 2019, the City issued a Request for Proposals for graphic design, marketing, and strategic communication support. Tripepi Smith was selected amongst the proposals received as responsive and qualified for the work.

Communication needs have significantly increased citywide. The number of projects and activities is growing in all departments, each with unique communication needs.

**COUNCIL PRIORITY PROGRAMS AND PROJECTS**

Organizational Effectiveness: "Deliver exemplary government services."

**FISCAL IMPACT**

Funding to implement the Recommended Action is included in the 2023/24 Annual Budget in the following line items:

100-70-760-42190 (Communications)	\$105,000
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100-10-720-42190 (Parks & Recreation)	\$12,000
100-30-310-42420 (Police)	\$5,000
100-40-545-42160 (Solid Waste)	\$2,000
510-50-560-42160 (Water Operations)	\$5,000
510-50-560-42415 (Water Advertising)	\$6,000
510-50-565-42160 (Water Distribution)	\$5,000
540-50-570-42160 (Water Reclamation Ops)	\$5,000
540-50-585-42160 (Environmental)	\$5,000
580-50-590-42190 (Recycled Water)	\$2,000
580-50-590-42160 (Recycled Water Ops)	\$5,000

## **ENVIRONMENTAL REVIEW**

Not applicable.

## **ATTACHMENTS:**

1. [Resolution - Tripepi Smith](#)
2. [Tripepi Smith Independent Contractor Agreement June 2023](#)

**RESOLUTION NO. 2023-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON  
APPROVING AN AGREEMENT WITH TRIPEPI SMITH IN AN AMOUNT NOT  
TO EXCEED \$157,000 FOR STRATEGIC COMMUNICATION, GRAPHIC DESIGN,  
AND MARKETING SUPPORT SERVICES**

**WHEREAS**, the City of American Canyon regularly communicates to the members of the community utilizing multiple reports, mediums, and formats; and

**WHEREAS**, the City published a Request for Proposals on June 22, 2019, for qualified consultant(s) to work closely with the City's Communications Manager to provide strategic communication, graphic design, and marketing support services; and

**WHEREAS**, Tripepi Smith was selected amongst the proposals received as responsive and qualified for the work; and

**WHEREAS**, there are sufficient funds appropriated for FY 2023/24 in the following account numbers to cover these services:

100-70-760-42190 (Communications)	\$105,000
100-10-720-42190 (Parks & Recreation)	\$12,000
100-30-310-42420 (Police)	\$5,000
100-40-545-42160 (Solid Waste)	\$2,000
510-50-560-42160 (Water Operations)	\$5,000
510-50-560-42415 (Water Advertising)	\$6,000
510-50-565-42160 (Water Distribution)	\$5,000
540-50-570-42160 (Water Reclamation Ops)	\$5,000
540-50-585-42160 (Environmental)	\$5,000
580-50-590-42190 (Recycled Water)	\$2,000
580-50-590-42160 (Recycled Water Ops)	\$5,000; and

**WHEREAS**, consistent with the "A/B/C Test" stipulated by the Dynamex Operations West Inc. v. Superior Court (Case No. S222732), Tripepi Smith is an independent contractor free from the control and direction of the City in connection with the performance of the work, who performs work that is outside the usual course of the City's business and is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the City.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of American Canyon approving an agreement with Tripepi Smith for a contract amount not to exceed \$157,000 for strategic communication, graphic design, and marketing support services.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of American Canyon hereby determines that Tripepi Smith is free from the control and direction of the City in connection with the performance of the work, both under the agreement for the performance of such work and in fact.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of American Canyon hereby determines that Tripepi Smith performs work that is outside the usual course of the City's business.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of American Canyon hereby determines that Tripepi Smith is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed for the City.

**PASSED, APPROVED and ADOPTED** at a regularly scheduled meeting of the City Council of the City of American Canyon held on the 20<sup>th</sup> day of June 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Leon Garcia, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Taresa Geilfuss, CMC, City Clerk

\_\_\_\_\_  
William D. Ross, City Attorney

**CITY OF AMERICAN CANYON  
STANDARD AGREEMENT  
FOR INDEPENDENT CONTRACTOR SERVICES**

THIS AGREEMENT (hereinafter referred to as “Agreement”) is made and entered into this 21st day of June 2023, by and between the City of American Canyon (“CITY”), a Municipal Corporation and Tripepi Smith (“CONTRACTOR”), who agree as follows:

**RECITALS**

**WHEREAS**, City desires to have certain services provided as set forth in Exhibit A, attached and incorporated by this reference; and,

**WHEREAS**, Contractor represents that it is qualified and able to perform services; and,

**WHEREAS**, Contractor is agreeable to providing the services on the terms and conditions hereinafter set forth.

**NOW THEREFORE**, the parties agree as follows:

1. **Term of Agreement**: The Term of this Agreement shall extend from June 21, 2023 (“Commencement Date”) to June 30, 2024 (the “Termination Date”).
2. **Contractors Services**. Contractor shall perform the services describe in Exhibit A (“Scope of Work” and/or “Services”) to the full satisfaction of City.
3. **Time of Performance**. Contractor shall perform the Services on or by the Termination Date set forth in Agreement section 1, unless extended in writing by the parties pursuant to the terms of this Agreement.
4. **Compensation**. City agrees to compensate Contractor, and Contractor agrees to accept in full satisfaction for the Services required by this Agreement the consideration set forth in Exhibit B, attached and incorporated by this reference (“Payment”). City shall pay Contractor in accordance with the schedule of payment set forth in Exhibit B.
5. **Independent Contractor**. Contractor is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor’s employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City.
6. **Assignment**. Contractor shall not assign or attempt to assign any portion of this Agreement without prior written approval by City.

7. **Responsible Principal of Contractor:** The Responsible Principal of the Contractor is Ryder Smith who shall be the individual responsible for Contractor's obligations under this Agreement and shall service as principal liaison between City and Contractor. Designation of another Responsible Principal by Contractor shall not be made without the prior written consent of City.
8. **Personnel.** Contractor represents that it has, or shall secure at its own expense, all personnel required to the perform Contractor's services under this Agreement. Contractor shall assign only competent personnel. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the removal of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, cause the removal of such person or persons.
  - a. **Employment Eligibility.** Contractor shall ensure that all employees of Contractor and any subcontractor retained by Contractor in connection with this Agreement have provided the necessary documentation to establish identity and employment eligibility as required by the Immigration Reform and Control Act of 1986, any amendments thereto and all applicable labor laws in effect at the time of this Agreement. Failure to provide the necessary documentation will result in the termination of the Agreement as required by the Immigration Reform and Control Act of 1986.
9. **Changes to Scope of Work.** City may, by written notice, initiate any change to the Scope of Work. A corresponding equitable change in the Payment of this Agreement will be made for each change ordered as mutually agreed upon by the parties in writing.
10. **Interests of Contractor.** Contractor affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Services contemplated by this Agreement.
11. **Responsibility of Contractor.** Contractor shall take all responsibility for the work, shall bear all losses and damages directly or indirectly resulting to Contractor or any subcontractor, to the City, its elected and appointed officials, officers, attorneys, agents, and employees and each of them from any and all loss or damage on account of the performance or character of the work, unforeseen difficulties, accidents, occurrences or other causes predicated on active or passive negligence of the Contractor or of any subcontractors.
12. **Insurance.** Contractor agrees to have and maintain the policies set forth in Exhibit C entitled "INSURANCE REQUIREMENTS," which is attached and incorporated by this reference. All policies, endorsements, certificates, and/or binders shall be subject to approval by the City as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the City. A lapse in any required insurance coverage during this Agreement shall be a breach of this Agreement.

- a. Contractor shall procure and maintain for the duration of this Agreement insurance as set forth in Exhibit C, attached and incorporated by this reference. The cost of such insurance shall be included in the Contractor's bid.
- b. Contractor agrees to maintain in force at all times during the performance of the Scope of Work under this Agreement, workers' compensation insurance as required by law.
- c. Contractor agrees to include with all subcontractors in their subcontract the same requirements and provisions of this Agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by Contractor agree to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under this Agreement and any other applicable contract documents. Subcontractor further agrees to include these same provisions with any sub-subcontractor. A copy of the Indemnity and Insurance provisions in this Agreement will be furnished to the subcontractor upon request. The General Contractor shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the Agreement prior to commencement of any work and will provide proof of compliance to the City.
- d. Contractor shall require each of its subcontractors to maintain insurance coverage which meets all of the requirements of this Agreement.
- e. The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California.
- f. Contractor agrees that if it does not keep the aforesaid insurance in full force and effect, City may terminate this Agreement.
- g. At all times during the term of this Agreement, Contractor shall maintain on file with the City a certificate or certificates of the required insurance as set forth in Exhibit C showing that the required insurance policies are in effect in the required amounts.
- h. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of an insurance policy or proceeds available to the named Insured; whichever is greater.

13. **Indemnification.** To the fullest extent permitted by law Contractor shall indemnify, defend and hold harmless City, its elected and appointed officials, officers, attorneys, agents, employees, volunteers and each of them ("City indemnitees"), from and against any and all

causes of action, claims, liabilities, obligations, judgments, damages, loss, expenses, and costs of every nature, including reasonable legal counsels' fees and costs of litigation ("claims") arising out of or in connection with Contractor's performance of its obligations under this Agreement or out of the operations conducted by Contractor or its failure to comply with any of its obligations contained in this Agreement, including the City's active or passive negligence, except for such loss or damage arising from the active or sole negligence or willful misconduct of the City. In the event the City indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Contractor's performance of this Agreement, the Contractor shall provide a defense to the City indemnitees, or at the City's option, reimburse the City indemnitees their costs of defense, including reasonable legal counsels' fees incurred in defense of such claims.

- a. **General.** This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this Agreement or this section. By execution of this Agreement, Contractor acknowledges and agrees that it has read and understands the provisions hereof and that this section is a material element of consideration. The parties agree that if any part of this Indemnification is found to conflict with applicable laws, such part shall be unenforceable only insofar as it conflicts with said laws, and that this indemnification shall be judicially interpreted and rewritten to provide the broadest possible indemnification legally allowed and shall be legally binding upon Contractor.
- b. **Survival.** Contractor and any subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.
- c. **No Limitation by Insurance Obligations.** The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.
- d. **Scope.** This Section shall in no event be construed to require indemnification by Contractor to a greater extent than permitted under the public policy of the State of California.

#### 14. **Termination.**

- a. In addition to any other rights of termination and suspension set forth in this Agreement or at law, either party may terminate this Agreement with or without cause by providing ten (10) days' notice in writing to the other party.
- b. The City may terminate this Agreement at any time without prior notice in the event that Contractor commits a material breach of the terms of this Agreement.
- c. In the event of termination of this Agreement by City, due to no fault or failure of performance by Contractor, Contractor shall be paid full compensation for all

services performed by Contractor, in an amount to be determined as follows: For work done in accordance with the terms and provisions of this Agreement, Contractor shall be paid an amount equal to the amount of services performed prior to the effective date of termination or cancellation; provided, in no event shall the amount of money paid under the foregoing provisions of this paragraph exceed the amount which would be paid to Contractor for the full performance of the Scope of Work under this Agreement.

- d. Upon termination, this Agreement shall become of no further force or effect and all parties shall be discharged from their duties and obligations under this Agreement. Notwithstanding, the provisions of this Agreement concerning retention of records, City's rights to material produced, confidential information, Contractor's responsibility, indemnification, insurance, dispute resolution, litigation, and jurisdiction and severability shall survive termination of this Agreement.

15. **Notice.** All notices that are required either expressly or by implication to be given by one party to the other under this Agreement shall be signed for Contractor by its Responsible Principal and for City by Jason Holley, City Manager, or, for either party, by such officer as it may, from time to time, be authorized to so act. All such notices shall be deemed to have been given if delivered personally or if enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail or overnight express carrier. Unless and until formally notified otherwise, all notices shall be addressed to the parties at their addresses as follows:

Contractor shall address notices to:

City Clerk  
City of American Canyon  
4381 Broadway, Suite 201  
American Canyon, CA 94503

City shall address notices to:

Tripepi Smith  
PO Box 52155  
Irvine, CA 92619

16. **Prevailing Wages.** In accordance with the provisions of sections 1770 *et seq.* of the California Labor Code, the Director of Industrial Relations of the State of California has determined the general prevailing rate of wages applicable to the work to be done. Contractor will be required to pay all persons employed on the project by the Contractor's sums not less than the sums set forth in the documents entitled "General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code, part 7, Chapter 1, Article 2, sections 1770, 1773, 1773.1." These documents may be obtained from the State of California.

## 17. Compliance with Laws.

- a. In General. Contractor shall observe and comply with all laws, policies, general rules and regulations established by City and shall comply with the common law and all laws, ordinances, codes and regulations of governmental agencies, (including federal, state, municipal and local governing bodies) applicable to the performance of the Scope of Work hereunder, including, but not limited to, all provisions of the Occupational Safety and Health Act of 1979 as amended.
- b. Labor Laws: Contractor shall comply with and adhere to all applicable labor laws, including, but not limited to, alien labor, prevailing wages, etc. Contractor shall comply with all applicable provisions of the California Labor Code.
- c. Drug-free Workplace. Contractor's employees and subcontractors shall comply with the City's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees and/or subcontractors shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code section 812, including marijuana, heroin, cocaine, and amphetamines, at any facility, premises or worksite used in any manner in connection with performing services pursuant to this Agreement. If Contractor or any employee or subcontractor is convicted or pleads *nolo contendere* to a criminal drug statute violation occurring at such a facility, premises, or worksite, the Contractor shall notify the City within five (5) days.
- d. Discrimination Prohibited. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, religious creed, marital status, denial of family and medical care leave, ancestry, national origin, medical condition (cancer/genetic characteristics), age (40 and above), disability (mental and physical) including HIV and AIDS, denial of pregnancy disability leave or reasonable accommodation. Contractor and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, §12900 *et seq.*) and the applicable regulations promulgated thereunder (Cal. Code Regs, tit. 2, §7285.0 *et seq.*). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, §12990 (a)–(f), are incorporated into this Agreement by reference and made a part hereof as if set forth in full (Cal. Code Regs, tit. 2, §7285.0 *et seq.*). Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- e. Harassment Prohibited. Contractor and Contractor's employees and subcontractors shall comply with the City's Workplace Harassment and Discrimination Policy.
  - f. Illness and Injury Prevention Program (IIPP). Contractor shall provide the City with a copy of their IIPP to show compliance with CalOSHA.
  - g. Licenses and Permits. Contractor represents and warrants to City that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Contractor to practice its profession. Contractor represents and warrants to City that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Contractor to practice its profession. Contractor shall secure and maintain a business license with the City during the term of this Agreement.
18. **Facilities and Equipment:** Except as set forth in Exhibit D ("Facilities and Equipment"), Contractor shall, at its sole cost and expense, furnish all facilities and equipment, which may be required for completing the Scope of Work pursuant to this Agreement. City shall furnish to Contractor only the facilities and equipment listed in Exhibit D according to the terms and conditions set forth in Exhibit D.
19. **Special Conditions.**  
None.
20. **Exhibits.** All exhibits referred to in this Agreement are attached and incorporated by this reference.
21. **Benefits and Taxes.** Contractor shall not have any claim under this Agreement or otherwise against City for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance, medical care, hospital care, insurance benefits, social security, disability, unemployment, workers compensation or employee benefits of any kind. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, including, but not limited to, federal and state income taxes, for which Contractor shall indemnify and hold City harmless from any and all liability that City may incur because of Contractor's failure to pay such taxes. City shall have no obligation whatsoever to pay or withhold any taxes on behalf of Contractor.
22. **Dispute Resolution.** Should any dispute arise concerning any provisions of this Agreement, or the parties' rights and obligations hereunder, the parties shall meet and confer in an attempt to resolve the dispute. Prior to commencing any legal action, the complaining party shall provide to the other party thirty (30) days' written notice of the intent to take such action; provided that such notice shall not be required where a delay in commencing an action would prejudice the interests of the party that intends to file suit. During the thirty (30) day notice period, the parties shall meet and confer in an attempt to resolve the

dispute. Except as specifically provided, nothing herein is intended to waive or abridge any right or remedy that either party may have.

**23. Default and Remedies.**

- a. Events of Default. Each of the following shall constitute an event of default hereunder:
  - i. Failure to perform any obligation under this Agreement and failure to cure such breach immediately upon receiving notice of such breach, if the breach is such that the City determines the health, welfare, or safety of the public is immediately endangered; or
  - ii. Failure to perform any obligation under this Agreement and failure to cure such breach within fifteen (15) days of receiving notice of such breach, if the breach is such that the City determines that the health, welfare, or safety of the public is not immediately endangered, provided that if the nature of the breach is such that the City determines it will reasonably require more than fifteen (15) days to cure, Contractor shall not be in default if Contractor promptly commences the cure and diligently proceeds to completion of the cure.
- b. Remedies upon Default. Upon any Contractor default, City shall have the right to immediately suspend or terminate the Agreement, seek specific performance, contract with another party to perform this Agreement and/or seek damages including incidental, consequential and/or special damages to the full extent allowed by law.

24. Attorneys' Fees. In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

**25. Documents and Records.**

- a. Property of City. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda or other written documents or materials prepared by Contractor pursuant to this Agreement shall become the property of City upon completion of the work to be performed hereunder or upon termination of this Agreement.
- b. Retention of Records. Until the expiration of five (5) years after the furnishing of any services pursuant to this Agreement, Contractor shall retain and, upon written request by City, make available to the City or any party designated by the City this Agreement, and such books, documents and records of Contractor and subcontractor that are necessary or convenient for audit purposes to certify the nature and extent of the reasonable cost of services to City.

26. **Inspection of Books and Records.** During regular office hours, each of the parties hereto and their duly authorized representatives shall have the right to inspect and make copies of any books, records, or reports of the other party pertaining to this Agreement or matters related hereto. Each of the parties hereto shall maintain and make available for such inspection accurate records of all of its costs, disbursements and receipts with respect to its activities under this Agreement.
27. **Confidential Information.** Contractor shall hold any confidential information received from City in the course of performing this Agreement in trust and confidence and will not reveal such confidential information to any person or entity, either during the term of the Agreement or at any time thereafter. Upon expiration of this Agreement, or termination as provided herein, Contractor shall return materials which contain any confidential information to City. Contractor may keep one copy for its confidential file. For purposes of this section, confidential information is defined as all information disclosed to Contractor which relates to City's past, present, and future activities, as well as activities under this Agreement, which information is not otherwise of public record under California law.
28. **Successors and Assigns.** This Agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto.
29. **Waiver.** Any waiver at any time by either party hereto of its rights with respect to a default or any other matter arising in connection with this Agreement shall not be deemed to be a waiver with respect to any other default or matter.
30. **Modifications.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
31. **Agreement Interpretation.** Each party to this Agreement has had an opportunity to review the Agreement, confer with legal counsel regarding the meaning of the Agreement, and negotiate revisions to the Agreement. Accordingly, neither party shall rely upon Civil Code section 1654 in order to interpret any uncertainty in the meaning of the Agreement.
32. **Entire Agreement.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the subject matter described herein.
33. **Jurisdiction and Severability.** This Agreement shall be governed and construed in accordance with California law. The venue for any legal action in State court filed by a party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa. The venue for any legal action in Federal court filed by a party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement within the jurisdiction of the Federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceeding under this Agreement shall be in Napa County, California; however nothing in this Agreement section shall obligate a party to submit to arbitration any dispute arising under this Agreement. If any term or provision of

this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected.

34. **Signatures.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Contractor and City.

IN WITNESS WHEREOF, City of American Canyon and Contractor do hereby agree to the full performance of the terms set forth herein.

**CONSULTANT**

BY: \_\_\_\_\_  
Ryder Todd Smith  
Co-Founder & President

DATE: \_\_\_\_\_

**CITY OF AMERICAN CANYON**

BY: \_\_\_\_\_  
Jason B. Holley  
City Manager

DATE: \_\_\_\_\_

**APPROVED AS TO FORM:**

BY: \_\_\_\_\_  
William D. Ross  
City Attorney

DATE: \_\_\_\_\_

**APPROVED AS TO BUDGET  
AUTHORITY:**

BY: \_\_\_\_\_  
Juan Gomez  
Finance Director

DATE: \_\_\_\_\_

**APPROVED AS TO INSURANCE:**

BY: \_\_\_\_\_  
William D. Ross  
City Attorney

DATE: \_\_\_\_\_

**Attachments:**

- Exhibit A – Scope of Work
- Exhibit B – Payment and Schedule of Payments
- Exhibit C – Insurance Requirements
- Exhibit D – Facilities and Equipment

**EXHIBIT A**  
**SCOPE OF WORK**

Contractor shall complete the attached Scope of Work.

**EXHIBIT A**  
**SCOPE OF WORK**

Contractor shall complete the attached Scope of Work.

**1. Strategic Communications Support**

The City of American Canyon communicates with residents, businesses, and other stakeholders and organizations about various matters, including emergency preparedness, City policy, traffic, public safety, news and events, key issues and areas of interest, department programs, projects, campaigns, and news. The Contractor will provide support for the various ongoing communications in the form of content development, graphic design of necessary campaign elements, and message strategizing with the City's Communications Manager and applicable management staff. Support may include email creation and social media management.

**2. On-Demand Crisis Communications Support**

At the start of the engagement, the Contractor will collaborate with City staff to ensure all parties have the tools, resources and logistics in place to co-manage external communications during an emergency. The Contractor will provide on-call emergency Public Information Officer (PIO) support in case of an emergency, such as a public relations crisis or natural disaster. In an incident that requires emergency operations, the Contractor will provide assistance remotely and/or in-person, per direction of the City Manager or their designee. This additional staffing would ensure the City has appropriate depth in the PIO aspect of its emergency response.

**3. Website Technology and Content Support**

The Contractor will provide support to the City's Communications Manager for content and features on the City's website. This may range from troubleshooting content or design issues, liaising with the City website hosting provider, creating or manipulating content (News article, webpage content and/or visionPulse pages), and updating elements on the City's homepage.

**Other Services, As Requested**

In addition to the services outlined above, the City's Communications Manager may deem it necessary to engage the Contractor in any of the following services:

- **Platform Review** – Contractor can provide insights and opinion on existing city communication platforms to help guide changes of updates to niche areas of the City's overall communication suite of tools.
- **Policy Strategy Expertise** – Contractor can use its knowledge of policy matters to develop key talking points that align with areas of interest for the City.
- **Video Production Support** – Contractor can work with existing video production resources on staff or bring in our own services to generate video content to supplement the content materials we produce. This allows us to reach as broad an audience as possible.

- **Event Management and Facilitation** – Contractor can leverage its breadth of skills to promote community forums and drive attendance. At an event, they can provide facilitation and coordination to seek a productive and informed conversation with attendees.
- **Photography Services** – Contractor has a team of professional photographers, armed with top-tier equipment, to cover local City events, Parks and Recreation programming or execute a pre-planned stock photography shoot to capture great images from around town that can be incorporated into City communications.
- **Media Outreach** – Contractor is comfortable working with media outlets to both inform them to ensure accuracy in their reporting, and to encourage their coverage of key City messages and responses to various news items.
- **Social Media Management** – Contractor can develop a social media calendar and create posts each week. They can manage Facebook “Boosted Posts” as requested (Boosted Post fees to be passed on to City). They can monitor comments on, and messages sent to, the City’s main social media sites. They can respond accordingly when appropriate, or seek additional information from City Staff to provide a response on social media platforms. Supported social media platforms are Instagram, Twitter, Facebook, Nextdoor and YouTube.
- **Monthly Metrics Reporting** – Contractor can compile data and report metrics about City communication platforms on a monthly basis. The data can then be shared each month and presented to council as needed to demonstrate the City’s progress on communications or raise overall staff awareness about the importance of communications.
- **Copywriting Services** – Contractor can write news stories to be published on the City’s website. They will speak with subject matter experts or cull information from other resources. After publishing stories on the City’s website, Contractor can distribute them through the City’s social media sites and/or make them available for other City platforms.
- **Quarterly Communications Calendar Planning Session** – Every quarter, Contractor can host a two-hour session with City Staff leadership to: (1) review recent communications wins and lessons, and (2) discuss upcoming City plans, activities or issues that will merit communications to develop a 12-month calendar for City communication plans. Emphasis will be placed on details and specifics related to the next three months on the calendar.

Proposal for:

**CONTINUATION OF  
STRATEGIC COMMUNICATIONS SUPPORT,  
WEBSITE TECHNOLOGY & CONTENT SUPPORT, AND  
OTHER SERVICES AS REQUESTED**

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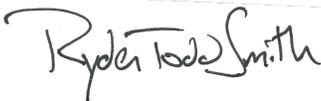
Submitted: May 3, 2023  
By: Ryder Todd Smith, Co-Founder & President  
Jon Barilone, Principal

Dear Jennifer Kansanback,

Thank you for this opportunity to continue serving the City of American Canyon! We are reaching the end of the first year of our current two-year Agreement: started July 1, 2022, ending June 30, 2024, with options to extend. You requested that Tripepi Smith provide our updated hourly rates for FY 2023-24 as we continue services for Communications Support and on-demand Crisis Communications Support.

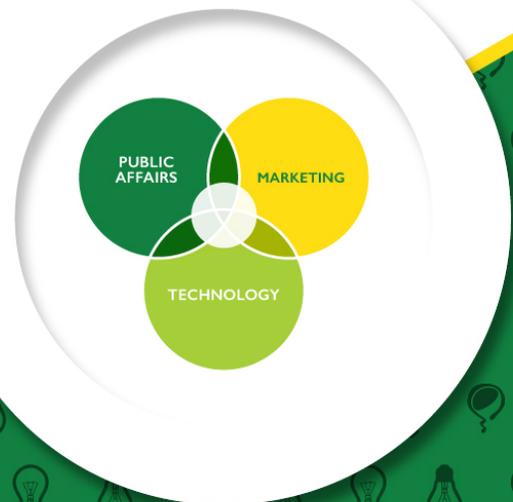
As requested, this letter and the following information state our intent to increase the hourly rates for Tripepi Smith's services, all of which we perform on a "Time & Materials" basis. We look forward to continuing our working relationship with your city. This proposal is valid for 90 days following submission on May 3, 2023.

Kindest regards,



Ryder Todd Smith  
Co-Founder & President, Tripepi Smith

- [Ryder@TripepiSmith.com](mailto:Ryder@TripepiSmith.com)
- (626) 536-2173
- P.O. Box 52152, Irvine, CA 92619



## SCOPE OF WORK

Tripepi Smith will continue to deliver the same scope of work as outlined in the Exhibits of previous Agreements and Amendments with the City, or special projects/support as directed by the City. In addition, Tripepi Smith will execute enhanced media & social media monitoring as directed by the City. Tripepi Smith will do this by leveraging its subscriptions to tools such as, but not limited to: Sprout Social and Meltwater.

## AGREEMENT TERMS AND COST PROPOSAL

### FY 23-24 Ad Hoc Hourly Rates

Resource	Hourly Rate
Principal	\$290.00
Director	\$195.00
Art/Creative Director	\$195.00
Senior Business Analyst	\$158.00
Business Analyst	\$105.00
Junior Business Analyst	\$84.00
Senior Videographer/Animator	\$158.00
Senior Photographer	\$142.00
Photographer/Videographer	\$105.00
Senior Graphic Designer	\$142.00
Graphic Designer	\$105.00
Junior Graphic Designer	\$84.00
Web Developer	\$158.00
Drone Operator	\$158.00
Council Chamber A/V Operator	\$84.00

### Annual Increase

Please note these hourly rates are discounted compared to Tripepi Smith's Standard Rates for Ad Hoc work. They reflect a fourth consecutive year of discounted rates, which started in FY 2020-21 per the City's request due to financial hardship. Tripepi Smith will increase the hourly rate for all resources by five percent (5%) or the "San Francisco-Oakland-Hayward, CA area" CPI—whichever is higher—each year on the first anniversary of any contract when the contract duration is longer than one year. Otherwise, new rates will be negotiated with each new contract renewal period. Per the U.S. Bureau of Labor Statistics (BLS), the most recent CPI-U for that region (Feb. 2023 data) is a 5.3% increase year-over-year. That is the figure Tripepi Smith used to calculate the increase for the hourly rates, rounding down or up to the nearest dollar.

## Billing

Time at Tripepi Smith is billed in 15-minute increments – i.e. we invoice our time in the following examples: 1.25, 0.75, 4.0 or 6.5 hours. Ad hoc work is billed on the last day of each month.

## Other Costs

### Travel Costs

Travel costs must be pre-authorized and then will be reimbursed by the City for any requested travel. Travel costs to be covered are for airfare, lodging and car rental. If Tripepi Smith is requested to be onsite, we will invoice for travel time at half the resource's Hourly Rate. (NOTE: Tripepi Smith no longer waives travel time if the resource is onsite for six or more hours.)

### Equipment Fees - \* indicates an increase from FY 2022-23

	Half Day	Full Day
Video Equipment	\$400*	\$600*
Drone Equipment	N/A	\$500

Six-hundred dollars (\$600) for a full day of video equipment use (includes full set of video equipment). Full day is defined as a shoot lasting four (4) or more hours.

Four-hundred dollars (\$400) for a half day of video equipment use. Half day is defined as anything under four (4) hours of video production. All such expenses will be authorized by the organization prior to fee being assessed.

Five-hundred dollars (\$500) per day drone fee applies and is not inclusive of the drone operator time (Drone Operator rate).

### Service Fees

	Client Pays Directly	Client Reimburses TS
Print costs, digital advertising, media placement, voiceover/captions	No Fees	10%

Typically, Tripepi Smith prefers to have service providers bill the client directly to avoid additional administrative costs and because we have no economic interest in the service provider selection. If Tripepi Smith is asked to pay the bill for the client, we will apply a ten percent (10%) agency fee to the reimbursement expense. Typical services include, but are not limited to:

**Print Costs:** Tripepi Smith is happy to use a printer of the client's choosing for print production work, or to recommend a printer with whom we have experience.

**Digital Advertising:** Tripepi Smith is a Google Partner and Constant Contact Solution Provider and has Facebook Certified staff. We consider digital platforms to be a cornerstone element of any outreach strategy; often this comes with digital advertising fees.

**Media Placement:** Tripepi Smith can help liaise on behalf of the City for advertising space within various mediums, such as newspapers, magazine or websites.

**Voiceover, Translation and Closed Caption Fees:** Tripepi Smith occasionally uses third-party resources to record voiceovers for videos, generate closed captions for videos, and for non-English language translations.

**EXHIBIT B**  
**PAYMENT AND SCHEDULE OF PAYMENTS**

**1. TOTAL COMPENSATION**

City shall compensate Contractor for the satisfactory performance of the work described in this Agreement to not exceed the amount of one hundred fifty seven thousand dollars (\$157,000).

2. Contractor shall submit an itemized statement to City on a City approved form for its services performed, which shall include documentation setting forth in detail a description of the services rendered, and the hours of service, if appropriate. City shall compensate Contractor the amount of such billing within thirty (30) days receipt of same.
3. There shall be no right to reimbursement of expenses incurred by Contractor except as specified in Exhibit A to this Agreement.

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

Please refer to the insurance requirements listed below. Those that have an “X” indicated in the space before the requirement apply to Contractor’s or Consultant’s Agreement.

**Commercial General Liability (CGL):**

- Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Contractor’s general liability policies shall be primary and non-contributory, and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, attorneys, and agents shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.
  
- Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Contractor’s general liability policies shall be primary and non-contributory, and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, attorneys and agents shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.
  
- Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than five million dollars (\$5,000,000) per occurrence for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. Contractor’s general liability policies shall be primary and non-contributory, and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, attorneys, and agents shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.

***Commercial General Liability (CGL) - Completed Operations Coverage***

\_\_\_ Contractor shall maintain and provide completed operations coverage and to the additional insured using ISO form CG 20 37. Contractor shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following the completion of this project. In the event Contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

**Automobile Liability:**

\_\_\_ Contractor shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than one million dollars (\$1,000,000) per accident. If Contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the CGL policy.

\_\_\_ Contractor shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than five million dollars (\$5,000,000) per accident. If Contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the CGL policy.

\_\_\_ Garage keepers' extra liability endorsement to extend coverage to all vehicles in the care, custody and control of the Contractor or Consultant, regardless of where the vehicles are kept or driven.

**Professional Liability (Errors and Omissions):**

\_\_\_ Contractor shall maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement, in the minimum amount of one million dollars (\$1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement, and Contractor agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

\_\_\_ Contractor shall maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement, in the minimum amount of two million dollars (\$2,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement, and Contractor agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

**Workers' Compensation Insurance:**

Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Contractor shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

The Contractor or Consultant makes the following certification, required by section 1861 of the California Labor Code:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

---

Contractor/Consultant Signature

**Builder's Risk (Course of Construction):**

***Builder's Risk (Course of Construction Insurance) (applicable to Construction Contracts only)***

Contractor shall provide Builders Risk Insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.

Upon commencement of construction and with approval of City, Contractor shall obtain and maintain Builder's Risk/Course of Construction insurance. Policy shall be provided for replacement value on an "all-risk" basis. The City shall be named as Loss Payee on the policy and there shall be no coinsurance penalty provision in any such policy. Policy must include: (1) coverage for removal of debris, and insuring the buildings, structures, machinery, equipment, materials, facilities, fixtures, and all other properties constituting a part of the project; (2) coverage with limits sufficient to insure the full replacement value of any property or equipment stored either on or off the project site. Such insurance shall be on a form acceptable to City to ensure adequacy of terms and limits. Contractor shall not be required to maintain property insurance for any portion of the Project following transfer of control thereof to City.

**Surety Bonds:**

Contractor shall provide the following Surety Bonds:

- Bid Bond
- Performance Bond
- Payment Bond
- Warrantee Bond

The Payment Bond and Performance Bond shall be in a sum equal to the contract price. If the Performance Bond provides for a one-year warranty a separate Warrantee Bond is not necessary. If the warranty period specified in the contracts is for longer than one (1) year a Warrantee Bond equal to ten percent (10%) of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

**Contractor’s or Consultant’s Pollution Legal Liability:**

\_\_\_\_ Pollution Coverage shall be provided on a Contractors Pollution Liability form or other form acceptable to City providing coverage for liability arising out of sudden, accidental and gradual pollution and remediation. The policy limit shall be no less than two million dollars (\$2,000,000) per claim. All activities contemplated in this agreement shall be specifically scheduled on the policy as “covered operations.” The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.

**Specific Insurance Provisions**

***Insurance Limits:***

The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City’s own insurance or self-insurance shall be called upon to protect it as a named insured.

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

***Notice of Cancellation, Suspension or Otherwise Voiding Policies:***

Each insurance policy required above shall contain, or be endorsed to contain **that coverage shall not be suspended, voided, canceled or reduced in coverage or in limits except with thirty (30) days’ prior written notice** by certified mail, return receipt requested to the City.

***Waiver of Subrogation:***

**Contractor or Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor or Consultant may acquire** against the City by virtue of the payment of any loss under such insurance. Contractor or Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision

applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

***Deductibles and Self-Insured Retentions (“SIR”):***

Any deductibles or self-insured retentions above \$25,000 must be declared to and approved by City. The City may require the Contractor or Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. At the option of the City, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its elected and appointed officials, officers, attorneys, agents, and employees; or (2) the Contractor or Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

All SIRs must be disclosed to Risk Management for approval and shall not reduce the limits of liability.

Policies containing any SIR provision shall be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

City reserves the right to obtain a full-certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

***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 City.

***Claims Made Policies: (note - should be applicable only to professional liability, see below)***

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of contract of work.**
3. If coverage is canceled or non-renewed, and not replaced **with another claims-made policy form with a Retroactive Date prior to** the contract effective date, the Contractor or Consultant must purchase “extended reporting” coverage for a minimum of **five (5) years** after completion of work.
4. A copy of the claims reporting requirements must be submitted to the City for review.

5. If the services involve lead-based paint or asbestos identification/remediation, the Contractor's Pollution Liability Policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractor's Pollution Liability Policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

***Subcontractors:***

Contractor or Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Subcontractor agrees to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under this Agreement and any other contract documents. Subcontractor further agrees to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, with any sub-subcontractor to the extent they apply to the scope of the sub-subcontractor's work. A copy of the City indemnity and insurance provisions will be furnished to the subcontractor upon request.

***Verification of Coverage:***

Contractor or Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor or Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

***Special Risks or Circumstances***

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

***Failure to Comply:***

Each insurance policy required above shall contain or be endorsed to contain that any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officials, officers, attorneys, agents, and employees.

***Applicability of Coverage:***

Each insurance policy required above shall contain or be endorsed to contain that the Contractor's or Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**EXHIBIT D**  
**FACILITIES AND EQUIPMENT**

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Contractor's use while consulting with City employees and reviewing records and the information in possession of City. The location, quantity, and time of furnishing said physical facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility which may involve incurring any direct expense, including, but not limiting the generality of this exclusion, long-distance telephone or other communication charges, vehicles, and reproduction facilities. Contractor shall not use such services, premises, facilities, supplies or equipment for any purpose other than in the performance of Contractor's obligations under this Agreement.



## **TITLE**

Annual Granicus Agreement FY 2023-24

## **RECOMMENDATION**

Adopt a Resolution authorizing the City Manager to execute agreement(s) with Granicus for a combined amount not to exceed \$56,653.00 for website and meeting management applications.

## **CONTACT**

Taresa Geilfuss, CMC, City Clerk

## **BACKGROUND & ANALYSIS**

American Canyon has historically used Granicus along with several other applications to prepare meeting agendas, track meeting comments, host our website and submit FPPC required forms, among other functions. Recently Granicus acquired some of these applications and has merged their billing to be under the Granicus umbrella. In an effort to streamline our various Granicus contracts, we are combining them and issuing one comprehensive purchase order for fiscal year 2023/24 in the amount of \$56,653.00.

Our current Granicus applications are:

- GovDelivery Communications Cloud
- Government Transparency Suite (PEAK agenda management, eComments, minutes)
- OpenCities (website)
- eDisclosure Filer Module (Form 700 FPPC filings)
- Campaign Docs Filer Module (Campaign FPPC filings)

While services are not being added or changed, the combined total of the agreements exceeds the established threshold for city manager approval and requires city council authorization.

## **COUNCIL PRIORITY PROGRAMS AND PROJECTS**

Organizational Effectiveness: "Deliver exemplary government services."

**FISCAL IMPACT**

Funding to implement the recommended action is included in the FY 2023/24 Annual Budget in line item 653-20-220-42150.

**ENVIRONMENTAL REVIEW**

Not applicable.

**ATTACHMENTS:**

1. [Resolution - Granicus Applications FY 2023-2024](#)

RESOLUTION NO. 2023-\_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON  
AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT(S) WITH  
GRANICUS FOR AN AMOUNT NOT TO EXCEED \$56,653 FOR WEBSITE  
AND MEETING MANAGEMENT APPLICATIONS**

**WHEREAS**, historically the City of American Canyon uses Granicus and multiple other applications in support of our meeting agenda preparation, city website hosting and filing of required FPPC forms; and

**WHEREAS**, Granicus has purchased some of these other companies and merged the applications with their own suite of government service applications; and

**WHEREAS**, combining these applications creates a purchase order amount over the established threshold for City Manager approval, and now requires the approval of City Council.

**WHEREAS**, there are sufficient funds appropriated for FY 2023/24 in account number 653-20-220-42150.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of American Canyon approves contract(s) and a purchase order to be issued to Granicus for an amount not to exceed \$56,653.

**PASSED, APPROVED and ADOPTED** at a regularly scheduled meeting of the City Council of the City of American Canyon held on the 20<sup>th</sup> day of June 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Leon Garcia, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Taresa Geilfuss, CMC, City Clerk

\_\_\_\_\_  
William D. Ross, City Attorney



## **TITLE**

Law Enforcement Services Contract Amendment

## **RECOMMENDATION**

Adopt a Resolution approving Amendment 19 to Napa County Agreement No. 200005B (previously known as Agreement No. 3220) with the Napa County Sheriff's Office for equipment services for the period July 1, 2023, through June 30, 2024, and Law Enforcement services for the period October 14, 2023, through June 30, 2024.

## **CONTACT**

Rick Greenberg, Police Chief

## **BACKGROUND & ANALYSIS**

The Napa County Sheriff's Office has been providing law enforcement services to the City of American Canyon (City) since its incorporation in 1992. On July 9, 1996, an Agreement for Law Enforcement Services between the City and the Napa County Sheriff's Office was established and has been amended from time to time. In July 2006, a new agreement (Agreement) was reached between the parties, under which the City contracted with County for the provision of certain law enforcement services within the City's municipal boundaries.

On April 16, 2019, the City of American Canyon Adopted Resolution 2019-31 approving Amendment 16 to Napa County Agreement No. 3220 (now known as Agreement No. 200005B) with the Napa County Sheriff's Office for Law Enforcement Services for the period July 1, 2019, through June 20, 2024.

As the city continues to grow and expand, and for the American Canyon Police Department (ACPD) to continue providing a high level of service to the community, additional staffing is requested. ACPD consists of 25 sworn officers, including 1 Chief, 1 Lieutenant, 4 Sergeants, and 19 officers. This proposal would add a Sergeant position and bring our total sworn staffing to 26.

Of the 19 officers, one officer is assigned as the full-time community resource officer (CRO), two are assigned as full-time traffic enforcement and vehicle collision investigators, and two are assigned as School Resource Officers (SRO's) at the high school and middle school. Currently, the traffic enforcement officers drive Harley Davidson police motorcycles during their shift. We also have a traffic enforcement truck for them to use during inclement weather.

**Additional Sergeant Position:**

Police / Sheriff Sergeant report to a Lieutenant and typically perform the following duties:

- Supervise patrol officers/deputies
- Review and approve reports
- Respond to crime scenes at the request of police officers/deputies
- Handle radio calls and dispatch personnel
- Keep management informed of important issues

Patrol shifts are 12 hours. Therefore, two of the Sergeants work dayshifts and two work graveyards. Currently, at ACPD, the dayshift Sergeants supervise their patrol team and the calls for service reported from the community. The dayshift Sergeants also collaboratively supervise the traffic enforcement officers, school resource officers (SRO), and community resource officer (CRO).

As the city's population has grown, so have community events and traffic issues. Therefore, the city would benefit from having a traffic enforcement supervisor who can focus on enforcement trends and ideas to enhance enforcement and traffic safety within the community. This Sergeant would also supervise the SRO's (2) and CRO (1); this would help the dayshift patrol Sergeant focus on supervising their shift and calls for service.

During community events, the on-duty patrol Sergeant is also responsible for supervising the safety of community events and staffing additional officers. This takes the Sergeant's attention away from the regular calls for service and the team of officers working general patrol of the city. The new Sergeant position would also take on this duty.

Currently, ACPD is on a four-month rotation for shift change based on seniority. Therefore, a new Sergeant could be in charge of the traffic enforcement officers, CRO, and SRO's every four months. These positions need to be supervised by a Sergeant who has continual knowledge of the community's needs and wants, as well as the change in laws. **Therefore, this new Sergeant position would be a two-year commitment.**

It is common for law enforcement agencies to have one Sergeant supervise special enforcement units. However, our staffing is not large enough in these three special units to have one Sergeant per unit; therefore, one Sergeant could supervise all three. **In Law Enforcement, patrol officers maintain the city's peace, responding to calls for service and serving the community. Specialty units such as Traffic Enforcement, SRO's and CRO's are where a difference and changes are made.**

Duties of this new Sergeant would be but not limited to:

- Supervise traffic enforcement officers.
- Supervise CRO
- Supervise SRO's
- Attend and supervise community events.
- Attend community event planning meetings.
- Review and approve traffic collision reports.
- Quarterly check-in with the schools for the level of service provided by SRO's.
- Attend and give input on traffic calming meetings.
- Review and assign out traffic complaints (See Click Fix)

### **Contract Amendment for Equipment**

Amending the current contract would be a more all-inclusive service the Napa County Sheriff's Office provides to the City of American Canyon.

AXON in Car Camera System:

Currently, ACPD and NSO use the Panasonic brand in-car camera systems. ACPD budgets for purchasing the cameras yearly or when replacement is needed. County IT does the network upgrades and stores data for evidence in court, and these cameras are being discontinued. NSO

currently provides body-worn cameras (BWC) to ACPD officers per the contract agreement. BWC's are AXON brand cameras, and NSO is switching to AXON brand in-car cameras. The data storage is the same as the BWC's and both have a 5-year warranty and replacement cycle. These in-car cameras are installed in every patrol vehicle. I recommend amending the contract for the NSO to purchase and maintain a replacement cycle. Axon provides the installation of the new cameras, which is included in the contract price. NSO will cover the initial purchase and startup costs.

#### Mobile Data Computer (MDC):

ACPD budgets and purchases these yearly and when a replacement is needed. These are installed in every patrol vehicle and are one of the ways officers are dispatched to calls for service, write reports, and run vehicle registration. These are linked to the County IT network and maintained by County IT. It is essential to have the same Panasonic Toughbook or whichever device the NSO uses, as it is a direct link to Napa Dispatch and our record management system, which the NSO maintains. The Panasonic Toughbook has a five-year replacement cycle at the NSO. I Recommend amending the contract with the NSO to purchase and be on the same replacement cycle since County IT maintains the device and is connected to the county network.

#### Motorola APX 8500:

Currently, the city fleet budgets for this item yearly and replacement-needed basis. This radio is installed in every patrol vehicle and is the primary source of communication between officers and dispatch. The city purchases, but County Communications maintains the radio frequencies and performs updates on the devices. Therefore, I Recommend amending the contract for the NSO to purchase the radios, so the correct ones are purchased and on their replacement schedule. The replacement cycle is approximately 5-8 years.

#### Pyramid Repeater:

The NSO has been using this for some time but not ACPD for no unknown reason. This device mounts on a patrol vehicle and is a mobile radio repeater that connects with the in-car police radio (Motorola APX 8500) and body-worn portable radio. When out of the patrol vehicle, the portable radio connects with the repeater for a better signal to the dispatch center. This dramatically enhances officer safety, especially in the eastern La Vigne and eastern American Canyon Road areas. Recommend amending the NSO contact so this is purchased and maintained by NSO. The replacement cycle is approximately 5-8 years.

During the term of this Agreement, City shall be invoiced monthly and agrees to reimburse County for the performance of law enforcement services under this Agreement. A further breakout of the amounts is provided in the Service plan, Exhibit A-19.

## **COUNCIL PRIORITY PROGRAMS AND PROJECTS**

Public Safety: "Ensure American Canyon remains a safe community."

## **FISCAL IMPACT**

Under the terms of Amendment 19, the Sheriff's Office will provide one additional Sergeant position to the City of American Canyon, along with law enforcement equipment the City of American Canyon currently purchases. The amounts listed below include all allowable direct and indirect costs estimated to be incurred by County for provision of services and equipment set forth in the Service Plan. Employees performing services under this agreement will be entitled to all benefits and paid leave.

The costs for Fiscal Year 2023/2024 reflect the equipment services will begin July 1, 2023. The costs for Fiscal Year 2023/2024 reflect the Sergeant position will begin October 14, 2023.

Fiscal Year equipment services, Sergeant position and total contract amendment costs.  
2023-2024: \$347,114 / \$ 8,473,148.

## **ALTERNATIVES**

If it is decided not to amend the current contract and add a Sergeant position to ACPD in FY 23/24, the cost of additional officers and supervisors all at once could be a great burden on the city. It is my goal to have the proper supervision in place well in advance and prior to the Watson Ranch project being completed and the city's population greatly increases. Additionally, if it is decided to not amend the current contract and the city to continue to purchase the necessary law enforcement equipment, the workload on city staff to order the equipment will increase over time as there is a high likelihood for staffing and the patrol vehicle fleet to increase.

## **ENVIRONMENTAL REVIEW**

None.

## **ATTACHMENTS:**

1. [Resolution - Equipment and Law Enforcement Services](#)
2. [AmCan Amend 19 FY 23-24](#)

**RESOLUTION NO. 2023-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON APPROVING AMENDMENT 19 TO NAPA COUNTY AGREEMENT NO. 200005B (previously known as Agreement No. 3220) WITH THE NAPA COUNTY SHERIFF’S OFFICE FOR LAW ENFORCEMENT SERVICES FOR THE PERIOD July 1, 2023, THROUGH JUNE 30, 2024.**

**WHEREAS**, the City of American Canyon and the County of Napa have previously entered into Agreement No. 3220 (now known as Agreement No. 200005B) for Law Enforcement Services within the City’s municipal boundaries; and

**WHEREAS**, on April 16, 2019, the City of American Canyon adopted Resolution 2019-31 approving Amendment 16 to the Napa County Agreement 3220 (now known as Agreement No. 200005B) with the Napa County Sheriff’s Office for Law Enforcement Services for period July 1, 2019, through June 30, 2024; and

**WHEREAS**, the City of American Canyon and Napa County Sheriff Office have evaluated the staffing at the American Police Department and recommend equipment services and the position of a Sergeant be added; and

**WHEREAS**, Amendment 19 includes equipment services and a Sergeant position, and the City of American Canyon agrees to reimburse the Napa County Sheriff’s Office for the performance of law enforcement services under this agreement; and

**NOW THEREFORE BE IT RESOLVED** that the City Council of the City of American Canyon hereby approves Amendment 19 To Napa County Agreement No. 200005B (previously known as Agreement No. 3220) with the Napa County Sheriff’s Office for Law Enforcement Services for the Period July 1, 2023, Through June 30, 2024.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the City Council of the City of American Canyon on the 20th day of June, 2023, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
Leon Garcia, Mayor

ATTEST:

APPROVED AS TO FORM

\_\_\_\_\_  
Taresa Geilfuss, CMC, City Clerk

\_\_\_\_\_  
William D. Ross, City Attorney

Napa County Agreement No. 200005B (pka 3220)  
American Canyon Agreement No. \_\_\_\_\_

**AMENDMENT NO. 19  
TO AGREEMENT FOR LAW ENFORCEMENT SERVICES  
BETWEEN NAPA COUNTY AND  
THE CITY OF AMERICAN CANYON**

**THIS AMENDMENT NO. 19** to Napa County Agreement No. 200005B (previously known as Agreement No. 3220) for law enforcement services (“Amendment”) is made and entered into as of the 1<sup>st</sup> day of July 2023, by and between Napa County (“County”), a political subdivision of the State of California, and the City of American Canyon (“City”), a municipal corporation.

**RECITALS**

**WHEREAS**, the parties previously entered into an Agreement for Law Enforcement Services, initially dated July 9, 1996 and amended from time to time thereafter until a new agreement was reached between the parties in July 2006 (the “Agreement”), pursuant to which the City contracted with County for the provision of certain law enforcement services within the City's municipal boundaries; and

**WHEREAS**, the Agreement has been amended from time to time to provide a service plan and cost estimates for future fiscal years; and

**WHEREAS**, the parties now desire to add replacement of certain fleet equipment and related service effective July 1, 2023 and add a Sergeant to the contracted staff to be supplied to the City beginning on October 14, 2023; and

**WHEREAS**, Section 43 of the Agreement provides that all changes to the Agreement must be by written amendment authorized by the City's City Council and the County's Board of Supervisors.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the foregoing, the mutual agreements of the parties and other valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Section 14, entitled “Compensation for Services” is hereby amended to read in full as follows:

“During the term of this Agreement (from July 1, 2019 to June 30, 2022 and Option Year One July 1, 2022 to June 30, 2023, Option Year Two July 1, 2023 to June 30, 2024), the total cost for provision of the services set forth in this Agreement shall be as follows: For Fiscal Year 2019-2020: Six Million Seven Hundred Fifty-One Thousand One Hundred Sixty-Five Dollars

(\$6,751,165.00); for Fiscal Year 2020-2021: Six Million Nine Hundred Fifty-Three Thousand Seven Hundred One Dollar (\$6,953,701.00); for Fiscal Year 2021-2022: Seven Million Two Hundred Twenty-Seven Thousand One Hundred Fifty-One Dollars (\$7,227,151). Option Year One, Fiscal Year 2022-2023: Seven Million Six Hundred Eighty-One Thousand Six Hundred Thirty-Five Dollars (\$7,681,635); Option Year Two, Fiscal Year 2023-2024: Eight Million Four Hundred Seventy-Three Thousand One Hundred Forty-Eight Dollars (\$8,473,148). A further breakout of the amounts is provided in the Service Plan, which is attached hereto as Exhibit "A-19," and incorporated here by reference.

"The amounts set forth above include all allowable direct and indirect costs estimated to be incurred by County for provision of services set forth in the Service Plan. Specifically, the estimated costs include, but are not necessarily limited to: non-recurring personnel start-up costs (associated with hiring/training personnel to replace Sheriff's Department employees to be allocated to City for performance of services hereunder); estimated salaries for employee classifications expected to be performing services; all employee benefits to be paid by County at rates established by the County Board of Supervisors; the estimated costs of providing relief for all allowable absences (including, but not limited to, vacation, compensatory time off, sick leave, disability leave, bereavement leave, military leave, and jury duty); estimated supplies and services necessary for performance of work hereunder (including, but not limited to, items such as equipment and training); and indirect expenses (i.e., internal overhead associated with functions such as Administration, Records, Dispatch, and Crime Analysis).

"Employees performing services under this Agreement will be entitled to all benefits, including paid holidays and other paid leave (such as vacation, compensatory time off, sick leave, disability leave, bereavement leave, military leave, and jury duty) as allowed by County for all employees and/or as allowed by bargaining agreements governing the employee classifications performing services hereunder. All costs associated with such benefits are allowable under this Agreement.

During the term of this Agreement, City shall be invoiced monthly and agrees to reimburse County for the performance of law enforcement services under this Agreement. The costs for such services shall be fixed at the amounts set forth in the first paragraph of this Section. Notwithstanding the foregoing, if County continues to provide law enforcement services to City after expiration of the term of the Agreement, City shall reimburse County for actual costs incurred by County for performance of law enforcement services provided thereafter, until such time as the parties reach further agreement to extend or renew the Agreement."

3. The Sergeant position will be added to contracted staff beginning on October 14, 2023.
4. Exhibit "A-19," attached hereto and incorporated herein by reference, is hereby made part of the Agreement. As of the effective date of this Amendment, all references to Exhibit "A" in the Agreement shall mean Exhibit "A-19," the Service Plan that sets forth the levels of service to be provided during the term set forth in this Amendment.

5. Except as expressly set forth herein, the Agreement shall remain unchanged and in full force and effect. This Amendment may be executed in counterparts with the same force and effect as if each of the signatories had executed the same instrument.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment No. 19 as of the date first above written.

NAPA COUNTY, a political  
subdivision of the State of California

By \_\_\_\_\_  
BELIA RAMOS Chair of the  
Board of Supervisors

"COUNTY"

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <i>S. Darbinian</i></p> <p>Date: June 2, 2023</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____</p> <p>Deputy Clerk of the Board</p>	<p>ATTEST: NEHA HOSKINS Clerk of the Board of Supervisors</p> <p>By: _____</p>
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CITY OF AMERICAN CANYON

By \_\_\_\_\_  
JASON HOLLEY, City Manager

<p>ATTEST: TARESA GEILFUSS American Canyon City Clerk</p> <p>By: _____</p>	<p>APPROVED AS TO FORM: WILLIAM D. ROSS, City Attorney</p> <p>By: _____</p>
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**CITY OF AMERICAN CANYON  
LAW ENFORCEMENT CONTRACT  
FY 2019/2020 - FY 2023/2024  
EXHIBIT A-19**

					4th Year Option (1)	5th Year Option (2)
<b>BASE RATE SERVICES</b>		<b>FY19/20</b>	<b>FY20/21</b>	<b>FY 21/22</b>	<b>FY 22/23</b>	<b>FY 23/24</b>
		4.0%	3.0%	3.5%	3.0%	3.0%
<b>PATROL</b>						
1	CHIEF	341,094	351,327	363,623	374,532	385,768
1	LIEUTENANT	-	-	-	152,391	326,482
5	SERGEANT (1 Sgt eff 10/14/2023)	929,112	956,985	990,480	1,020,194	1,224,303
8	DEPUTY SHERIFF II	1,341,504	1,381,749	1,430,110	1,473,014	1,517,204
11	SENIOR DEPUTY SHERIFF II	2,191,992	2,257,752	2,336,773	2,406,876	2,479,083
1	SHERIFF'S RECORDS TECH II	-	-	32,213	99,637	102,626
27	Total Personnel	4,803,702	4,947,813	5,153,200	5,526,644	6,035,466
<b>ESTIMATED HOLIDAY PAY</b>						
		85,265	87,823	90,897	93,624	96,433
<b>INVESTIGATIONS/NSIB</b>						
INVESTIGATIONS, I.D., LAB, PROP/EVIDENCE		61,192	63,028	64,919	66,866	68,872
BWC DATA STORAGE/TRANSFER		10,728	11,050	11,382	11,723	12,075
FLEET EQUIPMENT (Radios/Repeaters/MDCs/Cameras) (eff 7/1/2023)						173,611
<b>OVERTIME/COURT APPEARANCES</b>						
		449,232	462,709	478,904	493,271	508,069
<b>DISPATCH</b>						
CENTRAL DISPATCH		814,592	839,030	864,201	890,127	916,830
AMERICAN CANYON 40% OF TOTAL						
SHERIFF'S DEPT CALLS FOR SERVICE						
FY 19-20 Cost \$2,036,480						
K9		25,669	26,439	27,233	28,050	28,891
<b>TOTAL DIRECT EXPENSES</b>		<b>6,250,382</b>	<b>6,437,893</b>	<b>6,690,735</b>	<b>7,110,305</b>	<b>7,840,248</b>
<b>ADMINISTRATIVE SERVICES</b>						
DEPT OVERHEAD 8.6%		537,533	553,659	575,403	611,486	674,261
<b>TOTAL DIRECT/INDIRECT</b>		<b>6,787,915</b>	<b>6,991,552</b>	<b>7,266,138</b>	<b>7,721,792</b>	<b>8,514,510</b>
<b>LESS PARKING REVENUE</b>						
		(36,749)	(37,851)	(38,987)	(40,156)	(41,361)
<b>TOTAL ANNUAL COST</b>		<b>6,751,165</b>	<b>6,953,701</b>	<b>7,227,151</b>	<b>7,681,635</b>	<b>8,473,148</b>



## **TITLE**

OpenGov Procurement Software Module Agreement

## **RECOMMENDATION**

Adopt a Resolution to enter into an agreement with OpenGov for the procurement software module.

## **CONTACT**

Juan Gomez, Finance Director

## **BACKGROUND & ANALYSIS**

OpenGov procurement solution is a beginning-to-end workflow automation, creating an efficient process for developing and managing solicitations (RFP/RFQ's) and contracts. The use of the OpenGov procurement solution will centralize solicitations and the procurement process from beginning to end, including the development of standard templates for contract bids, request for proposals/quotes, a secured submission portal, evaluation and collaboration capabilities, award notification, and contract management.

This solution allows staff to save time and resources by streamlining the solicitation process by setting up templates, bid instructions, insurance requirements, terms and conditions and pricing. The solution will allow for side-by-side evaluation of bids, use online scorecards, and integrate with digital signatures. Insurance certificate management is also a feature of this software allowing staff to stay current on vendor insurance certificates even after a project is complete.

OpenGov's experience with government (procurement), their high level of encrypted security, their continuous group and individual training access, consistency of required compliance language within the solicitations, and live support and collaboration tools for both bidders and internal teams make them an ideal fit for the City's needs. As a current customer of OpenGov's budget and transparency portal, staff has been pleased with the level of customer support and training, as well as receiving preferred customer pricing and a discount for pre-paying 2 years of software licensing.

## **COUNCIL PRIORITY PROGRAMS AND PROJECTS**

Organizational Effectiveness: "Deliver exemplary government services."

### **FISCAL IMPACT**

The cost to implement the procurement module within the OpenGov platform is \$69,756 which includes professional services and the 1st and 2nd year of software services. The FY 2023/24 IT ISF Budget has allocated funding to implement the Recommended Action for implementation services and first two years of software licensing (Account code 651-20-220-42150). Subsequent budgets will include funding for future annual costs, estimated at \$27,550 each year.

### **ENVIRONMENTAL REVIEW**

Not applicable.

### **ATTACHMENTS:**

- 1 - [Resolution for OpenGov Procurement Module Agreement](#)
2. [Exhibit A - OpenGov Procurement Module Agreement](#)
3. [Exhibit B - OpenGov Software Services Agreement](#)

**RESOLUTION NO. 2023-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON TO  
ENTER INTO AN AGREEMENT WITH OPENGOV FOR ITS PROCUREMENT SOFTWARE  
SOLUTION**

**WHEREAS**, the City Staff has historically relied on a decentralized process for solicitation of bids, contract management and insurance tracking; and

**WHEREAS**, the City seeks to modernize the procurement process and implement a centralized procurement software solution; and

**WHEREAS**, contracting with OpenGov for its procurement solution will allow for an efficient process for developing and managing solicitations, managing contracts in a centralized location, and manage insurance requirements; and

**WHEREAS**, Exhibit A, attached hereto and made a part thereof, contains the three-year agreement.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of American Canyon hereby authorizes the execution of a three-year agreement with OpenGov for its Procurement Platform software services for a total not-to-exceed amount of \$97,306.

**BE IT FURTHER RESOLVED** that the implementation cost and maintenance for the first two years of \$69,756 is appropriated in the approved FY2023/24 Budget.

**BE IT FURTHER RESOLVED** that ongoing annual software services fees of \$27,550 will be included in future IT ISF budgets.

**PASSED, APPROVED and ADOPTED** at a regularly scheduled meeting of the City Council of the City of American Canyon held on the 20<sup>th</sup> day of June, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Leon Garcia, Mayor

ATTEST:

\_\_\_\_\_  
Taresa Geilfuss, City Clerk

\_\_\_\_\_  
William D. Ross, City Attorney



OpenGov Inc.  
 6525 Crown Blvd #41340  
 San Jose, CA 95160  
 United States

**Order Number:** Q007737  
**Created On:** April 3, 2023  
**Quote Expiration Date:** July 31, 2023  
**Subscription Start Date:** September 01, 2023  
**Subscription End Date:** August 31, 2026

**Prepared By:** Greg Balter  
**Email:** gbalter@opengov.com  
**Contract Term:** 36 Months

Customer Information

**Customer:** City of American Canyon, CA  
**Bill To/Ship To:** 4381 Broadway Street  
 American Canyon, CA US  
**Contact Name:** Juan Gomez  
**Email:** jgomez@cityofamericancanyon.org  
**Phone:**

Order Details

**Billing Frequency: Prepaid** **Payment Terms: Net 30**

**SOFTWARE SERVICES:**

Product / Service	Start Date	End Date	Annual Fee
OpenGov Procurement	September 01, 2023	August 31, 2025	\$23,373.00
OpenGov Procurement	September 01, 2025	August 31, 2026	\$27,550.00
<b>Total Annual Fee</b>			<b>See Billing Table</b>

**PROFESSIONAL SERVICES:**

Product / Service	Start Date	Total Amount
Professional Services Deployment - Prepaid	September 01, 2023	\$23,010.00
<b>Services Total Amount</b>		<b>\$23,010.00</b>

**Order Form Legal Terms**

Welcome to OpenGov! Thanks for using our Software Services. This Order Form is entered into between OpenGov, Inc., with its principal place of business at 6525 Crown Blvd #41340 San Jose, CA 95160 (“OpenGov”), and you, the entity identified above (“Customer”), as of the Effective Date. This Order Form includes and incorporates the OpenGov Software Services Agreement, signed between the parties, effective **September 8, 2021** as amended (“SSA”) and the applicable Statement of Work (“SOW”) incorporated herein in the event Professional Services are purchased. The Order Form, SSA and SOW shall hereafter be referred to as the “Agreement”. Unless otherwise specified above, fees for the Software Services and Professional Services shall be due and payable, in advance, on the Effective Date. By signing this Agreement, Customer acknowledges that it has reviewed, and agrees to be legally bound by, the OpenGov Software Services Agreement. Each party’s acceptance of this Agreement is conditional upon the other’s acceptance of the terms in the Agreement to the exclusion of all other terms.

City of American Canyon, CA	OpenGov, Inc.
Signature:	Signature:
Name:	Name:
Title:	Title:
Sign Date:	Countersign Date:

**Billing Date:** 9/1/2023  
 9/1/2025  
**Billing Amount:** \$69,756.00 (Software Services Year 1-2 + Professional Services)  
 \$27,550.00



# **Statement of Work**

## **City of American Canyon**

Creation Date: 03/09/2023  
Document Number: PS-03837  
Version Number: 1  
Created by: Mark Welch

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# 1. Overview and Approach

## 1.1. Agreement

This Statement of Work (“SOW”) identifies services that OpenGov, Inc. (“OpenGov” or “we”) will perform for City of American Canyon (“Customer” or “you”) pursuant to that order for Professional Services entered into between OpenGov and the Customer (“Order Form”) which references the Software Services Agreement or other applicable agreement entered into by the parties (the “Agreement”).

- Customer acknowledges and agrees that this Statement of Work is subject to the confidentiality obligations set forth in the Software Services Agreement between OpenGov and Customer.
- The Deliverables listed in Appendix B are the single source of the truth of the deliverables to be provided.
- Customer’s use of the Professional Services is governed by the Agreement and not this SOW.
- Upon execution of the Order Form or other documentation referencing the SOW, this SOW shall be incorporated by reference into the Agreement.
- In the event of any inconsistency or conflict between the terms and conditions of this SOW and the Agreement, the terms and conditions of this SOW shall govern with respect to the subject matter of this SOW only. Unless otherwise defined herein, capitalized terms used in this SOW shall have the meaning defined in the Agreement.
- This SOW may not be modified or amended except in a written agreement signed by a duly authorized representative of each party.
- OpenGov will be deployed as is, Customer has access to all functionality available in the current release.

## 2. Statement of Work

This SOW is limited to the Implementation of the OpenGov Procurement suite as defined in the OpenGov Responsibilities section of this document ([Section 2.4](#)). Any additional services or support will be considered out of scope.

### 2.1. Project Scope

Under this project, OpenGov will deliver cloud based Procurement solutions to help the Customer power a more effective and accountable government. OpenGov's estimated charges and schedule are based on performance of the activities listed in the “OpenGov Responsibilities” section below. Deviations that arise during the project will be managed through the procedure described in Appendix A-2: Project Change Control Procedure, and may result in adjustments to the Project Scope, Estimated Schedule, Charges and other terms. These adjustments may include charges on a time-and-materials or fixed-fee basis using OpenGov’s standard rates in effect from time to time for any resulting additional work or waiting time.

## 2.2. Facilities and Hours of Coverage

OpenGov will:

- A. Perform the work under this SOW remotely, except for any project-related activity which OpenGov determines would be best performed at your facility in American Canyon in order to complete its responsibilities under this SOW.
- B. Provide the Services under this SOW during normal business hours, 8:30am to 6:00pm local time, Monday through Friday, except holidays.

## 2.3. Key Assumptions

The SOW and OpenGov estimates are based on the following key assumptions. Deviations that arise during the proposed project will be managed through the Project Change Control Procedure (see Appendix A-2), and may result in adjustments to the Project Scope, Estimated Schedule, Charges, and other terms.

Per

- A. The OpenGov Suites are not customized beyond current capacities based on the latest release of the software.
- B. Individual software modules are configured based on discussions between OpenGov and Customer.
- C. Procurement Suite
  - i. Customer will provide complete and correct boilerplate language for solicitation and contract templates within two (2) weeks immediately following the kick-off meeting.
  - ii. OpenGov template configuration will include up to two (2) solicitation templates and up to two (2) contract templates (See Appendix B for list).
  - iii. Customer will provide a complete and accurate contracts log and vendor list for import to OpenGov.

## 2.4. OpenGov Responsibilities

### 2.4.1. Activity 1 – Project Management

OpenGov will provide project management for the OpenGov responsibilities in this SOW. The purpose of this activity is to provide direction to the OpenGov project personnel and to provide a framework for project planning, communications, reporting, procedural and contractual activity. This activity is composed of the following tasks:

#### **Planning**

OpenGov will:

- A. review the SOW, contract and project plan with Customer's Project Manager and key stakeholders to ensure alignment and agreed upon timelines;
- B. maintain project communications through your Project Manager;
- C. establish documentation and procedural standards for deliverable Materials; and

- D. assist your Project Manager to prepare and maintain the project plan for the performance of this SOW which will include the activities, tasks, assignments, and project milestones.

### **Project Tracking and Reporting**

OpenGov will:

- A. review project tasks, schedules, and resources and make changes or additions, as appropriate. Measure and evaluate progress against the project plan with your Project Manager;
- B. work with your Project Manager to address and resolve deviations from the project plan;
- C. conduct regularly scheduled project status meetings; and
- D. administer the Project Change Control Procedure with your Project Manager.

### **Completion Criteria:**

This is an on-going activity which will be considered complete at the end of the Services

### **Deliverable Materials:**

- Weekly status reports
- Project plan
- Project Charter
- Risk, Action, Issues and Decisions Register (RAID)

## 2.4.2. Activity 2 – Initialization

OpenGov will provide the following:

- A. Customer Entity configuration
- B. System Administrators creation
- C. Solution Blueprint creation
- D. Data Validation strategy confirmation

### **Completion Criteria:**

This activity will be considered complete when:

- Customer Entity is created
- System Administrators have access to Customer Entity
- Solution Blueprint is presented to Customer

### **Deliverable Materials:**

- Solution Blueprint
- Sign-off of Initial Draft Solution Blueprint

## 2.4.3. Activity 3 – OpenGov Use Cases

OpenGov will provide the following:

#### Procurement Use Cases

- A. Automate Solicitation Development
- B. Enhance Supplier Engagement and Collaboratively Evaluate + Award
- C. Make Contract Management Centralized and Proactive

#### **Completion Criteria:**

This activity will be considered complete when:

#### Procurement Use Cases

- Vendor Portal is configured
- Vendor List is imported
- Solicitation Templates are configured
- Intake Request Template and Workflow are configured
- Contracts Log is imported
- Contract Templates are configured

#### **Deliverable Materials:**

- Formal sign off document

### 2.4.4. Activity 4 – Training

Training will be provided in instructor-led virtual sessions or through OpenGov University Training courses. For any instructor-led virtual sessions, the class size is recommended to be 10, for class sizes larger than 10 it may be necessary to have more than one instructor.

#### **Completion Criteria:**

- Administrator training is provided
- Agency-wide intake training is provided

#### **Deliverable Materials:**

- Formal sign off document

## 2.5. Your Responsibilities

The completion of the proposed scope of work depends on the full commitment and participation of your management and personnel. The responsibilities listed in this section are in addition to those responsibilities specified in the Agreement and are to be provided at no charge to OpenGov. OpenGov's performance is predicated upon the following responsibilities being managed and fulfilled by you. Delays in performance of these responsibilities may result in delay of the completion of the project and will be handled in accordance with Appendix A-1: Project Change Control Procedure.

### 2.5.1. Your Project Manager

Prior to the start of this project, you will designate a person called your Project Manager who will be the focal point for OpenGov communications relative to this project and will have the authority to act on behalf of you in all matters regarding this project.

Your Project Manager's responsibilities include the following:

- A. manage your personnel and responsibilities for this project (for example: ensure personnel complete any self-paced training sessions, configuration, validation or user acceptance testing);
- B. serve as the interface between OpenGov and all your departments participating in the project;
- C. administer the Project Change Control Procedure with the Project Manager;
- D. participate in project status meetings;
- E. obtain and provide information, data, and decisions within five (5) business days of OpenGov's request unless you and OpenGov agree in writing to a different response time;
- F. resolve deviations from the estimated schedule, which may be caused by you;
- G. help resolve project issues and escalate issues within your organization, as necessary; and
- H. create, with OpenGov's assistance, the project plan for the performance of this SOW which will include the activities, tasks, assignments, milestones and estimates.

## 2.6. Completion Criteria

OpenGov will have fulfilled its obligations under this SOW when any of the following first occurs:

- A. OpenGov accomplishes the activities set forth in "OpenGov responsibilities" section and delivers the Materials listed, if any; or
- B. The End date is reached

## 2.7. Estimated Schedule

OpenGov will schedule resources for this project upon signature of the order form. Unless specifically noted, the OpenGov assigned project manager will work with Customer Project Manager to develop the project schedule for all requested deliverables under this SOW. OpenGov reserves the right to adjust the schedule based on the availability of OpenGov resources and/or Customer resources, and the timeliness of deliverables provided by the Customer.

The Services are currently estimated to start within two (2) weeks but no later than four (4) weeks from signatures and have an estimated end date of August 2023 (“End Date”) or on other dates mutually agreed to between you and OpenGov.

## 2.8. Illustrative Project Timelines

The typical project timelines are for illustrative purposes only and may not reflect your use cases.

Procurement Suite Illustrative Timeline		Month 1	Month 2	Month 3	Month 4
Procurement Suite	Supplier Engagement, Evaluation, & Award Solution				
	Solicitation Development Solution				
	Contract Management Solution				
	Intake End User Training				
Reporting & Transparency					
GoLive Support	Hypercare				
Customer is responsible for attending the kick off of each phase, providing any necessary data for each phase, participating in working sessions during active phases, and signing off on deliverables at the end of each phase.					

## 2.9. Charges

The Services will be conducted on a Fixed Price basis. This fixed price is exclusive of any travel and living expenses and other reasonable expenses incurred in connection with the Services. All charges are exclusive of any applicable taxes.

Customer shall reimburse OpenGov for reasonable out-of-pocket expenses OpenGov incurs providing Professional Services. Reasonable expenses include, but are not limited to, travel, lodging, and meals. Expenses are billed based on actual costs incurred. OpenGov shall not exceed \$5,000 expenses without written approval from the Customer. Any charges require written approval from Customer.

## 2.10. Offer Expiration Date

This offer will expire on 6/30/23 unless extended by OpenGov in writing.

# Appendix A: Engagement Charter

## A-1: Communication and Escalation Procedure

Active engagement throughout the implementation process is the foundation of a successful deployment. To help assess progress, address questions, and minimize risk during the course of deployment both parties agree to the following:

- **Regular communication** aligned to the agreed upon project plan and timing.
  - OpenGov expects our customers to raise questions or concerns as soon as they arise. OpenGov will do the same, in order to be able to address items when known.
- **Executive involvement**
  - Executives may be called upon to clarify expectations and/or resolve confusion.
  - Executives may be needed to steer strategic items to maximize the value through the deployment.
- **Escalation Process:**
  - OpenGov and Customer agree to raise concerns and follow the escalation process, resource responsibility, and documentation in the event an escalation is needed to support issues raised
    - Identification of an issue impeding deployment progress, outcome or capturing the value proposition, that is not acceptable.
    - Customer or OpenGov Project Manager summarizes the problem statement and impasse.
    - Customer and OpenGov Project Managers jointly will outline solution, acceptance or schedule Executive review.
    - Resolution will be documented and signed off following Executive review.
- **Phase Sign-Off**
  - OpenGov requests sign-offs at various stages during the implementation of the project. Once the Customer has signed-off, any additional changes requested by Customer on that stage will require a paid change order for additional hours for OpenGov to complete the requested changes.

## A-2: Change Order Process

This SOW and related efforts are based on the information provided and gathered by OpenGov. Customers acknowledge that changes to the scope may require additional effort or time, resulting in additional cost. Any change to scope must be agreed to in writing or email, by both Customer and OpenGov, and documented as such via a:

- *Change Order* - Work that is added to or deleted from the original scope of this SOW. Depending on the magnitude of the change, it may or may not alter the original contract amount or completion date and be paid for by Customer. Changes might include:
  - Timeline for completion
  - Sign off process
  - Cost of change and Invoice timing
  - Amending the SOW to correct an error.

- o Extension of work as the complexity identified exceeds what was expected by Customer or OpenGov.
- o Change in type of OpenGov resources to support the SOW.

### A-3: Deliverable Materials Acceptance Procedure

Deliverable Materials as defined herein will be reviewed and accepted in accordance with the following procedure:

- The deliverable Material will be submitted to your Project Manager.
- Your Project Manager will have decision authority to approve/reject all project Criteria, Phase Acceptance and Engagement Acceptance.
- Within five (5) business days of receipt, your Project Manager will either accept the deliverable Material or provide OpenGov’s Project Manager a written list of requested revisions. If OpenGov receives no response from your Project Manager within five (5) business days, then the deliverable Material will be deemed accepted. The process will repeat for the requested revisions until acceptance.
- All acceptance milestones and associated review periods will be tracked on the project plan.
- Both OpenGov and Customer recognize that failure to complete tasks and respond to open issues may have a negative impact on the project.
- For any tasks not yet complete, OpenGov and/or Customer will provide sufficient resources to expedite completion of tasks to prevent negatively impacting the project.
- Any conflict arising from the deliverable Materials Acceptance Procedure will be addressed as specified in the Escalation Procedure set forth in Appendix A-1. As set forth in Section 6.1(e) of the Agreement, if there are extended delays (greater than 10 business days) in Customer’s response for requested information or deliverable; OpenGov may opt to put the project on an "On Hold" status. After the Customer has fulfilled its obligations, Professional Services can be resumed and the project will be taken off the "On-Hold" status.
- Putting a project “on Hold” may have several ramifications including, but not restricted, to the following:
  - o Professional Services to the customer could be stopped;
  - o Delay to any agreed timelines; or
  - o Not having the same Professional Services team assigned.

# Appendix B: Implementation Activities

## B-1: OpenGov Procurement Suite

### Instance Creation

Procurement Suite		
Description	OpenGov Responsibilities	Customer Responsibilities
<b>Website Instance Creation</b>	OpenGov will: <ul style="list-style-type: none"> <li>● Build customer portal and upload Customer's logo.</li> </ul>	Customer will: <ul style="list-style-type: none"> <li>● Provide logo.</li> <li>● Confirm access to the Portal.</li> </ul>

### Technical Project Review

Description	OpenGov Responsibilities	Customer Responsibilities
<b>Technical Project Review</b>	OpenGov will: <ul style="list-style-type: none"> <li>● Provide up to one (1) two-hour working session at the beginning of the project to:                             <ul style="list-style-type: none"> <li>○ Finalize list of templates</li> <li>○ Review technical requirements</li> <li>○ Provide documentation on requirements and processes</li> </ul> </li> </ul> OpenGov Assumptions: <ul style="list-style-type: none"> <li>● Boilerplate language will be provided within two (2) weeks immediately following the kick-off meeting.</li> </ul>	Customer will: <ul style="list-style-type: none"> <li>● Identify relevant participants for attendance.</li> <li>● Confirm deliverables.</li> <li>● Gather and provide relevant data for the project.</li> </ul>

### Supplier Engagement, Evaluation and Award Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
<b>Vendor Portal</b>	OpenGov will:	Customer will: <ul style="list-style-type: none"> <li>● Allocate resources to create the Vendor Portal.</li> </ul>

	<ul style="list-style-type: none"> <li>● Provide the Customer with iframe code and documentation to create the Vendor Portal.</li> <li>● Import the list of vendors provided by Customer.</li> </ul> <p>OpenGov Assumptions:</p> <ul style="list-style-type: none"> <li>● Customer will provide a complete and accurate vendor list for import to OpenGov. OpenGov clean up/correction of imported files are not included in the scope of this project.</li> </ul>	<ul style="list-style-type: none"> <li>● Provide vendor email list and send vendor email/letter.</li> <li>● Ensure that Vendor Portal will be active before OpenGov begins configuration of templates or the Solicitation Development phase.</li> </ul>
<b>Generic Template</b>	<p>OpenGov will:</p> <ul style="list-style-type: none"> <li>● Deploy generic templates</li> <li>● Provide OpenGov's "Paper to Paperless Language Transition Guide" to assist transition from paper to electronic.</li> </ul>	<p>Customer will:</p> <ul style="list-style-type: none"> <li>● Provide a copy of the next solicitation document.</li> <li>● Provide information to complete the generic solicitation upload template including forms and an example recent solicitation.</li> <li>● Provide the category code set used by the agency (NIGP, NAICS, or UNSPSC).</li> </ul>

### Solicitation Development Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
<b>Solicitation Development Solution</b>	<p>OpenGov will:</p> <ul style="list-style-type: none"> <li>● Review and confirm the Solicitation Templates and forms provided by Customer.</li> <li>● Work with Customer to design and get sign off on the first template.</li> <li>● Following the sign off of the first template, configure the remaining templates in the system.</li> </ul> <p>OpenGov Assumptions:</p>	<p>Customer will:</p> <ul style="list-style-type: none"> <li>● Provide templates with standard boilerplate language.</li> <li>● Provide forms associated with solicitation templates.</li> <li>● Provide admin documents.</li> <li>● Select the first solicitation type (usually ITB or RFP), to work with OpenGov for the design</li> <li>● Sign off on the first template before beginning the subsequent templates.</li> </ul>

	<ul style="list-style-type: none"> <li>OpenGov will configure up to two (2) Solicitation Template(s) with standard boilerplate language: <ul style="list-style-type: none"> <li>Request for Proposal</li> <li>Invitation to Bid</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Validate and provide signoff on Solicitation Templates.</li> </ul>
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### Intake Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
<b>Intake Process</b>	<p>OpenGov will:</p> <ul style="list-style-type: none"> <li>Review current intake Process.</li> <li>Perform basic intake Training.</li> <li>Perform a gap analysis</li> <li>Configure "Review/ Approval" workflow defaults for each department.</li> <li>Build the Intake/Project Request Template.</li> </ul>	<p>Customer will:</p> <ul style="list-style-type: none"> <li>Provide OpenGov with any Intake/Project RequestForms (templates) in current use.</li> <li>Validate and provide signoff on Intake/ Project Request template.</li> </ul>

### Contract Management Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
<b>Create and Manage Contracts</b>	<p>OpenGov will:</p> <ul style="list-style-type: none"> <li>Provide one (1) - one hour Overview of the Contract Management Solution to Customer's System Administrator(s).</li> <li>Provide guidance and instruction to System Administrator on creating and managing contracts.</li> </ul>	<p>Customer will:</p> <ul style="list-style-type: none"> <li>Attend scheduled System Overview</li> <li>Create and manage contract records in the system with guidance from OpenGov.</li> </ul>
<b>Historical and/or Active Contracts</b>	<p>OpenGov will:</p> <ul style="list-style-type: none"> <li>Provide a mapping document for the metadata of contracts to be uploaded into the system.</li> </ul>	<p>Customer will</p> <ul style="list-style-type: none"> <li>Provide contract log per the mapping document.</li> </ul>

	<ul style="list-style-type: none"> <li>Import the contract records listed in the contract log.</li> </ul> <p>OpenGov Assumptions:</p> <ul style="list-style-type: none"> <li>Customer will provide a complete and accurate contracts log for import to OpenGov. OpenGov clean up/correction of imported logs are not included in the scope of this project.</li> </ul>	
<b>Contract Template Deployment</b>	<p>OpenGov will:</p> <ul style="list-style-type: none"> <li>Review &amp; configure agreed upon contract templates.</li> </ul> <p>OpenGov Assumptions:</p> <ul style="list-style-type: none"> <li>OpenGov will configure up to two (2) Contract Template(s) with standard boilerplate language: <ul style="list-style-type: none"> <li>Independent Contract/ Construction</li> <li>On-Calls Task Orders</li> </ul> </li> </ul>	<p>Customer will:</p> <ul style="list-style-type: none"> <li>Provide templates with standard boilerplate language.</li> <li>Validate and provide signoff on Contract templates.</li> </ul>

### Admin Documents and Checklist Configuration

Description	OpenGov Responsibilities	Customer Responsibilities
<b>Admin Documents</b>	<p>OpenGov will:</p> <ul style="list-style-type: none"> <li>Review &amp; configure up to five (5) Admin Documents within the four standard types.</li> </ul>	<p>Customer will:</p> <ul style="list-style-type: none"> <li>Provide Admin Documents.</li> </ul>

### Working Sessions and Trainings

Description	OpenGov Responsibilities	Customer Responsibilities
<b>Procurement Working Sessions</b>	<p>OpenGov will:</p> <ul style="list-style-type: none"> <li>● Assign practice exercises to Customer to gain familiarization.</li> <li>● Assist Customer during first real-life solicitation posting, and opening (if during deployment).</li> <li>● Respond to questions regarding configured system functionality.</li> </ul>	<p>Customer will:</p> <ul style="list-style-type: none"> <li>● Complete practice exercises to gain familiarization.</li> <li>● Identify internal Admin Users &amp; security permissions for all other users.</li> </ul>
<b>OpenGov University</b>	<p>OpenGov will:</p> <ul style="list-style-type: none"> <li>● Provide access to OpenGov University online training courses intended to teach users on the basics of OpenGov.</li> </ul>	<p>Customer will:</p> <ul style="list-style-type: none"> <li>● Review training courses.</li> </ul>
<b>Procurement Training</b>	<p>OpenGov will:</p> <ul style="list-style-type: none"> <li>● Provide training on system functionality. Topics include: <ul style="list-style-type: none"> <li>○ Creating Bids with Generic Templates</li> <li>○ Live Bid Management &amp; Vendor Experience</li> <li>○ Evaluation and Awarding</li> <li>○ Writing Solicitations using templates</li> <li>○ Contract Document Developer Tools</li> <li>○ Intake Training and Workflow</li> </ul> </li> </ul>	<p>Customer will:</p> <ul style="list-style-type: none"> <li>● Attend training sessions as scheduled by the Project Manager and agreed to in the Project Plan.</li> </ul>

# Appendix C: Technical Requirements

## C-1: OpenGov Procurement Suite

Procurement Suite	
Description	Technical Requirements
Logo	<ul style="list-style-type: none"> <li>• .png or .jpg file</li> <li>• At least 300KB but not larger than 500KB</li> </ul>
Vendor List	<ul style="list-style-type: none"> <li>• Single Flat file</li> <li>• .csv or .xlsx format</li> </ul>
Historical/Active Contracts	<ul style="list-style-type: none"> <li>• Single Flat file</li> <li>• .csv or .xlsx format</li> </ul>
Sample Documents or Templates with boilerplate language	<ul style="list-style-type: none"> <li>• PDF or Word format</li> </ul>
Intake/Project Request Templates	<ul style="list-style-type: none"> <li>• PDF or Word format</li> </ul>
Admin Documents	<ul style="list-style-type: none"> <li>• PDF or Word format</li> </ul>

## OPENGOV SOFTWARE SERVICES AGREEMENT

This Software Services Agreement (this “**Agreement**”) is entered into by OpenGov, Inc., a Delaware corporation with a principal place of business at PO Box 41340, San Jose, CA 95160 (“**OpenGov**”) and the customer listed on the signature block below (“**Customer**”), as of the date of last signature below (the “**Effective Date**”). This Agreement sets forth the terms under which Customer will be permitted to use OpenGov’s hosted software services.

### 1. DEFINITIONS

“Customer Data” means data that is provided by Customer to OpenGov pursuant to this Agreement (for example, by email or through Customer’s software systems of record). Customer Data shall not include any confidential personally identifiable information.

“Documentation” means the documentation for the Software Services at the Customer Resource Center page found at <https://opengov.zendesk.com>.

“Feedback” means suggestions, comments, improvements, ideas, or other feedback or materials regarding the Software Services provided by Customer to OpenGov, including feedback provided through online developer community forums.

“Initial Term” means the initial license term specified in number of years on the Order Form, commencing on the Effective Date.

“Intellectual Property Rights” means all intellectual property rights including all past, present, and future rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights, trademark and trade name rights and similar rights, trade secret rights, patent rights, and any other proprietary rights in intellectual property of every kind and nature.

“Order Form” means OpenGov’s Software Services order form that: (a) specifies the Software Services provided by OpenGov; (b) references this Agreement; and (c) is signed by authorized representatives of both parties.

“Renewal Term” means each additional renewal period, which shall be for a period of equal duration as the Initial Term, for which this Agreement is extended pursuant to Section 7.2.

### 2. SOFTWARE SERVICES, SUPPORT AND PROFESSIONAL SERVICES

2.1 Software Services. Subject to the terms and conditions of this Agreement, OpenGov will use commercially reasonable efforts to perform the software services identified in the applicable Order Form entered into by OpenGov and Customer (“**Software Services**”).

2.2 Support. Customer support is available by email to [support@opengov.com](mailto:support@opengov.com) or by using the chat messaging functionality of the Software Services, both of which are available during OpenGov’s standard business hours. Customer may report issues any time. However, OpenGov will address issues during business hours.

#### 2.3 Professional Services.

(a) If OpenGov or its authorized independent contractors provides professional services to Customer, such as implementation services, then these professional services will be described in a statement of work (“**SOW**”) agreed to by the parties (the “**Professional Services**”). For Professional Services performed on a time and materials basis, any pre-paid Professional Services Fees must be utilized within one (1) year from the Effective Date. Any unused pre-paid Professional Services Fees shall be forfeited.

(b) Unless the SOW provides otherwise, all reasonable travel expenses, pre-approved by Customer and incurred by OpenGov in performing the professional services will be reimbursed by Customer. Travel expenses include cost of coach airfare travel round trip from the individual’s location to Customer’s location, reasonable hotel accommodations, ground transportation and meals.

### 3. RESTRICTIONS AND RESPONSIBILITIES

3.1 **Restrictions.** Customer may not use the Software Services in any manner or for any purpose other than as expressly permitted by the Agreement. Customer shall not, and shall not permit or enable any third party to: (a) use or access any of the Software Services to build a competitive product or service; (b) modify, disassemble, decompile, reverse engineer or otherwise make any derivative use of the Software Services (except to the extent applicable laws specifically prohibit such restriction); (c) sell, license, rent, lease, assign, distribute, display, host, disclose, outsource, copy or otherwise commercially exploit the Software Services; (d) perform or disclose any benchmarking or performance testing of the Software Services; (e) remove any proprietary notices included with the Software Services; (f) use the Software Services in violation of applicable law; or (g) transfer any confidential personally identifiable information to OpenGov or the Software Services platform.

3.2 **Responsibilities.** Customer shall be responsible for obtaining and maintaining computers and third party software systems of record (such as Customer's ERP systems) needed to connect to, access or otherwise use the Software Services. Customer also shall be responsible for: (a) ensuring that such equipment is compatible with the Software Services, (b) maintaining the security of such equipment, user accounts, passwords and files, and (c) all uses of Customer user accounts by any party other than OpenGov.

### 4. INTELLECTUAL PROPERTY RIGHTS; LICENSE GRANTS; ACCESS TO CUSTOMER DATA

4.1 **Software Services.** OpenGov retains all right, title, and interest in the Software Services and all Intellectual Property Rights in the Software Services. The look and feel of the Software Services, including any custom fonts, graphics and button icons, are the property of OpenGov and Customer may not copy, imitate, or use them, in whole or in part, without OpenGov's prior written consent. Subject to Customer's obligations under this Agreement, OpenGov hereby grants to Customer a non-exclusive, royalty-free license during the Term to use the Software Services.

4.2 **Customer Data.** Customer retains all right, title, and interest in the Customer Data and all Intellectual Property Rights therein. Customer hereby grants to OpenGov a non-exclusive, royalty-free license to, and permit its partners to, use, store, edit and reformat the Customer Data, and to use Customer Data for purposes of sales, marketing, business development, product enhancement, customer service, or for analyzing such data and publicly disclosing such analysis ("**Insights**"), provided that in all such uses Customer Data is rendered anonymous such that Customer is no longer identifiable.

4.3 **Access to Customer Data.** Customer may download the Customer Data from the Software Services at any time during the Term, other than during routine software maintenance periods. OpenGov has no obligation to return Customer Data to Customer.

4.4 **Feedback.** Customer hereby grants to OpenGov a non-exclusive, royalty-free, irrevocable, perpetual, worldwide license to use and incorporate into the Software Services and Documentation Customer's Feedback. OpenGov will exclusively own any improvements or modifications to the Software Services and Documentation based on or derived from any of Customer's Feedback including all Intellectual Property Rights in and to the improvements and modifications.

### 5. CONFIDENTIALITY

5.1 Each party (the "**Receiving Party**") agrees not to disclose any Confidential Information of the other party (the "**Disclosing Party**") without the Disclosing Party's prior written consent, except as provided below. The Receiving Party further agrees: (a) to use and disclose the Confidential Information only in connection with this Agreement; and (b) to protect such Confidential Information using the measures that Receiving Party employs with respect to its own Confidential Information of a similar nature, but in no event with less than reasonable care. Notwithstanding the above, the Receiving Party may disclose Confidential Information to the extent required by law or court order, provided that prior written notice of such required disclosure and an opportunity to oppose or limit disclosure is given to the Disclosing Party.

5.2 "**Confidential Information**" means all confidential business, technical, and financial information of the disclosing party that is marked as "Confidential" or an equivalent designation or that should reasonably be understood to be confidential given the nature of the information and/or the circumstances surrounding the

## OPENGOV SOFTWARE SERVICES AGREEMENT

disclosure (including the terms of the applicable Software Agreement). OpenGov's Confidential Information includes, without limitation, the software underlying the Software Services and all Documentation.

5.3 Notwithstanding the foregoing, "Confidential Information" does not include: (a) "**Public Data**," which is data that the Customer has previously released to the public, would be required to release to the public, upon request, according to applicable federal, state, or local public records laws, or Customer requests OpenGov make available to the public in conjunction with the Software Services. Confidential Information does not include (b) information that has become publicly known through no breach by the receiving party; (c) information that was rightfully received by the Receiving Party from a third party without restriction on use or disclosure; or (d) information independently developed by the Receiving Party without access to the Disclosing Party's Confidential Information.

## 6. PAYMENT OF FEES

### 6.1 Fees; Invoicing; Payment; Expenses.

(a) Fees. The fees for the Software Services for the Initial Term and any Renewal Term ("**Software Services Fees**") and the fees for Professional Services ("**Professional Services Fees**") are set forth in the applicable Order Form. Software Services Fees and Professional Services Fees shall hereafter be referred to as "**Fees**".

(b) Inflation Adjustment. OpenGov shall increase the Fees payable for the Software Services during any Renewal Term by 5% each year of the Renewal Term.

(c) Invoicing and Payment. OpenGov will invoice the Customer according to the Billing Frequency listed on the Order Form. Customer shall pay all invoices according to the Payment Terms listed on the Order Form.

(d) Travel Expenses. Unless the SOW provides otherwise, OpenGov will invoice Customer for pre-approved travel expenses incurred in connection with each SOW as they are incurred. Customer shall pay all such valid invoices within thirty (30) days of receipt of invoice. Each invoice shall include receipts for the travel expenses listed on the invoice.

6.2 Credit Card Customers. If applicable, Customer will provide OpenGov with valid credit card information and promptly notify OpenGov of any changes necessary to charge the credit card at [billing@opengov.com](mailto:billing@opengov.com). Please update your credit card information when necessary. The provision of credit card information to OpenGov authorizes OpenGov to charge the credit card for all applicable Fees plus a 3% credit card processing fee. OpenGov processes credit card payments through a secure third party processing partner and does not take receipt of credit card information itself.

6.3 Taxes. All Fees under this Agreement are exclusive of any applicable sales, value-added, use or other taxes ("**Sales Taxes**"). Customer is solely responsible for any and all Sales Taxes, not including taxes based solely on OpenGov's net income. If any Sales Taxes related to the Fees under this Agreement are found at any time to be payable, the amount may be billed by OpenGov to, and shall be paid by, Customer. If Customer fails to pay any Sales Taxes, then Customer will be liable for any related penalties or interest, and will indemnify OpenGov for any liability or expense incurred in connection with such Sales Taxes. In the event Customer or the transactions contemplated by the Agreement are exempt from Sales Taxes, Customer agrees to provide OpenGov, as evidence of such tax exempt status, proper exemption certificates or other documentation acceptable to OpenGov.

## 7. TERM & TERMINATION

7.1 Term. Subject to compliance with all terms and conditions, the term of this Agreement shall commence on the Effective Date and shall continue until the Subscription End Date specified on the Order Form (the "**Initial Term**").

7.2 Renewal. Unless either party terminates this Agreement in writing no less than thirty (30) days before the end of the Initial Term, this Agreement shall renew for another period of the same duration as the Initial Term (the "**Renewal Term**" and together with the Initial Term, the "**Term**").

## OPENGOV SOFTWARE SERVICES AGREEMENT

7.3 **Termination.** If either party materially breaches any term of this Agreement and fails to cure such breach within thirty (30) days after notice by the non-breaching party (ten (10) days in the case of non-payment), the non-breaching party may terminate this Agreement.

7.4 **Effect of Termination.**

(a) **In General.** Upon termination or expiration of this Agreement: (a) Customer shall pay in full for all Software Services and Professional Services performed up to and including the effective date of termination, (b) all Software Services provided to Customer hereunder shall immediately terminate; and (c) each party shall return to the other party or, at the other party's option, destroy all Confidential Information of the other party in its possession.

(b) **Deletion of Customer Data.** If Customer requests deletion of its Customer Data in writing prior to the date of termination or expiration of this Agreement, then OpenGov will permanently and irrevocably delete Customer Data, excluding any Insights, stored by its cloud hosting provider within ten (10) days of the date of termination or expiration of this Agreement. Such request must be addressed to "OpenGov Vice President, Customer Success" at OpenGov's address for notice described at Section 10.

7.5 **Survival.** The following sections of this Agreement shall survive termination: Section 5 (Confidentiality), Section 6 (Payment of Fees), Section 7.4(b) (Deletion of Customer Data), Section 8.3 (Warranty Disclaimer), Section 9 (Limitation of Liability) and Section 10 (Miscellaneous).

## 8. REPRESENTATIONS AND WARRANTIES; DISCLAIMER

### 8.1 **By OpenGov.**

(a) **General Warranty.** OpenGov represents and warrants that: (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) the Professional Services, if any, will be performed in a professional and workmanlike manner in accordance with the related statement of work and generally prevailing industry standards. For any breach of the Professional Services warranty, Customer's exclusive remedy and OpenGov's entire liability will be the re-performance of the applicable services. If OpenGov is unable to re-perform all such work as warranted, Customer will be entitled to recover all fees paid to OpenGov for the deficient work. Customer must make any claim under the foregoing warranty to OpenGov in writing within ninety (90) days of performance of such work in order to receive such warranty remedies.

(b) **Software Services Warranty.** OpenGov further represents and warrants that for a period of ninety (90) days, the Software Services will perform in all material respects in accordance with the Documentation. The foregoing warranty does not apply to any Software Services that have been used in a manner other than as set forth in the Documentation and authorized under this Agreement. OpenGov does not warrant that the Software Services will be uninterrupted or error-free. Any claim submitted under this Section 8.1(b) must be submitted in writing to OpenGov during the Term. OpenGov's entire liability for any breach of the foregoing warranty is to repair or replace any nonconforming Software Services so that the affected portion of the Software Services operates as warranted or, if OpenGov is unable to do so, terminate the license for such Software Services and refund the pre-paid, unused portion of the Fee for such Software Services.

8.2 **By Customer.** Customer represents and warrants that (i) it has all right and authority necessary to enter into and perform this Agreement; and (ii) OpenGov's use of the Customer Data pursuant to this Agreement will not infringe, violate or misappropriate the Intellectual Property Rights of any third party.

8.3 **Disclaimer.** OPENGOV DOES NOT WARRANT THAT THE SOFTWARE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE SERVICES. EXCEPT AS SET FORTH IN THIS SECTION 8, THE SOFTWARE SERVICES ARE PROVIDED "AS IS" AND OPENGOV DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

## 9. LIMITATION OF LIABILITY

9.1 **By Type.** NEITHER PARTY, NOR ITS SUPPLIERS, OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS OR EMPLOYEES, SHALL BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY

## OPENGOV SOFTWARE SERVICES AGREEMENT

SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; OR (C) FOR ANY MATTER BEYOND SUCH PARTY'S REASONABLE CONTROL, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

9.2 By Amount. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE, CUMULATIVE LIABILITY FOR ANY CLAIMS ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CUSTOMER TO OPENGOV (OR, IN THE CASE OF CUSTOMER, PAYABLE) FOR THE SOFTWARE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY.

9.3 Limitation of Liability Exclusions. The limitations of liability set forth in Sections 9.1 and 9.2 above do not apply to, and each party accepts liability to the other for: (a) claims based on either party's intentional breach of its obligations set forth in Section 5 (Confidentiality), (b) claims arising out of fraud or willful misconduct by either party and (c) either party's unauthorized use, distribution, or disclosure of the other party's intellectual property.

9.4 No Limitation of Liability by Law. Because some jurisdictions do not allow liability or damages to be limited to the extent set forth above, some of the above limitations may not apply to Customer.

## 10. MISCELLANEOUS

10.1 Logo Use. OpenGov shall have the right to use and display Customer's logos and trade names for marketing and promotional purposes in connection with OpenGov's website and marketing materials, subject to Customer's trademark usage guidelines provided to OpenGov.

10.2 Notice. Ordinary day-to-day operational communications may be conducted by email, live chat or telephone communications. However, for notices required by the Agreement (in Sections where the word "notice" appears) the parties must communicate more formally in a writing given by personal delivery, by pre-paid first-class mail or by overnight courier to the address specified in the most recent Order Form (or such other address as may be specified in writing in accordance with this Section).

10.3 Anti-corruption. OpenGov has not offered or provided any bribe, kickback, illegal or improper payment, gift, or thing of value to any Customer personnel in connection with the Agreement, other than reasonable gifts and entertainment provided Customer in the ordinary course of business. If OpenGov become aware of any violation of the above restriction then OpenGov shall promptly notify Customer.

10.4 Injunctive Relief. The parties acknowledge that any breach of the confidentiality provisions or the unauthorized use of a party's intellectual property may result in serious and irreparable injury to the aggrieved party for which damages may not adequately compensate the aggrieved party. The parties agree, therefore, that, in addition to any other remedy that the aggrieved party may have, it shall be entitled to seek equitable injunctive relief without being required to post a bond or other surety or to prove either actual damages or that damages would be an inadequate remedy.

10.5 Force Majeure. Neither party shall be held responsible or liable for any losses arising out of any delay or failure in performance of any part of this Agreement, other than payment obligations, due to any act of god, act of governmental authority, or due to war, riot, labor difficulty, failure of performance by any third-party service, utilities, or equipment provider, or any other cause beyond the reasonable control of the party delayed or prevented from performing.

10.6 Severability; Waiver. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Any express waiver or failure to exercise promptly any right under this Agreement will not create a continuing waiver or any expectation of non-enforcement. There are no third-party beneficiaries to this Agreement.

10.7 Assignment. Except as set forth in this Section, neither party shall assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations to a third party without the other party's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Either party may assign, without such consent but upon written notice, its rights and obligations under this Agreement to: (i) its corporate affiliate; or (ii)

OPENGOV SOFTWARE SERVICES AGREEMENT

any entity that acquires all or substantially all of its capital stock or its assets related to this Agreement, through purchase, merger, consolidation, or otherwise. Any other attempted assignment shall be void. This Agreement shall inure to the benefit of and bind each party's permitted assigns and successors.

10.8 Independent Contractors. No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect.

10.9 Attorneys' Fees. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

10.10 Governing Law and Jurisdiction. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions. Exclusive jurisdiction for litigation of any dispute, controversy or claim arising out of or in connection with this Agreement shall be only in the Federal or State court with competent jurisdiction located in San Mateo County, California, and the parties hereby submit to the personal jurisdiction and venue therein.

10.11 Complete Agreement. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement. No modification of this Agreement will be binding, unless in writing and signed by an authorized representative of each party.

**Signatures**

**Customer**

Signature:   
 Name: Jason Holley  
 Title: City Manager  
 Date: 9/8/2021

**OPENGOV, INC.**

Signature:   
 Name: Paul H. Denton  
 Title: CFO  
 Date: 9/8/2021



## **TITLE**

Recycled Water System Expansion Project (RW17-0100)

## **RECOMMENDATION**

Take the following action related to the Recycled Water System Expansion Project:

1. Adopt a Resolution amending the FY2023/24 Project Budget;
2. Authorize the City Manager to award a construction contract to the second lowest responsible and responsive bidder in an amount not to exceed the project budget; and
3. Authorize the Public Works Director to approve and execute contract change orders in an aggregate amount not to exceed the project budget in conjunction with the Recycled Water System Expansion Project (RW17-0100).

## **CONTACT**

Erica Ahmann Smithies, P.E., Public Works Director  
Ron Ranada, P.E., Senior Civil Engineer

## **BACKGROUND & ANALYSIS**

On June 21, 2022, City Council authorized the City Manager to award a construction contract to the lowest responsible and responsive bidder for the Recycled Water System Expansion Project, RW17-0100. The City solicited competitive bids for the Project on May 17, 2022 with a bid opening on June 14, 2022. City staff was still evaluating the lowest responsible and responsive bidder at the time of publishing the June 21, 2022 City Council Agenda. Subsequently, based on staff's evaluation, a recommendation was made to the City Manager to award Construction Agreement No. 2022-A108 to California Trenchless, Inc. for their low bid amount of \$2,395,123. The Engineer's Estimate was \$2,402,200.

The anticipated schedule was to complete the project by the end of FY22-23. However, on January 19, 2023, the City terminated the construction agreement with California Trenchless, Inc. per the provisions of the contract and suspended all work progressed through that date via construction Contract Change Order No. 1.

Significant quantities of pipe material and appurtenances were delivered between the timeframe of January through March 2023 that needed to be inventoried. In addition, City staff worked closely with the City Attorney to confirm work completed and project expenditures under the contract with

California Trenchless. City staff revised the project's scope of work based on the work completed to date and the materials on hand in order to begin negotiating with the second lowest responsible and responsive bidder, Argonaut Constructors.

On June 9, 2023, Argonaut provided a revised bid based on the percent project completed as well as the materials on hand that would be made available to complete the project. Negotiations are close to being concluded therefore City staff is recommending to City Council to authorize the City Manager to award a construction contract to the second lowest responsible and responsive bidder in an amount not to exceed the Project Budget.

The Project once completed will construct approximately 11,600 LF total of new recycled water mains (350 LF of 2" main; 3,900 LF of 6" main; 2,443 LF of 8" main; and 5,250 LF of 12" main) and includes the conversion of existing services from the domestic water system to the new recycled water system. Locations of work within the City include Benton Way and Community Park 2, Spikerush Circle and Community Park 1, and Lombard Road and Hess Drive. Locations of work within the City's water distribution area in unincorporated Napa County include Devlin Road (South Kelly Road to Tower Road), and Tower Road.

The Project is anticipated to provide an annual offset of 69 acre-feet in potable water use which includes 37 acre-feet of potable water offset in the County at 14 industrial businesses, including the Napa Recycling and Compost Facility.

Construction is tentatively scheduled to begin after July 4, 2023, with work specifically on Benton Way to be completed prior to the start of school in mid-August 2023. The Benton Way timeframe is a special condition that has been included in the new contract. The rest of the project should be completed by the end of the fiscal year pending weather or other unforeseen delays. Should City staff not reach a satisfactory conclusion with Argonaut the recommendation would be to go back out to public bid.

## **COUNCIL PRIORITY PROGRAMS AND PROJECTS**

Infrastructure: "Develop and maintain infrastructure resources to support sustainable growth."

## **FISCAL IMPACT**

The current estimate to complete the project will exhaust the remaining amount of the Council authorized project budget with the credit of pipe materials available to Argonaut Constructors. Three-line items added to Argonaut's bid schedule estimate (20, 21 and 22) are attributed to trench restoration needed from pipeline work completed at Community Park II and Spikerush Circle as well as unforeseen utility conflicts on Devlin Road that would have been included as a contract change order.

It is recommended that the total project budget be increased by \$606,140 to cover additional costs of unforeseen project conflicts (15% contingency), geotechnical work, City staff managing and

inspecting the project, and additional legal expenses as needed.

The adopted FY2023/24 project budget for RW17-001 is \$3,242,748. The total revised project budget with the anticipated new contract and prior expenditures is \$3,848,888 as follows:

<b>Item Description</b>	<b>Amount</b>
Estimated New Construction Contract	\$2,256,500
*Anticipated Expenditures through June 30, 2023	\$1,013,888
Construction Contingency	\$338,500
Materials Testing	\$50,000
Construction Management & Inspection	\$150,000
Legal Expenses	\$40,000
<b>TOTAL</b>	<b>\$3,848,888</b>

\*Expenditures include design, legal expenses, material testing and prior construction contract expenses.

To meet the funding gap of \$606,140, staff proposes to amend the FY2023/24 Project Budget as follows:

Revenue Source	Adopted Budget by Resolution 2022-57	Proposed Change	Amended FY2023/24 Budget
Fund 370, Zero Water Footprint	\$805,300	--	\$805,300
Fund 230, North Bay Water Reuse Authority Grant	\$407,448	--	\$407,448
Fund 580 Recycled Water (via Inter-Fund Loan from Fund 510)	\$530,000	\$606,140	\$1,136,140
Fund 230, Napa County ARPA Grant	\$1,500,000	--	\$1,500,000
<b>Totals</b>	<b>\$3,242,748</b>	<b>\$606,140</b>	<b>\$3,848,888</b>

On June 21, 2022, City Council authorized a short-term (10 year), inter-fund loan from Fund 510 Water Ops in the amount of \$2,030,000 to assist with the completion with the Project. Since then, the project was awarded Napa County American Rescue Plan Act grant funds in the amount of \$1,500,000 requiring a lower inter-fund loan amount. The project budget currently includes \$530,000 of the inter-fund loan therefore the recommendation is to increase the loan appropriation by \$606,140 to award and complete the project for a total loan amount of approximately \$1,136,140. Any remaining funds at the end of the project will be used to reduce the loan amount.

In addition, the ten-year inter-fund loan is to be paid back through revenues received from Zero Water Footprint Fund 270, and recycled water rate revenues.

## **ENVIRONMENTAL REVIEW**

An Environmental Impact Report/Statement was prepared for this project (SCH# 2017072051) pursuant to the provisions of CEQA. Mitigation measures were made a condition of the approval of the project. A mitigation monitoring and reporting program, and statement of overriding considerations was adopted for this project (Resolution 2018-137). A Notice of Determination was filed for the project on December 19, 2018. The approvals considered are encompassed by the referenced environmental review.

## **ATTACHMENTS:**

1. [Resolution - Award Contract RW Expansion \(RW17-0100\)](#)
2. [Resolution 2022-57 - Inter-fund loan 510 Water OPS](#)
3. [Notice of Termination](#)
4. [Contract Change Order No. 1 - Suspension of Work](#)
5. [2022 Bid Results Summary](#)
6. [June 2023 Argonaut Bid Estimate](#)

**RESOLUTION NO. 2023-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON 1) AMENDING THE FY2023/24 PROJECT BUDGET, 2) AUTHORIZING THE CITY MANAGER TO AWARD A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER IN AN AMOUNT NOT TO EXCEED THE PROJECT BUDGET, AND 3) AUTHORIZING THE PUBLIC WORKS DIRECTOR TO APPROVE AND EXECUTE CONTRACT CHANGE ORDERS IN AN AGGREGATE AMOUNT NOT TO EXCEED THE PROJECT BUDGET IN CONJUNCTION WITH THE RECYCLED WATER SYSTEM EXPANSION PROJECT (RW17-0100)**

**WHEREAS**, on June 21, 2022, City Council approved Resolution 2022-57, authorizing the City Manager to award a construction contract to the lowest responsible and responsive bidder for the Recycled Water System Expansion Project, RW17-0100; and

**WHEREAS**, the City solicited competitive bids for the Project on May 17, 2022, and were opened on June 14, 2022; and

**WHEREAS**, the lowest responsible and responsive bidder was California Trenchless, Inc. for their low bid amount of \$2,395,123 and a Contract Agreement No. 2022-A108 was executed; and

**WHEREAS**, on January 19, 2023, the City terminated the agreement with California Trenchless, Inc. per the provisions of the contract and suspended all work progressed through that date via construction Contract Change Order No. 1; and

**WHEREAS**, City staff revised the RW17-0100 Project scope of work to reflect work completed to date and the materials on hand in order to begin negotiating with the second lowest bidder, Argonaut Constructors; and

**WHEREAS**, on June 9, 2023, Argonaut provided a revised bid based on the remaining work to be completed on the original project as well as credit for materials on hand that would be made available to complete the project; and

**WHEREAS**, Argonaut's construction contract estimates and City anticipated project expenditures will exceed the Project Budget of \$3,242,200; and

**WHEREAS**, on June 21, 2022, City Council authorized a ten-year term inter-fund loan in the amount of \$2,030,000 from Fund 510 Water Ops; and

**WHEREAS**, the project was awarded Napa County American Rescue Plan Act grant funds in the amount of \$1,500,000; and

**WHEREAS**, there is sufficient funds available from the inter-fund loan to increase the Project Budget by \$606,140 for a total of \$3,848,888; and

**WHEREAS**, the inter-fund loan is to be paid back through revenues received from Zero Water Footprint Fund 270, and recycled water rate revenues

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of American Canyon hereby amends the FY 2023/24 Project Budget as follows; and

Source	Current Amount	New Amount
Fund 270 Zero Water Footprint	\$805,300	\$805,300
Fund 230 North Bay Water Reuse Authority	\$407,448	\$407,448
Fund 580 Recycled Water (via inter-fund loan)	\$530,000	\$1,136,140
Fund 230 Napa County ARPA	\$1,500,000	\$1,500,000
Total	\$3,242,748	\$3,848,888

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of American Canyon hereby authorizes the City Manager to award a construction contract to the lowest responsible and responsive bidder in an amount not to exceed the Project Budget; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of American Canyon hereby authorizes the Public Works Director to approve and execute Contract Change Orders in an aggregate amount not to exceed the Project Budget in conjunction with the Recycled Water System Expansion Project (RW17-0100).

**PASSED, APPROVED and ADOPTED** at a regularly scheduled meeting of the City Council of the City of American Canyon held on the 20<sup>th</sup> day of June, 2023, by the following vote:

AYES:  
 NOES:  
 ABSTAIN:  
 ABSENT:

\_\_\_\_\_  
 Leon Garcia, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
 Taresa Geilfuss, CMC, City Clerk

\_\_\_\_\_  
 William D. Ross, City Attorney

**RESOLUTION NO. 2022-57**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON 1) AUTHORIZING AN INTER-FUND LOAN FROM FUND 510 WATER OPS IN THE AMOUNT OF \$2,030,000, 2) AMENDING THE FY2021-22 CAPITAL BUDGET AND INCREASING PROJECT BUDGET, 3) AUTHORIZING THE CITY MANAGER TO AWARD A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER IN AN AMOUNT NOT TO EXCEED THE PROJECT BUDGET, AND 4) AUTHORIZING THE PUBLIC WORKS DIRECTOR TO APPROVE AND EXECUTE CONTRACT CHANGE ORDERS IN AN AGGREGATE AMOUNT NOT TO EXCEED THE PROJECT BUDGET IN CONJUNCTION WITH THE RECYCLED WATER SYSTEM EXPANSION PROJECT (RW17-0100)**

**WHEREAS**, the prolonged and ongoing State-wide drought conditions necessitates that the City take significant measures to reduce demands on potable water supplies; and

**WHEREAS**, the expansion of the City's recycled water distribution system is a means to reduce demands on its potable water supplies while still delivering needed service; and

**WHEREAS**, the current FY21-22 CIP includes two recycled water projects, RW3 Benton Way (RW17-0100) and RW2 Spikerush (RW21-0100), which are anticipated to be completed by the end of FY22-23; and

**WHEREAS**, the two projects are projected to provide for a potable water demand offset of 26 AFY; and

**WHEREAS**, staff was directed to accelerate delivery of the aforementioned projects, and to deliver additional improvements, including RW8 Lombard-Hess, and RW1 Devlin-Tower; and

**WHEREAS**, the increased scope is projected to yield an additional 16 AFY of potable water demand offset based on irrigation use, and which does not include further offsets that may be gained from conversions to manufacturing and/or maintenance related uses of potable water (estimated at 27 AFY); and

**WHEREAS**, RW3 Benton Way (RW17-0100) has been renamed to Recycled Water System Expansion Project (RW17-0100) (Project), and rescoped to include the above into a single project and associated bid package; and

**WHEREAS**, the Project consists of approximately 11,600 LF total of new recycled water mains (350 LF of 2" main; 3,900 LF of 6" main; 2,443 LF of 8" main; and 5,250 LF of 12" main) and includes the conversion of existing services from the domestic water system to the new recycled water system; and

**WHEREAS**, locations of work within the City include Benton Way and Community Park 2, Spikerush Circle and Community Park 1, and Lombard Road and Hess Drive, and locations of work within the City's water distribution area in unincorporated Napa County include Devlin Road (South Kelly Road to Tower Road), and Tower Road; and

**WHEREAS**, the City solicited competitive bids for the Project on May 17, 2022, and were opened on June 14, 2022; and

**WHEREAS**, staff will review the bid proposals to determine the lowest responsible and responsive bidder, and provide a recommendation to the City Manager as to award of the construction contract; and

**WHEREAS**, the Engineer’s Estimate for Construction of the Project is \$2,402,200, and the estimated Project Budget is \$3,242,200; and

**WHEREAS**, additional funds are available for appropriation from Fund 270 Zero Water Footprint, and Fund 230 NBWRA Grant; and

**WHEREAS**, there are sufficient funds in Fund 510 Water Ops to provide for a ten-year term inter-fund loan in the amount of \$2,030,000; and

**WHEREAS**, the inter-fund loan is to be paid back through revenues received from Zero Water Footprint Fund 270, recycled water rate revenues, potential Napa County American Rescue Plan Act grant funds in the amount of \$1,500,000, as well as Developer-reimbursement from the Oat Hill Project in the amount of \$635,800.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of American Canyon hereby authorizes a ten-year term inter-fund loan from Fund 510 Water Ops in the amount of \$2,030,000; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that due to the additional improvements and significant increase in project scope, the City Council of the City of American Canyon hereby amends the FY 2021-22 Capital Budget as follows; and

Budget Line Item	Name	Amount
370-85-450-48310	Fund 370 Zero Water Footprint	\$127,800
230-85-450-48310	Fund 230 North Bay Water Reuse Authority	\$264,548
510-85-450-48310	Transfer Cap Projs Fund - Gen Gov	\$2,030,000

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of American Canyon hereby amends the Project Budget for the Recycled Water System Expansion Project as follows; and

Source	Current Amount	New Amount
Fund 270 Zero Water Footprint	\$677,500	\$805,300
Fund 230 North Bay Water Reuse Authority	\$142,900	\$407,448
Fund 510 Water Operations	\$0	\$2,030,000
Total	\$820,400	\$3,242,748

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of American Canyon hereby authorizes the City Manager to award a construction contract to the lowest responsible and responsive bidder in an amount not to exceed the Project Budget; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of American Canyon hereby authorizes the Public Works Director to approve and execute Contract Change Orders in an aggregate amount not to exceed the Project Budget in conjunction with the Recycled Water System Expansion Project (RW17-0100).

**PASSED, APPROVED and ADOPTED** at a regularly scheduled meeting of the City Council of the City of American Canyon held on the 21<sup>st</sup> day of June, 2022, by the following vote:

AYES: Councilmembers Joseph, Oro, Washington, and Mayor Garcia  
NOES: None  
ABSTAIN: None  
ABSENT: Vice Mayor Aboudamous

DocuSigned by:  
*Leon Garcia*  
DA1BB3348DAG47C...  
Leon Garcia, Mayor

ATTEST:

DocuSigned by:  
*Taresa Geilfuss*  
669347683BC34DC...  
Taresa Geilfuss, CMC, City Clerk

APPROVED AS TO FORM:

DocuSigned by:  
*William D. Ross*  
283D50133D93421...  
William D. Ross, City Attorney



January 19, 2023

California Trenchless Inc.  
Michael Jardin, President  
2315 Dunn Road  
Hayward, CA 94545

*Delivered electronically to: [mjardin@californiatrenchless.com](mailto:mjardin@californiatrenchless.com)*

**RE: NOTICE OF TERMINATION (AGREEMENT 2022-A108) – Recycled Water System Expansion Project (RW17-0100)**

Mr. Jardin:

This letter serves as “Notice of Termination” of Agreement 2022-A108, dated June 22, 2022, in conjunction with City of American Canyon Recycled Water System Expansion Project (RW17-0100). The effective date of termination is January 30, 2023.

Agreement Section 14.c provides:

*In the event of termination of this Agreement by City, due to no fault or failure of performance by Contractor, Contractor shall be paid full compensation for all services performed by Contractor, in an amount to be determined as follows: For work done in accordance with the terms and provisions of this Agreement, Contractor shall be paid an amount equal to the amount of services performed prior to the effective date of termination or cancellation; provided, in no event shall the amount of money paid under the foregoing provisions of this section exceed the amount which would be paid to Contractor for the full performance of the Scope of Work under this Agreement.*

Please direct all future communications - including invoicing for materials on hand and services rendered to date – to City Attorney William D. Ross. He may be contacted at 650-843-8080.

Regards,

Jason Holley, City Manager

cc: William D. Ross, City Attorney  
Erica Ahmann Smithies, Public Works Director



# CITY OF AMERICAN CANYON PUBLIC WORKS DEPARTMENT

Change Order No. 1

Suspension of *WORK*

**PROJECT NAME: Recycled Water System Expansion Project (RW17-0100)**

**CITY OF AMERICAN CANYON  
PUBLIC WORKS DEPARTMENT**  
4381 Broadway, Suite 201  
American Canyon, CA 94503

Date of Issuance: 1/20/2023  
Project No: RW17-0100

Contractor: California Trenchless, Inc.  
Michael Jardin  
2315 Dunn Road  
Hayward, CA 94545

Purpose of Change Order: Suspend Work

Pursuant to Section 8-1.06 (Suspensions) and Section 8-1.14 (Contract Termination) of the Caltrans Standard Specifications (Rev. 2018), the Engineer hereby orders the suspension of all contract-related work, with the exception of activities related to securing the job site(s), removing equipment, work necessary to prevent an immediate safety risk, harm, or damage to life and property.

### CHANGE IN CONTRACT PRICE/CHANGE IN CONTRACT TIME

Original contract price:	\$2,395,123.00
Original contract time (days):	60
Change Order:	\$2,395,123.00
Contract time prior to this Change Order (days):	60

Net increase in contract price:	Net increase in days:
\$0.00	<u>0</u>

Net contract price with all Change Orders: TBD Based on Work Satisfactorily Performed to Date

PROJECT NAME: Recycled Water System Expansion Project (RW17-0100)

page 2

**RECOMMENDED:**

By: *Ronald*  
RONALD RANADA  
Project Manager  
Date: 2023/01/20

**APPROVED:**

DocuSigned by:  
*Erica Ahmann Smithies*  
A02D070043A74E7...  
ERICA AHMANN SMITHIES  
Public Works Director  
Date: 1/20/2023

**APPROVED:**

*[Signature]*  
By: \_\_\_\_\_  
JASON B. HOLLEY  
City Manager  
Date: 1/20/23

**APPROVED:** We, the undersigned Contractor, have given careful consideration to the change proposed and hereby agree, if this proposal is approved, that we will provide all equipment, furnish all labor and materials, except as may be otherwise noted above, and will accept as full payment therefore, the prices above.

DocuSigned by:  
*Michael Jardin*  
0A5F6F94C10344A...  
By: \_\_\_\_\_  
Michael Jardin, President

Date: 1/29/2023

Date Approved by City Council: June 21, 2022



**BID SUMMARY**  
**RECYCLED WATER SYSTEM EXPANSION PROJECT**  
**RW17-0100**  
**Bids opened: June 14, 2022 @ 2:00 pm**  
**Engineer's Estimate: \$2,402,200**

Bid Rank	Bidder Information	Total Bid Amount
1	California Trenchless, Inc. Hayward, CA	\$2,395,123.00
2	Argonaut Constructors Santa Rosa, CA	\$2,589,965.00
3	Terracon Constructors, Inc. Healdsburg, CA	\$2,783,588.00
4	Ranger Pipelines Incorporated San Francisco, CA	\$2,853,135.00
5	Team Ghilotti Petaluma, CA	\$3,141,777.00
6	Maggiora & Ghilotti San Rafael, CA	\$3,271,271.00

**Proposal for:**  
**Updated 6-9-23RW17-0100 American Canyon RecWater System Exp**  
 from  
**Argonaut Constructors**  
 360 Sutton Place, Santa Rosa, CA 95402  
 (707) 542-4862 Fax: (707) 542-4897  
 License: 171432 Type: GENERAL ENGINEERING

Bid Date: 6/14/2022  
 Time: 2:00PM

Quote Number: 22-065B

American Canyon

Lock	Item	Description	Quantity	Unit	Unit Price	Total Price	
<b>Base Group</b>							
C	√01	Mobilization / Demob	1.00	LS	125,000.0000	125,000.00	√
C	√02	Traffic Control	1.00	LS	85,000.0000	85,000.00	√
C	√03	Water Pollution Control	1.00	LS	5,500.0000	5,500.00	√
C	√04	Potholing	94.00	EA	750.0000	70,500.00	√
C	√05	Clear And Grub	0.00	LS	0.0000	0.00	√
C	√06	Abandon Existing Water Main Service	3.00	EA	7,500.0000	22,500.00	√
C	√07	2" Reclaimed Water Pipe	95.00	LF	150.0000	14,250.00	√
C	√08	6" Reclaimed Water Pipe (21" Wide)	1,520.00	LF	215.0000	326,800.00	√
C	√09	8" Reclaimed Water Pipe	0.00	LF	0.0000	0.00	√
C	√10	12" Reclaimed Water Pipe	5,250.00	LF	265.0000	1,391,250.00	√
C	√11	6" Valve	3.00	EA	3,800.0000	11,400.00	√
C	√12	8" Valve	0.00	EA	0.0000	0.00	√
C	√13	12" Valve	8.00	EA	7,000.0000	56,000.00	√
C	√14	Reclaimed Water Blowoff	7.00	EA	9,000.0000	63,000.00	√
C	√15	Reclaimed Water Air Release Valve	7.00	EA	11,000.0000	77,000.00	√
C	√16	Reclaimed Water Fire Hydrant Assembly	1.00	EA	21,000.0000	21,000.00	√
C	√17	Reclaimed Water Service - 2"	6.00	EA	16,000.0000	96,000.00	√
C	√18	Reclaimed Water Service - 4"	12.00	EA	11,000.0000	132,000.00	√
C	√19	Thermoplastic Markings And Striping	440.00	SF	14.0000	6,160.00	√
C	√20	Restoration Of Spikerush Circle And Comm Parking	1.00	LS	55,000.0000	55,000.00	√
C	√21	Restoration Of Comm Park II And Parking Lot	1.00	LS	42,000.0000	42,000.00	√
C	√22	12" Reclaimed Water Main Offset - Directional Drill	57.00	LF	1,037.0000	59,109.00	√
C	√BASECREDIT	Basebid Credit For Materials On Hand	1.00	LS	-403,000.0000	-403,000.00	√
						<b>Total:</b>	<b>2,256,469.00</b>
<b>ALT 1 Alternate Bid Items</b>							
C	√A1	12" Reclaimed Water Offset - Steel Encased	45.00	LF	2,150.0000	96,750.00	√

√ = Locked Bid-Item

! = Zero Total Price

Attachment Enclosed

6/09/2023 1:54 pm

Estimator: Jerry Lucchesi

**Proposal for:**  
 Updated 6-9-23RW17-0100 American Canyon RecWater System Exp  
 from  
**Argonaut Constructors**  
 360 Sutton Place, Santa Rosa, CA 95402  
 (707) 542-4862 Fax: (707) 542-4897  
 License: 171432 Type: GENERAL ENGINEERING

Bid Date: 6/14/2022  
 Time: 2:00PM

Quote Number: 22-065B

American Canyon

Lock	Item	Description	Quantity	Unit	Unit Price	Total Price	
C	√ A2	8" Reclaimed Water Pipe	2,100.00	LF	200.0000	420,000.00	√
C	√ A3	2" Reclaimed Water Pipe	343.00	LF	125.0000	42,875.00	√
C	√ A4	8" Valve	8.00	EA	4,500.0000	36,000.00	√
C	√ A5	Reclaimed Water Blowoff	1.00	EA	11,000.0000	11,000.00	√
C	√ A6	Reclaimed Water Service - 2"	1.00	EA	16,000.0000	16,000.00	√
C	√ ALT CREDIT	Alternate Credit For Materials On Hand	1.00	LS	-57,000.0000	-57,000.00	√
<b>Total:</b>						<u>565,625.00</u>	

Total For Base Group	2,256,469.00
Total For Alternate Bid Items	565,625.00
<b>Total:</b>	<u><u>2,822,094.00</u></u>

√ = Locked Bid-Item

! = Zero Total Price

6/09/2023 1:54 pm

Attachment Enclosed

Estimator: Jerry Lucchesi

**Argonaut Constructors**  
**Job Conditions - Attachment 'A'**

Updated 6-9-23RW17-0100 American Canyon RecWater System Exp

**Job Specific Clarifications**

- 1.) Restoration items #20, #21 are based on the provided plan quantities. Sod will be installed on existing soil. City will be responsible for watering and maintenance during establishment period.
- 2.) Proposal is based on the City supplying suitable (not damaged) materials provided on attachment C. If materials listed are found to be unsuitable for use then additional compensation will be on a force account basis.
- 3.) Proposal based on work at Benton to be completed prior to start of fall 2023 school year.
- 4.) All previously installed utilities will be tested and repaired as necessary on a time and material basis.
- 5.) The fence on sheet C5 will be able to be reused. If the fence is not able to be reused, then an additional fee will apply.
- 6.) Proposal is based on the exclusion of all water meters and backflow devices.
- 7.) 12" Reclaimed Water Main offset pipe is quoted based on using 16" DR9 HDPE with an ID of 12.2". Color is black with red stripe. (The black with red stripe is the only available pipe in that size. Black with green stripe is not available)

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6/09/2023 1:54PM

Estimator: Jerry Lucchesi

For Job: Updated 6-9-23RW17-0100 American Canyon RecWater System Exp



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## TITLE

Napa River Ecology Center at American Canyon Wetlands

## RECOMMENDATION

Adopt by Minute Order a Term Sheet with the American Canyon Community and Parks Foundation for development of the Napa River Ecology Center at the former City Corporation Yard (205 Wetlands Edge Road).

## CONTACT

Jason Holley, City Manager

## BACKGROUND & ANALYSIS

The item tonight is a continuation of the September 7, 2021, presentation to Council.

### *Corporation Yard Relocation*

The idea begins with the relocation of the City's Corporation Yard from 205 Wetlands Edge Road to the former Napa Junction Elementary School. The Corporation Yard's long-intended exit from the Wetlands Edge Road location will address neighborhood compatibility concerns raised by nearby residents. While the nearby residents will benefit from the City's physical relocation, city-wide operations will also benefit from the consolidation of staff at a singular location.

### *"Eco-Center" at Corporation Yard Instead of Clark Ranch*

Clark Ranch is an undeveloped city-owned property approximately 1-mile north of the Corporation Yard (at the intersection of Wetlands Edge Court and Eucalyptus Drive). The *Clark Ranch Master Plan* calls for a new regional nature/environmental/community center (the "eco-center") originally planned to be "an indoor interpretative, recreation and community space with classrooms and multipurpose rooms to support programming and exhibits (watershed protection/education, wetlands habitat/biology). Possible space for vendor sales (deli/gifts) and rentals (bike/kayak)."

While a laudable and aspirational idea, Clark Ranch is not a great location for an "eco-center" for a variety of reasons (inconvenient location, competing uses and large upfront costs, just to name a few). Instead, over the past 2 years, an idea to re-imagine the former Corporation Yard as a new eco-center has taken shape.

The American Canyon Community and Parks Foundation (<https://www.acparks.org>) (ACCPF) is spearheading an effort to re-purpose the Corporation Yard into the Napa River Ecology Center at the American Canyon Wetlands (Attachment 2). The venerable ACCPF is a local non-profit with an unmatched track-record of fundraising and delivering successful projects and initiative for the community, and they are the perfect partner for the City. The City entered into an Exclusive Negotiating Agreement with ACCPF for development of the Eco-Center in 2021.

ACCPF shared their vision for the Eco-Center during a well-attended community meeting on June 1. The Eco-Center's formal development program (the "Project") would be subject to additional public review and comment during the entitlement process.

The Napa River Ecology Center at the American Canyon Wetlands is envisioned to:

- Provide a home for environmental education, nature art, and science programs for students and community members in Napa County and beyond.
- Strengthen American Canyon as a leader in environmental leadership, research, and programming.
- Harness the power of our diverse community to further the conservation movement.
- "Root" our families in nature and develop the next generation of nature lovers who will help solve our most complex environmental issues.

Other key attributes include:

- Repurposes old industrial site along Napa River Wetlands.
- Two-acre parcel with 5,000 square-foot building.
- Model public/private partnership between the City of AC and ACCPF.
- Serves 20,000 people each year in nature programming.
- Centrally located in North Bay along San Francisco Bay Trail.
- New public access to pristine Wetlands habitat.
- Green demonstration features.

The next step to move the Eco-Center Project forward is to finalize a long-term lease. Once the lease is done, ACCPF can finish the entitlement process.

Staff has worked with a Council Ad-Hoc Committee (Oro/Washington) to negotiate the deal points of a lease. Those deal points are memorialized in a term sheet.

Staff recommends Council approve the Term Sheet (Attachment 1) and direct staff to prepare a Long-Term Lease consistent with the Term Sheet and submit it for Council consideration.

## **COUNCIL PRIORITY PROGRAMS AND PROJECTS**

Infrastructure: "Develop and maintain infrastructure resources to support sustainable growth."

## **FISCAL IMPACT**

The recommended action will have no impact on the FY 23/24 Budget.

### **ENVIRONMENTAL REVIEW**

There is no requested Council action tonight and thus, no environmental review is needed.

### **ATTACHMENTS:**

[Attachment 1: Term Sheet](#)

[Attachment 2: Wetlands Eco-Center](#)

**GROUND LEASE TERM SHEET**  
**between**  
**CITY OF AMERICAN CANYON (“Landlord”)**  
**and**  
**AMERICAN CANYON COMMUNITY AND PARKS FOUNDATION (“Tenant”)**

**Dated June 20, 2023**

This Ground Lease Term Sheet is drafted for the purpose of proposing and, thereafter, finalizing terms for the lease of a portion of the Landlord’s property located at 205 Wetlands Edge Road in American Canyon (the “**Property**”) for the development, operation, maintenance and repair of a Wetlands Ecology Center (the “**Project**”). The assumptions and terms contained herein are solely for the purposes or preliminary negotiations between the parties and in no way constitute an offer to lease or shall be deemed a commitment to negotiate a lease.

1.	DESCRIPTION OF PREMISES	The Premises are comprised of approximately 2 acres within the Property, as depicted on the proposed site plan attached hereto as <u>Exhibit A</u> (the “ <b>Premises</b> ”). The Premises include all improvements thereon and all appurtenant rights thereto. During the term of the Lease, Tenant shall have the right and easement to the use of any existing access roads, gates, and fences. The Premises shall also include easements for access roadways to the Premises if necessary.
2.	PURPOSE AND USE	Tenant shall use the Premises for development, operation, maintenance and repair of the Project and all related uses, including without limitation, indoor and outdoor environmental education, public and private events, gatherings, community programs and fundraisers consistent with the Tenant’s mission as a non-profit foundation; commercial uses in support of mission-aligned organizations, businesses or community groups which are approved by Landlord in advance in its reasonable discretion, and for no other use without Landlord's consent.
3.	OPERATING HOURS	The general hours of operation will be 7 days a week from 6:00 a.m. to 10:00 p.m., with general program hours from 9:00 a.m. to 6:00 p.m.
4.	STANDARD OF OPERATIONS / MAINTENANCE	Tenant shall be responsible for maintaining and repairing the improvements on the Premises and all equipment or facilities specifically serving the Premises, such as plumbing, heating, air conditioning, ventilating, electrical, lighting facilities, boilers, fired or unfired pressure vessels, fire hose connections if within the Premises, fixtures, interior walls, interior surfaces of exterior walls, ceilings, floors, windows, doors, plate glass, and skylights.

		Landlord shall be responsible for maintaining and repairing: (i) that portion of the Property outside of the Premises, as well as all existing access roads, gates, and fences serving the Premises, and (ii) any equipment, or other improvements on the Premises to the extent that Landlord continues to access and utilize such improvements and equipment pursuant to the terms of the Lease.
5.	LANDLORD USE	Landlord shall have the right to access the Premises for the following purposes: (i) to access, test, maintain and repair the generator located on the Premises; (ii) to access and use Building E located on the Premises, and (iii) to access the emergency overflow pond. Except in the event of emergencies, Landlord shall provide prior notice to Tenant of Landlord's access of the Premises for the purposes listed above.
6.	TERM AND RENEWAL OPTIONS	The Term of the Lease shall be for an initial period of fifty (50) years, and Tenant shall have the option to extend the Term for two (2) additional terms of twenty-five (25) years each, by providing Landlord written notice at least 6 months prior to the then current expiration date of the Term.
7.	COMMENCEMENT DATE	The Commencement Date of the Lease shall be the date of execution of the lease and approval thereof by the City of American Canyon.
8.	PHASE 0 LICENSE	Prior to the execution and commencement of the Lease, Landlord and Tenant agree to enter into a License Agreement, pursuant to which Tenant shall have a license to enter onto the Premises for the purpose of office and administrative purposes and related uses in connection with the planning and development of the Project and operation of the Licensee organization, subject to Tenant's compliance with the insurance requirements in such License Agreement.
9.	RENT	\$1.00 per year
10.	UTILITIES	Tenant shall provide at its sole cost and expense, all utilities required by Tenant for the operation of the Project, except for electrical power, which shall be provided by Landlord at its expense. Notwithstanding the foregoing, in the event any utilities which are also used by Landlord are not separately metered (including without limitation, water and sewer utilities), Landlord and Tenant shall meet on a periodic basis

		to review the allocation of such utility costs, or at the option of Landlord, Landlord shall install a separate meter.
11.	SURVEY, SOILS AND ENVIRONMENTAL REPORTS	Tenant shall be responsible for obtaining all due diligence materials necessary for it to assess the condition of the Premises. Landlord shall provide Tenant copies of all reports related to the condition of the Property, including soils and environmental reports in its possession but shall make no representations or warranties as to the adequacy, completeness or accuracy of such materials.
12.	OWNERSHIP OF IMPROVEMENTS / ALTERATIONS; CIP PROJECT	<p>All improvements constructed on the Premises by Tenant shall be owned by Tenant until expiration or termination of the lease, and until such time, Tenant shall be entitled to relocate, alter or remove any improvement on or from the Premises. Any alterations made by Tenant on the Premises shall remain on and be surrendered with the Premises on expiration or termination of the term, or any extensions thereof.</p> <p>Landlord shall contribute towards the development of the Project as follows: (i) Landlord shall develop a corporate yard stormwater / flood protection CIP project, and (ii) Landlord and Tenant shall enter into a contract for Tenant's management of such project, and City shall reimburse Tenant for eligible costs to which Measure A funds can be applied.</p>
13.	TAXES	Tenant shall pay all personal and real property taxes and any special assessments during the term of the lease to the extent arising out of Tenant's development and use of the Premises.
14.	INSURANCE	Tenant shall maintain comprehensive property damage and public liability insurance on the Premises consistent with the Landlord's lease requirements for third party tenants as of the Commencement Date of the Lease, with Landlord named as an additional insured.
15.	ASSIGNMENT/SUBLEASE	<p>Tenant shall not voluntarily assign its interest in the Lease or in the Premises, or sublease or license all or any part of the Premises, or allow any other person or entity (except Tenant's authorized representative) to occupy or use all or any part of the Premises, without first obtaining Landlord's consent.</p> <p>Notwithstanding the foregoing:</p> <p>(a) Tenant may sublease a portion of the Premises to mission-aligned organizations, businesses or community groups for use of office space, other portions of the building, or outdoor</p>

		<p>areas of the Premises. Such subleases may be for the purpose of mission-aligned events, programs, seminars, private parties, and commercial activities in support of such functions (such as outdoor recreational rentals of bicycles or kayaks); provided however that each sublease shall: (i) be for a term of at least thirty (30) days; (ii) require advance written notice to the Landlord, (iii) be subject to the administrative approval of Landlord's staff (which shall not be unreasonably withheld, conditioned or delayed), and (iv) comply with the terms and conditions as this Lease, including the public liability insurance requirements; and</p> <p>(b) Tenant may license a portion of the Premises to organizations, businesses or community groups for the temporary use of office space, other portions of the building, or outdoor areas of the Premises. Such licenses may be for events, programs, seminars, private parties, and commercial activities which provide financial support to the Tenant's organization. Licenses shall not require notice to, or the consent of Landlord provided that all licenses shall be for a period of less than thirty (30) days, and shall be subject to the terms and conditions of the Lease, including the public liability insurance requirements.</p>
16.	TERMINATION	<p>Tenant shall have the right to terminate the lease if it reasonably determines that the Premises cannot be used for the intended purposes.</p>

Attachment 2.1



Attachment 2.2



Attachment 2.3



Attachment 2.4



Attachment 2.5



Attachment 2.6





## **TITLE**

Project Labor Agreement with the Napa Solano Building and Construction Trades Council

## **RECOMMENDATION**

Adopt a Resolution approving a Project Labor Agreement with the Napa Solano Building and Construction Trades Council and its affiliated local Unions.

## **CONTACT**

Jason Holley, City Manager

## **BACKGROUND & ANALYSIS**

A project labor agreement (PLA) is a pre-hire collective bargaining agreement between one or more labor organizations (often negotiated by the local Building Trades and Construction Council) and the owner of a project, which establishes the terms and conditions of employment on the project work. The purpose of a PLA is to facilitate the delivery of the project with minimal labor-related disruptions which would adversely impact the public and/or delay the project.

Generally, the terms of the PLA apply to all contractors and subcontractors who are awarded contracts on the project and supplement or supersede any existing collective bargaining agreements. PLAs typically include provisions that prohibit workers from engaging in strikes, work stoppages, and slowdowns for the duration of the term of the agreement. In exchange for the commitment not to engage in such activities, PLAs generally require that contractors hire workers who are referred from union hiring halls. Furthermore, contractors must pay the workers prevailing wage, contribute to union trust funds, and abide by certain dispute and grievance resolution procedures.

After receiving a presentation from the Napa-Solano Buildings and Trades Council (NSBCTC) in August 2019, the City Council directed staff to develop a "Citywide Project Labor Agreement". While the parties did not meet during the height of the pandemic, discussions began again in 2022 with an eye toward moving the Citywide PLA forward.

As an interim measure and test case, staff included pre-hire collective bargaining language in the Green Island Road Undergrounding Project last fall. The price from the lowest bidder was lower than the engineer's estimate, and while there have been contract change orders due to unforeseen

conditions, the project is forecast to be completed under budget. Overall the project is going well now after suffering through weather delays due to the record-setting wet winter and staff believe that project will complete by the end of summer.

As a result of the generally positive experience, staff is comfortable undertaking a longer more comprehensive evaluation and has negotiated a 5-year agreement that should benefit both the City and the NSBCTC. Staff intends upon using this larger data set of projects over a 5-year period to help determine whether the City should continue with a PLA after the initial 5-year term. It is important to note most of the City's capital projects over the can be characterized as "heavy civil". There are several utility pipeline and street paving projects all with comparable scope of work and characteristics. Thus, the data set at the 5-year term should have a sufficient sample size to draw valid conclusions.

The PLA applies to future City capital projects exceeding \$200,000 in project costs. This threshold is set and linked to the threshold of "informal bids" in set in accordance with the California Uniform Public Construction Cost Accounting Act (CUPCCAA). Today, the limit for informal bids is determined by the California Uniform Construction Cost Accounting Commission to be \$200,000, but this amount is subject to change.

The PLA has an initial five-year term, with the ability to roll over for additional terms of five years each.

Other provisions of the PLA include:

- Projects will not be subject to strikes, sympathy strikes, work stoppages, picketing, hand-billing or otherwise advising the public that a labor dispute exists, slowdowns, refusal to work, walk-off, sit down, stand-in, wobble, boycott of any kind, for any reason, by the Unions or employees employed on a project, at the job site of a Project or any other facility of City because of a dispute on a Project; nor will there be lockouts by the contractor or employer on a project.
- The Unions covered by the PLA are recognized as the sole bargaining representative of all craft employees performing covered work, and all such employees must be represented by a Union for the duration of their employment on a project.
- The PLA agrees to facilitate employment of Local Area (defined as Napa County) residents and to use resources in the Local Area in construction of the Project.
- The projects will employ apprentices from a California state-approved Joint Apprenticeship Training Program, with the goal of helping to develop workers in the construction industry.
- The PLA will utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment and the Center's "Helmets to Hardhats" program, with the goal of facilitating the entry into the building and construction, trades of veterans who are interested in careers in the building and construction industry.
- Labor disputes, grievances, or actions relating to discipline will be resolved through procedures established with the affiliated Unions; any grievances not settled between the

parties would be subject to arbitration for resolution.

City staff wishes to convey its thanks to the NSBCTC for their work and willingness to negotiate this PLA. Staff believes that this PLA will benefit the City and the NSBCTC, as well as the greater community, for years to come.

### **COUNCIL PRIORITY PROGRAMS AND PROJECTS**

Organizational Effectiveness: "Deliver exemplary government services."

### **FISCAL IMPACT**

The Recommended Action will have no impact on the FY 23/24 Budget.

### **ENVIRONMENTAL REVIEW**

15378(b) - The action is not a "Project" subject to the California Environmental Quality Act ("CEQA") because it does not qualify as a "Project" under Public Resources Code Sections 21065 and 21080 and in Section 15378(b) of Title 14 of the California Code of Regulations.

### **ATTACHMENTS:**

1. [Resolution - Napa Solano Building and Construction Trades Council](#)
2. [Exhibit A - Napa Solano Building and Construction Trades Council](#)

**RESOLUTION NO. 2023-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON APPROVING A PROJECT LABOR AGREEMENT WITH THE NAPA SOLANO BUILDING AND CONSTRUCTION TRADES COUNCIL AND ITS AFFILIATED LOCAL UNIONS.**

**WHEREAS**, a project labor agreement (PLA) is a pre-hire collective bargaining agreement between one or more labor organizations (often negotiated by the local Building Trades and Construction Council) and the owner of a project, which establishes the terms and conditions of employment on the project work; and

**WHEREAS**, the purpose of a PLA is to facilitate the delivery of the project with minimal labor-related disruptions which would adversely impact the public and/or delay the project; and

**WHEREAS**, the terms of the PLA apply to all contractors and subcontractors who are awarded contracts on the project and supplement or supersede any existing collective bargaining agreements; and

**WHEREAS**, the PLA includes provisions that prohibit workers from engaging in strikes, work stoppages, and slowdowns for the duration of the term of the agreement and in exchange for the commitment not to engage in such activities, the PLA requires that contractors hire workers who are referred from union hiring halls.

**WHEREAS**, the PLA requires contractors pay the workers prevailing wage, contribute to union trust funds, and abide by certain dispute and grievance resolution procedures; and

**WHEREAS**, the PLA applies to future City capital projects exceeding the threshold of "informal bids" in set in accordance with the California Uniform Public Construction Cost Accounting Act – currently determined by the California Uniform Construction Cost Accounting Commission to be \$200,000, but this amount is subject to change; and

**WHEREAS**, the PLA has an initial five-year term, with the ability to roll over for additional terms of five years each.

**WHEREAS**, the PLA ensures future projects will not be subject to strikes, sympathy strikes, work stoppages, picketing, hand-billing or otherwise advising the public that a labor dispute exists, slowdowns, refusal to work, walk-off, sit down, stand-in, wobble, boycott of any kind, for any reason, by the Unions or employees employed on a project, at the job site of a Project or any other facility of City because of a dispute on a Project; nor will there be lockouts by the contractor or employer on a project.

**WHEREAS**, the Unions covered by the PLA are recognized as the sole bargaining representative of all craft employees performing covered work, and all such employees must be represented by a Union for the duration of their employment on a project; and

**WHEREAS**, the PLA agrees to facilitate employment of Local Area (defined as Napa County) residents and to use resources in the Local Area in construction of the Project; and

**WHEREAS**, the projects will employ apprentices from a California state-approved Joint Apprenticeship Training Program, with the goal of helping to develop workers in the construction industry; and

**WHEREAS**, the PLA will utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment and the Center's "Helmets to Hardhats" program, with the goal of facilitating the entry into the building and construction, trades of veterans who are interested in careers in the building and construction industry; and

**WHEREAS**, labor disputes, grievances, or actions relating to discipline will be resolved through procedures established with the affiliated Unions; any grievances not settled between the parties would be subject to arbitration for resolution; and

**WHEREAS**, staff's recent experience on the Green Island Road Undergrounding Project (TR16-0010) – which includes similar pre-hire collective bargaining provisions as the PLA – has been positive and the Project expected to be completed under budget; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of American Canyon hereby approves the Project Labor Agreement with the Napa Solano Building and Construction Trades Council and its affiliated local Unions attached hereto as Exhibit A and incorporated by reference.

**PASSED, APPROVED and ADOPTED** at a regularly scheduled meeting of the City Council of the City of American Canyon held on the 20<sup>th</sup> day of June 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Leon Garcia, Mayor

ATTEST:

APPROVE AS TO FORM:

\_\_\_\_\_  
Taresa Geilfuss, CMC, City Clerk

\_\_\_\_\_  
William D. Ross, City Attorney

**PROJECT LABOR AGREEMENT FOR THE CITY OF AMERICAN CANYON  
FOR FISCAL YEARS 2023/24 THROUGH 2028/29**

**INTRODUCTION/FINDINGS**

This Project Labor Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 by and between the City of American Canyon (hereinafter the “City”), together with contractors and subcontractors of all tiers, who shall become signatory to this Agreement by signing the **“Agreement to be Bound” (Addendum A)** (referred to herein as “Contractor(s)/Employer(s)”), and the Napa-Solano Building and Construction Trades Council (referred to herein as the “Council”) and its affiliated local Unions that have executed this Agreement (referred to collectively herein as the “Union(s)”).

The purpose of this Agreement is to promote the efficiency of construction operations for the City of American Canyon through the use of skilled labor resulting in quality construction outcomes, and to provide for the peaceful settlement of labor disputes and grievances without strikes or lockouts, thereby promoting the public interest in assuring the timely and economical completion of the Project(s) covered by this Agreement.

WHEREAS, the timely and successful completion of the Project is of the utmost importance to meet the needs of the City and avoid increased costs resulting from delays in construction; and

WHEREAS, large numbers of workers of various skills will be required in the performance of construction work on the Project and will be represented by the Unions who are signatory to this Agreement and employed by the Contractors and subcontractors who are also signatory to this Agreement; and

WHEREAS, the use of skilled labor on construction work increases the safety of construction projects as well as the quality of completed work; and

WHEREAS, it is recognized that on a Project of this magnitude with multiple contractors and bargaining units on the job site at the same time over an extended period of time, the potential for work disruption may be substantial without an overriding commitment to maintain continuity of work; and

WHEREAS, the interests of the general public, the City, the Unions, and the Contractors/Employers would be best served if the construction work proceeded in an orderly manner without disruption because of strikes, sympathy strikes, work stoppages, picketing, lockouts, slowdowns or other interferences with work; and

WHEREAS, the Contractors/Employers and the Unions desire to mutually establish and stabilize wages, hours and working conditions for the workers employed on the Project and to encourage close cooperation among the Contractors/Employers and the Unions so that a satisfactory, continuous and harmonious relationship will exist; and

WHEREAS, the parties agree that one of the primary purposes of this Agreement is to avoid the tensions that might arise on the Project if Union and non-union workers of different

employers were to work side by side on the Project, potentially leading to labor disputes that could delay completion of the Project; and

WHEREAS, this Agreement is not intended to replace, interfere with, abrogate, diminish or modify existing local or national collective bargaining agreements in effect during the duration of the Project, insofar as a legally binding agreement exists between the Contractors/Employers and the Unions, except to the extent that the provisions of this Agreement are inconsistent with said collective bargaining agreements, in which event the provisions of this Agreement shall prevail; and

WHEREAS, the City places high priority upon the development of comprehensive programs for the recruitment, training and employment of local area residents and military veterans, and recognizes the ability of local pre-apprenticeship and apprenticeship programs to provide meaningful and sustainable career pathways in the construction industry; and

WHEREAS, the contract(s) for construction work on the Project will be awarded in accordance with the applicable provisions of the California State Public Contract Code and all state, local and federal laws; and

WHEREAS, the parties to this Agreement pledge their full good faith and trust to work toward the mutually satisfactory completion of the Project;

NOW, THEREFORE, IT IS AGREED BETWEEN AND AMONG THE PARTIES HERETO, AS FOLLOWS:

**ARTICLE I**  
**DEFINITIONS**

1.1 "Agreement" means this Project Labor Agreement.

1.2 "Agreement to be Bound" means the agreement (attached hereto as Addendum A) that shall be executed by each and every Contractor/Employer as a condition of working on the Project.

1.3 "City" means the City of American Canyon and its governing board, officers, agents and employees, including managerial personnel.

1.4 "Completion" means that point at which there is Final Acceptance by the City of a Construction Contract and the City has filed a Notice of Completion. For purposes of this definition, "Final Acceptance" means that point in time at which the City has determined upon final inspection that the work has been completed in all respects and all required contract documents, contract drawings, warranties, certificates, manuals and data have been submitted and training completed in accordance with the contract documents and the City has executed a written acceptance of the work.

1.5 "Construction Contract" means the public works or improvement contract(s) (including design-bid, design-build, lease-leaseback or other contracts under which construction of the Project is done) awarded by the City that are necessary to complete the Project.

1.6 "Contractor(s)/Employer(s)" or "Contractor(s)" or "Employer(s)" means any individual, firm, partnership or corporation (including the prime contractor, general contractor, construction manager, project manager, design-build entity, lease-leaseback entity or equivalent entity), or combination thereof, including joint ventures, and their successors and assigns, that is an independent business enterprise and enters into a contract with the City with respect to the construction of any part of the Project, and all contractors and subcontractors of any tier.

1.7 "Council" means the Napa-Solano Building and Construction Trades Council.

1.8 "Master Agreement" or "Schedule A" means the Master Collective Bargaining Agreement of each craft Union signatory hereto.

1.9 "Project" means all City construction projects where either the engineer's estimate of the total cost of the project, or the cumulative bid amount(s) submitted by the contractor(s) awarded a Construction Contract(s) for the Project, exceeds the limit for awarding "informal bids" in accordance with the California Uniform Public Construction Cost Accounting Act (CUPCCAA). As of the Effective Date, the limit for informal bids is determined by the California Uniform Construction Cost Accounting Commission to be \$200,000, but is subject to change. All Construction Contracts required to complete an integrated Project shall be considered in determining whether this threshold is met. The City and the Council may mutually agree in writing to add additional projects or components to be covered by this Agreement. The term "Project" applies to each and all projects as defined in this section, whether used in the singular or plural herein.

1.10 "Project Manager" means the person(s) or entity(ies) designated by the City to oversee all phases of construction on the Project and the implementation of this Agreement.

1.11 "Union" or "Unions" means the Napa-Solano Building and Construction Trades Council and its affiliated Unions signatory to this Agreement, acting on their own behalf and on behalf of their respective affiliates and member organizations whose names are subscribed hereto and who have through their officers executed this Agreement.

## **ARTICLE II** **SCOPE OF AGREEMENT**

2.1 Parties: This Agreement applies to and is limited to all Contractors/Employers performing Construction Contracts on the Project (including subcontractors at any tier), and their successors and assigns, the City, the Council, and its affiliated Unions signatory to this Agreement.

2.2 Applicability: This Agreement governs all Construction Contracts awarded on the Project. For purposes of this Agreement, Construction Contracts shall be considered Completed as set forth in Section 1.4, except when the City directs a Contractor to engage in repairs, warranty work, modifications, or punch list work under a Construction Contract or when a Contractor performs work under a change order for a Construction Contract.

2.3 Covered Work: This Agreement covers, without limitation, all site preparation, surveying, construction, alteration, demolition, installation, improvement, remediation, retrofit,

painting or repair of buildings, structures and other works, and related activities for the Project that is within the craft jurisdiction of one of the Unions and that is directly or indirectly part of the Project, including, without limitation to the following examples, geotechnical and exploratory drilling, soils and materials testing and inspection, temporary HVAC, landscaping and temporary fencing, pipelines (including those in linear corridors built to serve the Project), pumps, pump stations, start-up, modular furniture installation, and final clean-up. Covered Work includes work done for the Project in temporary yards, dedicated sites, or areas adjacent to the Project, and at any on-site or off-site batch plant constructed to supply materials to the Project.

2.3.1 This Agreement applies to any start-up, calibration, commissioning, performance testing, repair, maintenance, and operational revisions to systems and/or subsystems for the Project performed after Completion, unless performed by City employees.

2.3.2 This Agreement covers all on-site fabrication work over which the City, Contractor(s)/Employer(s) or subcontractor(s) possess the right of control (including work done for the Project in any temporary yard or area established for the Project). This Agreement also covers any off-site work, including fabrication, that is traditionally performed by the Unions and is directly or indirectly part of the Project, provided such work is covered by a Master Agreement or local addenda to a national agreement of the applicable Union(s).

2.3.3 Except for the delivery of supplies, equipment or materials that are stockpiled for later use, this Agreement covers all construction trucking work, including the hauling and delivery of ready-mix, asphalt, aggregate, sand, soil or other fill or similar material that is directly incorporated into the construction process as well as the off-hauling of soil, sand, gravel, rocks, concrete, asphalt, excavation materials, construction debris and excess fill, material and/or mud. Contractor(s)/Employer(s), including brokers, of persons providing construction trucking work shall provide certified payroll records to the City within ten (10) days of written request or as required by the bid specifications.

2.3.4 Work covered by this Agreement within the following craft jurisdictions shall be performed under the terms of their National Agreements as follows: the National Transient Lodge (NTL) Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, the National Agreement of Elevator Constructors, and any instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, with the exception that Articles IV, XII and XIII of this Agreement shall apply to such work.

2.4 Exclusions: The following shall be excluded from the scope of this Agreement.

2.4.1 This Agreement shall not apply to work performed by the City own employees as permitted by the Public Contract Code.

2.4.2 This Agreement shall not apply to a Contractor/Employer's non-construction craft executives, managerial employees, administrative personnel, and supervisors above the level of general foreman (unless covered by a Master Agreement).

2.4.3 This Agreement shall not apply to any non-Project work performed on or near or leading to the site of work covered by this Agreement that is undertaken by state, county,

city, or other governmental bodies or their contractors. Work performed by public or private utilities including all electrical utility, voice-data-video, and security installation work ahead of and up to the electrical service entry connection or the main point of entry into the building shall be excluded. All electrical utility, voice-data-video, and security installation work performed after the electrical utility service entrance or the main point of entry shall be Covered Work. Additionally, all contracted work performed ahead of the service entrance connection and main point of entry that is inside the property line and provides for access to the building via a conduit or series of conduits shall be Covered Work.

2.4.4 This Agreement shall not apply to the off-site maintenance of leased equipment and on-site supervision of such work.

2.4.5 This Agreement shall not apply to work substantially funded by any federal, state, local or other public agency that prohibits the use of project labor agreements on projects receiving its funding, or the funding of projects on which such agreements are used. With respect to such work, the City agrees to make a reasonable effort to defend the application of this Agreement, including by making a written request to the funding source. Notwithstanding the foregoing, should only a specific provision of the Agreement be prohibited by the funding source, then, upon mutual agreement by the Council, the City shall modify the requirements of this Agreement accordingly, to allow this Agreement to remain in place and to advance the purposes of this Agreement to the maximum extent feasible.

2.4.6 This Agreement shall not apply to any construction project for which the City issued a “Notice to Bidders” prior to the Effective Date, including but not limited to, that certain “Recycled Water Expansion Project (RW 17-0100)”.

2.4.7 This Agreement shall not apply to any construction project undertaken by private developers rather than by the City, even if the resulting public improvements are to be later accepted and maintained by the City or any other governmental agency.

2.4.8 The City shall provide notice to the Council each fiscal year of any Covered Work that does not reach the monetary threshold for a Project as set forth in Section 1.9.

2.5 Award of Contracts: It is understood and agreed that the City has the right to select any qualified bidder for the award of Construction Contracts under this Agreement. The bidder need only be willing, ready and able to execute and comply with this Agreement. It is further agreed that this Agreement shall be included in all invitations to bid or solicitations for proposals from contractors or subcontractors for work on the Project. A copy of all invitations to bid shall be provided to the Council at the time of issuance.

### **ARTICLE III** **EFFECT OF AGREEMENT**

3.1 By executing this Agreement, the Council, the Unions and the City agree to be bound by each and all of the provisions of the Agreement.

3.2 By accepting the award of work under a Construction Contract for the Project, whether as a Contractor or subcontractor thereunder, all Contractors/Employers agree to be bound by each and every provision of this Agreement and agree to evidence their acceptance prior to the commencement of work by executing the **Agreement to be Bound** in the form attached hereto as **Addendum A**.

3.3 At the time that any Contractor/Employer enters into a subcontract with any subcontractor providing for the performance of work under a Construction Contract, the Contractor/Employer shall provide a copy of this Agreement to said subcontractor and shall require the subcontractor, as a condition of accepting the award of a construction subcontract, to agree in writing, by executing the **Agreement to be Bound**, to be bound by each and every provision of this Agreement prior to the commencement of work. The obligations of a Contractor may not be evaded by subcontracting. If the subcontractor refuses to execute the Agreement to be Bound, then such subcontractor shall not be awarded a Construction Contract on the Project.

3.4 This Agreement shall only be binding on the signatory parties hereto, and their successors and assigns, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party. Each Contractor shall alone be liable and responsible for its own individual acts and conduct and for any breach or alleged breach of this Agreement, except as otherwise provided by law or the applicable Master Agreement. Any dispute between the Union(s) and the Contractor(s) with respect to compliance with this Agreement shall not affect the rights, liabilities, obligations and duties between the Union(s) and other Contractor(s) party to this Agreement.

3.5 It is mutually agreed by the parties that any liability by a Union signatory to this Agreement shall be several and not joint. Any alleged breach of this Agreement by a Union shall not affect the rights, liabilities, obligations and duties between the Contractor(s) and the other Union(s) party to this Agreement.

3.6 The provisions of this Agreement, including the Schedule As incorporated herein by reference, shall apply to the work covered by this Agreement, notwithstanding the provisions of any other local, area and/or national agreements which may conflict with or differ from the terms of this Agreement. To the extent a provision of this Agreement conflicts with a Schedule A, the provision of this Agreement shall prevail. Where a provision of a Schedule A does not conflict with this Agreement, the provision of the Schedule A shall apply.

#### **ARTICLE IV**

#### **WORK STOPPAGES, STRIKES, SYMPATHY STRIKES AND LOCKOUTS**

4.1. The Unions, the City, and the Contractor(s)/Employer(s) covered by this Agreement agree that for the duration of the Project:

4.1.1 There shall be no strikes, sympathy strikes, work stoppages, picketing, handbilling or otherwise advising the public that a labor dispute exists, or slowdowns of any kind, for any reason, by the Unions or employees employed on the Project, at the job site of the Project or any other facility of City because of a dispute on the Project. Disputes arising between

the Unions and Contractor(s)/ Employer(s) on other City projects are not governed by the terms of the Agreement or this Article.

4.1.2 There shall be no lockout of any kind by a Contractor/Employer of workers employed on the Project.

4.1.3 If a Master Agreement expires before the Contractor/Employer completes the performance of work under a Construction Contract and the Union or Contractor/Employer gives notice of a demand for a new or modified Master Agreement, the Union agrees that it will not strike on work covered by this Agreement and the Union and the Contractor/Employer agree that the expired Master Agreement will continue in full force and effect for work covered under this Agreement until a new or modified Master Agreement is reached. If the new or modified Master Agreement provides that any terms of the Master Agreement shall be retroactive, the Contractor/ Employer agrees to comply with any retroactive terms of the new or modified Master Agreement that are applicable to any employee(s) on the Project during the interim, with retroactive payment due within seven (7) calendar days of the effective date of the new or modified Master Agreement.

4.1.4 In the case of nonpayment of wages or trust fund contributions on the Project, the Union shall give the City and the Contractor/Employer three (3) business days' notice when nonpayment of trust fund contributions has occurred, and one (1) business day's notice when nonpayment of wages has occurred or when paychecks being tendered to a financial institution normally recognized to honor such paychecks will not honor such paycheck, of the intent to withhold labor from the Contractor/Employers' or their subcontractor's workforce, during which time the Contractor/Employer may correct the default. In this instance, a Union's withholding of labor (but not picketing) from a Contractor/Employer who has failed to pay its fringe benefit contributions or failed to meet its weekly payroll shall not be considered a violation of this Article.

4.1.5 Notification: If the City or any Contractor contends that any Union has violated this Article, it will so notify in writing the Senior Executive of the Council and the Senior Executive of the Union, setting forth the facts alleged to violate the Article, prior to instituting the expedited arbitration procedure set forth below. The Council will immediately use its best efforts to cause the cessation of any violation of this Article. The leadership of the Union will immediately inform the workers of their obligations under this Article. A Union complying with this obligation shall not be held responsible for the unauthorized acts of employees it represents.

4.2 Expedited Arbitration: Any party to this Agreement shall institute the following procedure, prior to initiating any other action at law or equity, when a breach of this Article IV is alleged to have occurred.

4.2.1 A party invoking this procedure shall notify Robert Hirsch, as the permanent arbitrator, or David Weinberg, as the alternate arbitrator, under this procedure. In the event the permanent arbitrator is unavailable at any time, the alternate will be contacted. If neither is available, the parties shall select the arbitrator from the list in Section 12.4. Notice to the arbitrator shall be by the most expeditious means available, with notice by email and

telephone to the City, the involved Contractor, and the party alleged to be in violation, and to the Council and involved local Union if a Union is alleged to be in violation.

4.2.2 Upon receipt of said notice, the City will contact the permanent arbitrator named above, or the alternate if the permanent arbitrator is not available, who will attempt to convene a hearing within twenty-four (24) hours if it is contended that the violation still exists.

4.2.3 The arbitrator shall notify the parties by email and telephone of the place and time for the hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's discretion, shall not exceed twenty-four (24) hours unless otherwise agreed upon by all parties. A failure of any party to attend said hearings shall not delay the hearing of evidence or the issuance of an award by the arbitrator.

4.2.4 The sole issue at the hearing shall be whether or not a violation of Section 4.1 of the Agreement has occurred. The arbitrator shall have no authority to consider any matter of justification, explanation or mitigation of such violation or to award damages, which issue is reserved for court proceedings, if any. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without a written opinion. If any party desires a written opinion, one shall be issued within fifteen (15) calendar days, but the parties shall not delay compliance with or enforcement of the award due to the issuance of a written opinion. The arbitrator may order cessation of the violation of this Article, and the arbitrator's award shall be served on all parties by hand or registered mail upon issuance. Should a party found in violation of this Article fail to comply with the arbitrator's award ordering the party to cease the violation, the party in violation shall pay to the affected party as liquidated damages the sum of ten thousand dollars (\$10,000.00) per shift for which it failed to comply, or portion thereof, until such violation is ceased. The arbitrator shall retain jurisdiction to resolve any disputes regarding the liquidated damages claimed under this section.

4.2.5 The arbitrator's award may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. The party filing such enforcement proceedings shall give written notice to the other party. In a proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all parties waive the right to a hearing and agree that such proceeding may be *ex parte*. However, such agreement does not waive any party's right to seek or participate in a hearing for a final order of enforcement. Any court order enforcing the arbitrator's award shall be served on all parties by hand or delivered by certified mail.

4.2.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure, or which interfere with compliance with the above procedure, are waived by the parties.

4.2.7 The fees and expenses of the arbitrator shall be divided equally between the party instituting the arbitration proceedings provided in this Article and the party alleged to be in breach of its obligation under this Article.

4.2.8 Should either the permanent or the alternate arbitrator identified above no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

**ARTICLE V**  
**PRE-JOB CONFERENCES**

5.1 Timing: The Project Manager shall convene and conduct, at a location and time mutually agreeable to the Council, a pre-job conference with the Unions and the representatives of all involved Contractors/Employers, who shall be prepared to announce craft assignments and discuss in detail the scope of work and the other issues set forth below, at least fourteen (14) calendar days prior to:

- (a) The commencement of any Project work, and
- (b) The commencement of Project work on any subsequently awarded Construction Contract.

5.2 The pre-job conference shall be attended by a representative of each participating Contractor and each affected Union, and the Council and City may attend at their discretion.

5.3 The pre-job conference shall include but not be limited to the following subjects:

- (a) A listing of each Contractor's scope of work;
- (b) The craft assignments;
- (c) The estimated number of craft workers required to perform the work;
- (d) Transportation arrangements;
- (e) The estimated start and completion dates of the work; and
- (f) Discussion of pre-fabricated materials.

5.4 Review Meetings: In order to ensure the terms of this Agreement are being fulfilled and all concerns pertaining to the City, the Unions and the Contractors are addressed, the Project Manager and Senior Executive of the Council, or designated representatives thereof, shall meet on a periodic basis during the term of construction. The City and the Council shall have the right to call a meeting of the appropriate parties to ensure the terms of this Agreement are being fulfilled.

**ARTICLE VI**  
**NO DISCRIMINATION**

6.1 The Contractors/Employers and the Unions agree to comply with all anti-discrimination provisions of federal, state, and local law, to protect employees and applicants for employment, on the Project.

**ARTICLE VII**  
**UNION REPRESENTATION AND REFERRAL**

7.1 The Contractors/Employers recognize the Unions as the sole bargaining representative of all craft employees performing Covered Work under this Agreement, and all

such employees must be represented by a Union for the duration of their employment on the Project.

7.2 The Contractors/Employers shall make and transmit all deductions for Union dues, fees, and assessments that have been authorized by employees in writing in accordance with the applicable Master Agreement. This Agreement does not require any employee of a non-Union contractor to join a Union or to pay dues or fees to a Union as a condition of working on the Project; however, nothing in this Article is intended to supersede the independent requirements of the applicable Master Agreements as to Contractors/Employers signatory to such Master Agreements and as to employees of those Contractors/Employers who are performing Covered Work.

7.3 Authorized representatives of the Unions shall have access to the Project whenever work covered by this Agreement is being, has been, or will be performed on the Project.

7.4 Contractor(s)/Employer(s) performing construction work on the Project shall, in filling craft job requirements, utilize and be bound by the registration facilities and referral systems established or authorized by the Unions signatory hereto. The Contractor(s)/Employer(s) shall have the right to reject any applicant referred by the Union(s), in accordance with the applicable Master Agreement.

7.5 Contractor(s)/Employer(s) shall have the unqualified right to select and hire directly all supervisors above the level of general foreman it considers necessary and desirable, without such persons being referred by the Union(s), unless such craft construction employee is covered by a Master Agreement.

7.6 In the event that referral facilities maintained by the Union(s) are unable to fill the requisition of a Contractor/Employer for employees within a forty-eight (48) hour period (Saturdays, Sundays and Holidays excluded) after such requisition is made by the Contractor/Employer, the Contractor/Employer shall be free to obtain the worker(s) from any source. A Contractor/Employer who hires a worker(s) pursuant to this section shall immediately provide the appropriate Union with the name and address of such worker(s) and shall immediately direct such worker(s) to the appropriate Union hiring hall to be referred for work on the Project.

## **ARTICLE VIII** **WAGES AND BENEFITS**

8.1 The Contractors/Employers agree to pay contributions to the vacation, pension and/or other deferred compensation plan, apprenticeship, worker protection and assistance, and health benefit funds established by the applicable Master Agreement(s) for each hour worked on the Project, in the amounts designated in the applicable Master Agreement(s).

8.2 By signing this Agreement, the Contractors/Employers adopt and agree to be bound by the written terms of the legally established Trust Agreements described in Section 8.1, which may from time to time be amended, specifying the detailed basis upon which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors/Employers

authorize the parties to such local Trust Agreements to appoint trustees and successor trustees to administer the Trust Funds and hereby ratify and accept the trustees so appointed as if they were appointed by the Contractors/Employers. The Contractors/Employers agree to execute a separate subscription agreement(s) when such Trust Fund(s) requires such document(s).

8.3 Wages, Hours, Terms and Conditions of Employment: The wages, hours and other terms and conditions of employment on the Project shall be governed by the Master Agreement of the respective craft, to the extent such Master Agreement is not inconsistent with this Agreement. Where a subject is covered by the Master Agreement and not covered by this Agreement, the Master Agreement will prevail. When a subject is covered by both the Master Agreement and this Agreement, to the extent there is any inconsistency, this Agreement will prevail.

8.4 Holidays: Holidays shall be as set forth in the applicable Master Agreement.

### **ARTICLE IX** **APPRENTICES**

9.1 Recognizing the need to develop adequate numbers of competent workers in the construction industry, including on public works projects, the Contractors/Employers shall employ apprentices from a California state-approved Joint Apprenticeship Training Program in their respective crafts, to perform such work as is within their capabilities and that is customarily performed by the craft in which they are indentured.

9.2 Apprentice ratios will be in compliance with the provisions of the California Labor Code and the applicable state prevailing wage determination.

9.3 Consistent with the Master Agreements, there shall be no restriction on the utilization of apprentices in performing the work of their craft provided they are properly indentured and supervised.

### **ARTICLE X** **HELMETS TO HARDHATS**

10.1 The Contractors/Employers and Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractors/Employers and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

10.2 The Unions and Contractors/Employers agree to coordinate with the Center to participate in an integrated database of veterans interested in working on the Project and of apprenticeship and employment opportunities for the Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

**ARTICLE XI**  
**COMPLIANCE**

11.1 It shall be the responsibility of the Contractors/Employers and Unions to investigate and monitor compliance with the provisions of Article VIII of this Agreement. Nothing in this Agreement shall be construed to interfere with or supersede the usual and customary legal remedies available to the Unions and/or employee benefit Trust Funds to collect delinquent wages or Trust Fund contributions from Contractors/Employers on the Project. Because the Project is a public work subject to the California Labor Code, the City shall monitor and enforce the Contractors/Employers' compliance with state prevailing wage requirements as well as this Agreement.

**ARTICLE XII**  
**GRIEVANCE ARBITRATION PROCEDURE**

12.1 Project Labor Disputes: All disputes involving the application or interpretation of a Master Agreement to which a Contractor/Employer and a Union are parties shall be resolved pursuant to the resolution procedures of the Master Agreement. All disputes relating to the interpretation or application of this Agreement, other than disputes under Article IV and Article XIII, shall be subject to resolution by the grievance arbitration procedures set forth in this Article.

12.2 Employee Discipline: All disputes involving the discipline and/or discharge of an employee working on the Project shall be resolved through the grievance and arbitration provisions contained in the Master Agreement for the craft of the affected employee. No employee working on the Project shall be disciplined or discharged without just cause.

12.3 No grievance shall be recognized unless the grieving party (Union or District Council on its own behalf, or on behalf of an employee whom it represents, or a Contractor/Employer on its own behalf) provides notice in writing to the party with whom it has a dispute within five (5) business days after becoming aware of the dispute but in no event more than thirty (30) business days after it reasonably should have become aware of the event giving rise to the dispute. Time limits may be extended by mutual agreement of the parties.

12.4 Grievances shall be settled according to the following procedures:

Step 1: Within five (5) business days after the receipt of the written notice of the grievance, the representative of the involved Union or District Council, or his/her designee, and the representative of the involved Contractor/Employer, shall confer and attempt to resolve the grievance.

Step 2: If the grievance is not resolved at Step 1, within five (5) business days of the Step 1 meeting or the conclusion of efforts to resolve the grievance at Step 1, the alleged grievance may be referred in writing by either involved party to the Business Manager(s) of the affected Union(s) involved and the Labor Relations Manager of the Contractor/Employer, or the Contractor/Employer's designated representative, for discussion and resolution. This time limit may be extended by mutual consent of both parties. Regardless of which party has initiated the grievance, the Union shall notify its International Union representative prior to the Step 2

meeting, and the International Union representative shall advise if it intends to participate in the Step 2 meeting. The Project Manager and the Council shall have the right to participate in any efforts to resolve the dispute at Step 2.

Step 3: If the grievance is not resolved at Step 2, either party may request the dispute be submitted to arbitration within five (5) business days of the Step 2 meeting or the conclusion of efforts to resolve the grievance at Step 2. This time limit may be extended by mutual consent of both parties. Within five (5) business days after referral of a dispute to arbitration, the representatives shall notify the permanent arbitrator designated in Article IV, or if not available, the alternate arbitrator designated in Article IV, for final and binding arbitration. If the permanent arbitrator or the alternate is not available, an arbitrator shall be selected by the alternate striking method from the list of three (3) below. The order of striking names from the list of arbitrators shall be determined by a coin toss, the winner of which shall decide whether they wish to strike first or second.

1. William Riker
2. Carol Vendrillo
3. Morris Davis

12.5 The decision of the arbitrator shall be final and binding on all parties. The arbitrator shall have no authority to change, amend, add to or detract from any of the provisions of the Agreement. The expense of the arbitrator shall be borne equally by both parties. The arbitrator shall arrange for a hearing on the earliest available date from the date of his/her selection. A decision shall be given to the parties within five (5) calendar days after completion of the hearing unless such time is extended by mutual agreement. A written opinion may be requested by a party from the presiding arbitrator.

12.6 The time limits specified at any step of the grievance procedure may be extended by mutual agreement of the parties. However, failure to process a grievance, or failure to respond in writing within the time limits provided above, without an agreed upon extension of time, shall be deemed a waiver of such grievance without prejudice, or without precedent to the processing and/or resolution of like or similar grievances or disputes.

12.7 In order to encourage the resolution of disputes and grievances at Steps 1 and 2 of this grievance procedure, the parties agree that such settlements shall not be precedent setting.

12.8 Retention: At the time a grievance is submitted under this Agreement or any Master Agreement, the Union(s) may request that the City withhold and retain an amount from what is due and owing to the Contractor(s) against whom the grievance is filed, or its higher-tier Contractor, sufficient to cover the damages alleged in the grievance, should the Union(s) prevail. The amount shall be retained by the City until such time as the underlying grievance giving rise to the retention is withdrawn, settled, or otherwise resolved, and the retained amount shall be paid to whomever the parties to the grievance shall decide, or to whomever an arbitrator shall so order.

12.9 Should any of the arbitrators listed in this Article XII or Article IV no longer work as a labor arbitrator, the City and the Council shall mutually agree to a replacement.

**ARTICLE XIII**  
**WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES**

13.1 The assignment of Covered Work will be solely the responsibility of the Employer performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of the Jurisdictional Disputes in the Construction Industry (the “Plan”) or any successor Plan.

13.2 All jurisdictional disputes on this Project between or among the building and construction trades Unions and the Employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Employers and Unions parties to this Agreement.

13.3 All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer’s assignment shall be adhered to until the dispute is resolved. Individual employees violating this section shall be subject to immediate discharge.

13.4 Each Employer will conduct a pre-job conference with the Council prior to commencing work. The City and the Project Manager will be advised in advance of all such conferences and may participate if they wish. Pre-job conferences for different Employers may be held together.

**ARTICLE XIV**  
**MANAGEMENT RIGHTS**

14.1 Consistent with the Schedule A agreements, the Contractor(s)/Employer(s) shall retain full and exclusive authority for the management of their operations, including the right to direct their work force in their sole discretion. No rules, customs or practices shall be permitted or observed which limit or restrict production, or limit or restrict the working efforts of employees, except that all lawful manning provisions in the Master Agreement shall be recognized.

**ARTICLE XV**  
**DRUG AND ALCOHOL TESTING**

15.1 The use, sale, transfer, purchase and/or possession of a controlled substance, alcohol and/or firearms at any time during the work day is prohibited.

15.2 Drug and alcohol testing shall be conducted in accordance with the substance abuse prevention policies set forth in the applicable Schedule A.

**ARTICLE XVI**  
**SAVINGS CLAUSE**

16.1 If any article, provision, clause, sentence or word of this Agreement is determined to be illegal or void as being in contravention of any applicable law, by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect. The parties further agree that if any article, provision, clause, sentence or word of the Agreement is determined to be illegal or void, by a court of competent jurisdiction, the parties shall substitute, by mutual agreement, in its place and stead, an article, provision, clause, sentence or word that will meet the objections to its validity and will be in accordance with its original intent.

16.2 In the event a decision of a court of competent jurisdiction materially alters the terms of this Agreement such that the intent of the parties is defeated, then the entire Agreement shall be null and void.

16.3 If a court of competent jurisdiction determines that all or part of the Agreement is invalid and/or enjoins the City from complying with all or part of the Agreement's provisions, and the City accordingly determines that compliance with this Agreement will not be required in order to perform work under a Construction Contract, the Unions will no longer be bound by the provisions of Article IV.

## **ARTICLE XVII** **TERM**

17.1 This Agreement shall be included in all bid documents, requests for proposals, or other equivalent Project solicitations, which shall indicate that entering into this Agreement is a condition of the award of a Construction Contract(s) for the Project.

17.2 This Agreement shall apply until the Completion of each Project in accordance with Sections 1.4 and 2.2.

17.3 This Agreement shall become effective on the day it is executed by the City and the Council. It shall remain in full force and effect for a period of five (5) years from the date of execution. Prior to each five (5) year anniversary of the effective date of this Agreement, the City and the Council shall meet to discuss proposed changes, if any, to the Agreement.

17.4 City and Council each retains the right to terminate the Agreement prior to the expiration of the Term, provided however that the terminating party provides at least 90 days' notice to the other party.

17.5 Absent termination or negotiation of a modified agreement as set forth above, the Agreement will continue for a successive five (5) year term.

## **ARTICLE XVIII** **MISCELLANEOUS PROVISIONS**

18.1 The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

18.2 This Agreement may be executed in counterparts, such that original signatures may appear on separate pages and when bound together all necessary signatures shall constitute an original. Faxed or emailed signature pages transmitted to other parties to this Agreement shall be deemed the equivalent of original signatures.

18.3 Each of the persons signing this Agreement represents and warrants that such person has been duly authorized to sign this Agreement on behalf of the party indicated, and each of the parties signing this Agreement warrants and represents that such party is legally authorized and entitled to enter into this Agreement.

18.4 The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

18.5 All defined terms used in this Agreement shall be deemed to refer to the singular and/or plural, in each instance as the context and/or particular facts may require.

[SIGNATURES TO FOLLOW]

CITY OF AMERICAN CANYON

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

NAPA-SOLANO BUILDING AND CONSTRUCTION  
TRADES COUNCIL

By: \_\_\_\_\_  
Danny Bernardini, Secretary-Treasurer

Date: \_\_\_\_\_

**[UNION SIGNATURES]**

**Addendum A**  
**AGREEMENT TO BE BOUND**

[Date]  
[Addressee]  
[Address]

Re: City of American Canyon Project Labor Agreement  
Agreement to be Bound

Dear \_\_\_\_\_:

The undersigned confirms that it agrees to be a party to and bound by the City of American Canyon Project Labor Agreement (“Agreement”) as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms.

By executing this Agreement to be Bound, the undersigned subscribes to, adopts and agrees to be bound by the written terms of the legally established trust fund documents as set forth in Section 8.1 of the Agreement, as they may from time to time be amended, specifying the detailed basis upon which contributions are to be made into, and benefits made out of, such trust funds, and ratifies and accepts the trustees appointed by the parties to such trust funds. The undersigned agrees to execute a separate subscription agreement(s) for such trust funds when such trust fund(s) require(s) such document(s).

The obligation to be a party to and bound by the Agreement shall extend to all work covered by the City of American Canyon Project Labor Agreement undertaken by the undersigned. The undersigned shall require all of its subcontractors, of whatever tier, to become similarly bound for all their work within the scope of the Agreement by signing an identical Agreement to be Bound.

This letter shall constitute a subscription agreement, to the extent of the terms of the letter.

CONTRACTOR/SUBCONTRACTOR: \_\_\_\_\_

California Contractor State License No. or Motor Carrier (CA) Permit No.: \_\_\_\_\_

Name of Authorized Person (print): \_\_\_\_\_

Signature of Authorized Person: \_\_\_\_\_

Title of Authorized Person: \_\_\_\_\_

Telephone Number of Authorized Person: \_\_\_\_\_

Address of Authorized Person: \_\_\_\_\_

State Public Works Registration Number: \_\_\_\_\_

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## City Council Committee Report

Submitted by: \* Councilmember Mark Joseph

Council Meeting Date: 06/20/2023

Event Date: Event Type Other

Event Title: \* City-related events and activities

- Event Report:
- **Diversity Training:** Along with Council and key staff, participated in a two-hour session on Diversity, Inclusion and Equity training, something the Council committed back in January to do. The training was good, and the "post-session" was even better! Hopefully, this will help us improve communications between Council members and staff, as well as sensitize us to our relations with the general public.
  - **OSATS Commission Meeting:** Attended the second session in which the new commission assembled their annual work plan for Council consideration on June 20. Since this is a new commission with expanded areas of responsibility, it was a little more challenging. But I think the end result was well thought out. I also think it may take a cycle or two before we refine the process.
  - **NVTA Agenda setting meeting:** Met with the Executive Director and Chair to review the monthly agenda. Nothing too consequential this month, other than we may be approving funds for EV Chargers in American Canyon!
  - **Middle School (ACMS) Promotion Day:** I, along with the rest of Council, was invited to participate in the Middle School Promotion. It is always exciting to see all the students and their families. It's also a great way to get a snapshot of the community! We have a lot of future leaders, that's for sure!
  - **League/North Bay Luncheon:** Very proud that American Canyon was the host for this quarter's meeting. We were able to showcase the Ruins and Lemos Pointe Apartments (an all affordable housing project). I think we are impressing our counterparts, and it was exciting to see the project shifting from ideas and plans to reality!

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Event Date: Event Type Other

Event Title: \* One-on-Ones

- Event Report:
- **Supervisor Ramos:** Met with Belia to discuss regional issues and how we can work together. Learned that she is likely in line to become ABAG President next year, which also means she could be on the Metropolitan Transportation Commission (MTC), right after Supervisor Pedroza steps down. This could be very important for American Canyon as we secure funding for our Highway 29 project.
  - **Former Council member Ken Leary:** Had lunch with Ken. Amongst other topics, we talked about LAFCO issues and the possibility of working on a new project that brings attention to the various areas of stewardship in the Napa Valley: land, water, sustainability and the environment.

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Event Date: Event Type Community Event

Event Title: \* Community Events and Activities

- Event Report:
- **ACHS Academic Decathlon:** I was invited to help with the speech-writing portion of this program. That was fun, even though all I did was critique and ask the students questions! I will return next school year, as they convert their ideas and outlines into real speeches.
  - **Napa County Democratic Central Committee:** Attended the monthly meeting. Most of the discussion was a debriefing on the recent Democratic Conference held in Southern California, and plans for upcoming events (4th of July parade in Napa; Napa Co. Fair)

- **ACAF Board Meeting:** The big topic was getting ready for the **Juneteenth event this Sunday, June 18, from 1-6pm at Main Street Park**. We also reviewed our successes at securing grants (we're at \$20-25,000 this year alone!), and discussed upcoming events (our annual High School Art event, a new "Battle of the Bands" as part of the August Meet Me In The Street event).
- **Meet Me in the Street:** Attended the first meeting for this season. It is growing better each year. We had more vendors and food trucks, so the lines weren't as long. Not as many classic cars, though. It was more fun for me this time, since I was more of a participant than a worker bee at one or more booths!! The Arts Foundation will help with activities for July (our Latin Celebration) and August, (our first "Battle of the Bands").
- **Kiwanis Food Distribution:** Helped with the food distribution, for the first time in several months. The turnout was lower this cycle--maybe due to the beginning of summer?

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7.2MB

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The City of American Canyon presents in partnership with  
**American Canyon Arts Foundation**

# JUNETEENTH Community

## Celebration of Freedom **FEST**

**Sunday June 18, 2023 1:00-6:00 p.m.**

**Main Street Park - 5500 Eucalyptus Dr., American Canyon, CA**

**POWER HOUR OF GOSPEL 1:00-2:00 p.m.**



**Master of Ceremonies**  
 Pastor Terrence Nichols  
 One Church



**Pastor James Williams**  
 Grace Pointe Faith Church



**Michael Nelson**



**JaCoree Prothro**

*Performances also by One Church Singers and Zumba Praise Dancers*

### JUNETEENTH KEYNOTE SPEAKER



**Dr. Lawrence VanHook**  
 Speaker – Buffalo Soldiers

### Juneteenth Mistress of Ceremonies



**Brenda Knight**

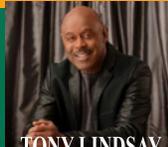
### JUNETEENTH LIVE ENTERTAINMENT LINE-UP

#### Dance Party with



**TOP SHELF**

11 Time GRAMMY WINNER



**TONY LINDSAY**

#### West Coast Caravan of All Stars



Featuring **Blues Legend**  
**Johnny Rawls**



**Eddie E from**  
 Prince & Sheila E



**Jeff Minnieweather**  
 On Drums



**Janice Maxie Reid** On Key Board

## ADMISSION IS FREE

Parking available at  
**WALMART**  
**VENDORS:**

Wine/Beer/Margaritas available for purchase  
 Father's Day Raffle Prizes

Host Hotel  
 Holiday Inn Express & Suites  
 Call 707-552-8100 for reservations  
 Deadline for special rate - 06/09/23

**KID ZONE 2-4 pm**  
 Sponsored by:  
**Napa Ford**

**Bring: Hats, Sunscreen, Lawn Chair, Blankets**

CoverEd Reserved VIP Seats available for \$30. Online at: [amcanart.org](http://amcanart.org)  
 For additional information contact: Brenda Knight Events - (707) 319-4773

**K-Style Sound**  
**Security-PJE Protection**

### SPECIAL THANKS TO OUR SPONSORS:

*American Canyon Tourism Improvement District (TBID)*

