



**CITY OF PITTSBURG
AGENDA**

OCTOBER 17, 2022

**CITY HALL COUNCIL CHAMBER
65 CIVIC AVENUE, PITTSBURG, CA**

**CLOSED SESSION
6:00 P.M.**

**REGULAR MEETINGS
7:00 P.M.**

**CITY COUNCIL
PITTSBURG ARTS AND COMMUNITY FOUNDATION
PITTSBURG POWER COMPANY
SOUTHWEST PITTSBURG GEOLOGIC HAZARD ABATEMENT DISTRICT II
SUCCESSOR AGENCY**

PRESIDING

**Holland Barrett White, Mayor/Chair
Shanelle Scales-Preston, Vice- Mayor/Chair
Juan Antonio Banales, Council Member/Board Member
Jelani Killings, Council Member/Board Member
Marilyn “Merl” Craft, Council Member/Board Member**

**FOR HOUSING AUTHORITY:
S.L. Floyd, Housing Authority Member
Annie Hill Herring, Housing Authority Member**

Pittsburg City Council meetings are held the first and third Mondays of each month at 7:00 p.m. The Housing Authority meets in conjunction with the City Council on the third Monday of each month. The Pittsburg City Council meets regularly in the Council Chamber at 65 Civic Avenue, unless otherwise noted above. The City Council also sits as the Board of Directors of several other City agencies. The stipends for all agency members conform to state statutes governing compensation amounts. All other Agencies meet on an as needed basis and will be listed above if applicable. Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except from noon to 1:00 p.m. and City holidays). The agenda and reports are also located on the City's website at www.pittsburgca.gov. Additionally, if any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports and documents will also be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

AUDIENCE REMARKS

The Audience Remarks period is for the public to comment on any items scheduled to be heard during the Closed Session portion of the meeting, if applicable.

6:00 P.M. - CONVENE IN CLOSED SESSION

1. CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Section 54957.6:
City designated representatives: Garrett Evans, Maria Aliotti, Jennifer Brizel
Employee organization: International Brotherhood of Electrical Workers Local 1295
2. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION pursuant to Section 54956.9(d)(1):
Save Mount Diablo v. City of Pittsburg et al., Contra Costa County Superior Court case no. CIVMSN21-0462

7:00 P.M. - CONVENE IN OPEN SESSION FOR REGULAR MEETING

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

PRESENTATIONS

3. Equity for Black Women and Girls

CITY MANAGER REPORTS/REMARKS

The City Manager may make brief announcements or informal comments at this time and brief the Council on items of interest. (No Action Required)

PUBLIC COMMENTS

Members of the audience who wish to address the City Council or Agency Boards on issues that are not scheduled for the agenda and on any items listed as part of the Consent Calendar should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given three minutes to address the Council unless additional time is allowed as provided for spokespersons. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. (No Action Required)

COMMITTEE REPORTS

Council Members may make a report on their committee assignments at this time. (see attached list of adhoc committees and other public agencies in which Council members participate). (No Action Required)

CITY COUNCIL MEETING

CONSIDERATION

4. Introduction and Waive First Reading of an Ordinance Amending Title 8.08 of the Pittsburg Municipal Code Regarding Sustainable Food Packaging and Condiments

Assembly Bill 1276 is designed to reduce plastic waste associated with excess packaging and undesired condiments at restaurants. This amended Ordinance will bring the City into compliance with AB 1276 and aims to decrease plastic in the landfill as well as plastic pollution in the streets and waterways of Pittsburg where it causes serious environmental harm.

5. Adoption of a City Council Resolution Authorizing the Acceptance and Appropriation of the Office of Traffic Safety Grant Funds for the Selective Traffic Enforcement Program (STEP)

The Pittsburg Police Department is seeking City Council authorization to accept and appropriate grant funds from the Office of Traffic Safety. The \$130,000 grant will provide resources to fund various traffic enforcement and safety programs.

6. Adoption of a City Council Resolution to Accept Project 2232, 2020/21 Pavement Maintenance Project as Complete and Authorize the City Engineer to File a Notice of Completion

Project 2232, Pavement Maintenance Project (the Project), consisted of resurfacing the pavement within Highland Meadows and Hillsdale subdivisions. This Resolution will accept the construction contract as complete and authorize the City Engineer to file a Notice of Completion. Fund 228 RMRA

CONFLICT OF INTEREST STATEMENT

City Council/Agency Members may make any conflict of interest declarations pertaining to Consent Calendar items at this time.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY, SUCCESSOR AGENCY AND SOUTHWEST PITTSBURG GHAD II CONSENT CALENDAR

7. Minutes of October 3, 2022
8. Adoption of a City Council Resolution Making Findings in Support of Continuing to Hold Public Subcommittee Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

Assembly Bill 361 (AB 361) amended the Brown Act to allow local legislative bodies to continue to meet remotely during proclaimed states of emergency under specified conditions. Findings must be made every 30 days.

9. Adoption of a City Council Resolution Authorizing the Execution of a Consultant Service Agreement with FirstCarbon Solutions for the Siena at San Marco (Units 16 and 17) Subdivision.

The proposed item would authorize the City Manager to execute a consultant service agreement with FirstCarbon Solutions (FCS) in an amount not to exceed \$214,168 for contract planning services related to the proposed development of land (Siena at San Marco) in San Marco "Village C" and "Village O" (Units 16 and 17) generally located in the northern portion of the San Marco development, with its northern boundary abutting State Highway 4.

10. Adoption of a City Council Resolution Accepting the Public Improvements for Subdivision 9497 - Vista Del Mar II

Public improvements constructed within Subdivision 9497, a 156-home development west of Alves Ranch Road also known as Vista Del Mar II are complete. Developer has requested city to accept public improvements for continuous maintenance.

11. Adoption of a City Council Resolution to Modify the Uniform Allowance and Amend the AFSCME Miscellaneous A and Management, Professional, Confidential Agreements

The City Manager, upon recommendation from the Director of Human Resources, recommends amendments to the uniform allowance sections of the American Federation of State, County & Municipal Employees (AFSCME) Memorandums of Understanding (MOUs). The City Council is asked to approve the amendments to the AFSCME Miscellaneous A and Management Professional Confidential Memorandums of Understanding.

12. Adoption of a City Council Resolution Making Findings in Support of Continuing to Hold Public Subcommittee Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

Assembly Bill 361 (AB 361) amended the Brown Act to allow local legislative bodies to continue to meet remotely during proclaimed states of emergency under specified conditions. Findings must be made every 30 days.

13. Adoption of a City Council Resolution Authorizing Execution of the Equipment Lease Purchase Agreement with Motorola Solutions to Replace the Police Radio System to Meet California Department of Justice Requirements

At its September 19, 2022, meeting, City Council authorized the City Manager to negotiate and execute an agreement with Motorola Solutions Inc. to upgrade all Police radio systems to include encryption of all radio traffic. Staff now recommends City Council authorization to execute the Equipment Lease Purchase Agreement and approval of the Certified Lessee Resolution, as required by the supplier.

14. Adoption of a City Council Resolution Authorizing City Manager to Execute First Amendment to Consulting Services Agreement with Anchor QEA and to Negotiate and Execute a Reimbursement and Indemnity Agreement with New York Landing Homeowners Association for Dredge Design

The City has a Consultant Agreement with Anchor QEA forThe City has a Consultant Agreement with Anchor QEA for marina dredge project and

construction management (Agreement). In preparation for a 2023 dredge project (Project) that includes the New York Landing Homeowners Association (HOA) waterway (Waterway), design services and approvals from the Dredged Material Management Office (DMMO) are needed to prepare construction bid documents. Staff seeks to amend the City's current Agreement to include the Waterway in the Project and allow the City Manager to negotiate reimbursement and Project terms with the HOA for dredging the Waterway.

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

Council Members may request items to be considered for future agendas. An item will only be brought forward with a majority vote and will appear on a future agenda with staff recommendations for further Council consideration.

COUNCIL MEMBER REMARKS

Council Members may make brief announcements or informal comments at this time. (No Action Required)

ADJOURNMENT TO November 7, 2022

NOTICE TO PUBLIC

GENERAL INFORMATION

Copies of the open session agenda packets, which are distributed to the City Council, are on file in the office of the City Clerk, 65 Civic Avenue, Pittsburg, California, and are available for public inspection, beginning 72 hours in advance, during normal business hours (8:00 a.m. – 5:00 p.m., Monday through Friday, except City holidays). The full packets are also located on the City's website at www.pittsburgca.gov. If any reports or documents, which are public records, are distributed to the City Council less than 72 hours before the meeting, those reports or documents will be available for public inspection in the City Clerk's Office and on the day of the meeting in the Council Chamber at the public counter area below the dais.

SPEAKER'S CARD

Members of the audience who wish to address the City Council on issues that are not scheduled for the agenda and on any items listed as part of the agenda should complete a Speaker's Card available at the dais. Please read the card carefully in order to fill out the card properly. Submit the completed card to the City Clerk before the item is called, preferably before the meeting begins. Individuals will be given up to three minutes to address the Council unless additional time is allowed as provided for spokespersons. Speakers are not permitted to yield their time to another speaker. Prior to speaking, each member of the public shall state their name and business and City of residence in a clear and audible tone of voice. Pursuant to the Brown Act, no action may be taken by the City Council on items not already scheduled on the agenda; however, the City Council may refer your comments/concerns to staff or request that the item be placed on a future agenda.

PUBLIC HEARINGS

Persons who wish to speak on Public Hearings listed on the agenda will be heard when the Public Hearing is opened, except on Public Hearing items previously heard and closed to public comment. After the public has commented, the item is closed to public comment and brought to the Council/Agency level for discussion and action. Further comment from the audience will not be received unless requested by the Council/Agency.

There is a 90-day limit for the filing of a challenge in the Superior Court to certain City administrative decisions and orders which require a hearing by law, the receipt of evidence, and the exercise of discretion. The 90-day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge an action taken by the City Council in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised in the public hearing, or in written correspondence delivered to the City Council prior to or at the public hearing. The City Council may be requested to reconsider a decision if the request is made prior to the next City Council meeting, regardless of whether it is a regular or special meeting.

NOTICE TO THE DISABLED AND VISUALLY OR HEARING IMPAIRED

In compliance with the Americans with Disabilities Act, the City of Pittsburg will provide special assistance for disabled citizens. Upon request, an agenda for any meeting shall be made available in appropriate alternative formats. The Council Chamber is equipped with sound amplifier units for use by the hearing impaired. The units operate in conjunction with the Chamber's sound system. You may request the sound amplifier from the City Clerk for personal use during Council meetings. If you need special assistance to participate in this meeting, or are requesting a specially formatted agenda, please contact the City Clerk at 925-252-4850. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format. (28 CFR 35.102-35.104 ADA Title II)

DISRUPTIVE CONDUCT

The Council requests that you observe the order and decorum of our Council Chamber by turning off or setting to vibrate all cellular telephones and electronic devices, and that you refrain from making personal, impertinent, or slanderous remarks. Boisterous and disruptive behavior while the Council is in session, and the display of signs in a manner which violates the rights of others or prevents others from watching or fully participating in the Council meeting, is a violation of our Municipal Code and any person who engages in such conduct can be ordered to leave the Council Chamber by the Mayor.

LIVE MEDIA BROADCASTING ADVISEMENT

City Council meetings are webcast live on the City's website at www.pittsburgca.gov on the Streaming Media page. Past meetings are also archived on that webpage.

Watch the live meeting via the City's webcast (www.pittsburgca.gov), or on Delta TV Comcast Channel 32, or Delta TV AT&T U-Verse Channel 99. For more information, please contact the City Clerk's office at 252-4850.

City Council Outside Agency / Liaison / Sub-Committees Assignments - 2022

Updated September 19, 2022

OUTSIDE AGENCY BOARDS

	<u>COUNCIL MEMBER(S)</u>	<u>TYPE</u>	<u>MEETS</u>	<u>STAFF</u>
ABAG	Shanelle Scales-Preston / Holland White Alt.	Standing	Annual	G. Evans
Delta Diablo**	Juan Banales / Shanelle Scales-Preston Alt.	Standing	2 nd Wednesday	R. Abono
East Co. Co. County Habitat Conservancy	Juan Banales / Jelani Killings Alternate	Standing	Monthly	J. Davis
East County Water Management	Juan Banales / Jelani Killings Alternate	Standing	Annual	R. Abono
MCE Clean Energy Board	Shanelle Scales-Preston / Holland White Alt.	Standing	4 Per Year	D. Buchanan
TRANSPLAN / ECCRFFA	Holland White / Juan Banales Alternate	Standing	2 nd Thursday	R. Abono
Tri-Delta Transit (2 reps)***	S. Scales-Preston & Merl Craft / Jelani Killings Alt.	Standing	Last Wednesday	R. Abono

LIAISON TO

	<u>COUNCIL MEMBER(S)</u>	<u>TYPE</u>	<u>MEETS</u>	<u>STAFF</u>
East Bay League of Calif. Cities	Shanelle Scales-Preston / Merl Craft Alt.	Standing	3 rd Thursday	*Rotational
Mayor's Conference	Holland White / Shanelle Scales-Preston Alt.	Standing	1 st Thursday	G. Evans
School Districts Committee (2x2)	Shanelle Scales-Preston & Merl Craft / Jelani Killings Alt.	Standing	2 nd Thursday even months	G. Evans

SUBCOMMITTEES

	<u>COUNCIL MEMBER(S)</u>	<u>TYPE</u>	<u>MEETS</u>	<u>STAFF</u>
American Rescue Plan Act (ARPA)	Holland White / S. Scales-Preston / Juan Banales Alt.	Ad Hoc	As needed	G. Evans
CAC CDBG Subcommittee	S. Scales-Preston & Jelani Killings / Holland White Alt.	Standing	As needed	M. Aliotti
City Council Policy and Procedures Review	Juan Banales & Merl Craft	Ad Hoc	As needed	G. Evans
City Infrastructure and Transportation	S. Scales-Preston & Juan Banales / Holland White Alt.	Standing	As needed	R. Abono
Community Services Subcommittee	Merl Craft & Shanelle Scales-Preston / Juan Banales Alt.	Standing	As needed	M. Aliotti
Constituent Management Services	S. Scales-Preston & Juan Banales / Holland White Alt.	Ad Hoc	As needed	G. Evans
Economic Develop/Waterfront Subcommittee	Jelani Killings & Holland White / S. Scales-Preston Alt.	Standing	As needed	J. Davis
Finance Subcommittee	Juan Banales & Holland White / S. Scales-Preston Alt.	Standing	As needed	P. Rodrigues
Government Performance Subcommittee	Holland White & Jelani Killings	Ad Hoc	As needed	G. Evans
Hills Committee	Juan Banales & Jelani Killings / Merl Craft Alt.	Ad Hoc	As needed	G. Evans
Land Use Subcommittee	Juan Banales & Holland White / S. Scales-Preston Alt.	Standing	As needed	J. Davis
Los Medanos Health Advisory Committee	S. Scales-Preston & Jelani Killings	Ad Hoc	As needed	G. Evans
My Brothers Keeper Subcommittee	S. Scales-Preston & Jelani Killings	Ad Hoc	As needed	G. Evans
Pittsburg Arts & Community Foundation	Merl Craft & S. Scales-Preston / Jelani Killings Alt.	Standing	As needed	G. Evans
Pittsburg Police Activities League (PAL)	Holland White & S. Scales-Preston / Jelani Killings Alt.	Standing	Monthly	B. Addington
Pittsburg Recognition Committee	Holland White / Shanelle Scales-Preston Alt.	Standing	As needed	K. Simonton
Power Company Advisory	Holland White & S. Scales-Preston / Juan Banales Alt.	Standing	As needed	D. Buchanan
Public Safety Subcommittee	Holland White & Shanelle Scales-Preston	Standing	As needed	B. Addington
Sister City Committee	Jelani Killings & Holland White / Merl Craft Alt.	Standing	As needed	K. Simonton
Tobacco, Cannabis, Alcohol Policy Review	Shanelle Scales-Preston & Jelani Killings	Ad Hoc	As needed	G. Evans

*Rotational Staff as assigned by City Manager

**Stipend of \$170 per month

***Stipend of \$100 per month



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Introduction and Waive First Reading of an Ordinance Amending Title 8.08 of the Pittsburg Municipal Code Regarding Sustainable Food Packaging and Condiments

MEETING DATE: October 17, 2022

EXECUTIVE SUMMARY

Assembly Bill 1276 (AB 1276) is designed to reduce plastic waste associated with excess packaging and undesired condiments at restaurants. This amended Ordinance will bring the City into compliance with AB 1276 and aims to decrease plastic in landfills as well as plastic pollution in the streets and waterways of Pittsburg where it causes serious environmental harm.

FISCAL IMPACT

The proposed Ordinance has no impact on the General Fund. Development of an enforcement mechanism, defining enforcement obligations, and conducting public outreach are significant steps in reaching compliance with AB 1276. Staff time and activities associated with the proposed Ordinance will be managed and financed through the Solid Waste Fund.

RECOMMENDATION

City Council move to introduce and waive first reading of Ordinance amending Chapter 8.08 of the Pittsburg Municipal Code Regarding Sustainable Food Packaging and Condiments.

BACKGROUND

In 2018, the City adopted Chapter 8.08 "Sustainable Food Packaging – Polystyrene Products Regulation" to regulate the use and sale of polystyrene products as polystyrene is not biodegradable and breaks down easily into small pieces making it difficult and expensive to remove from the environment and keep from filling landfills.

Disposable foodware like plastic forks, knives, and straws affect the environment and landfills similarly, and in 2018, former Governor Jerry Brown signed Assembly Bill 1884 (AB 1884) prohibiting full-service restaurants from providing single-use plastic straws to consumers unless requested by the consumer. AB 1884 directed local health and environmental health officers and their agents to enforce the plastic straw regulation.

On October 5, 2021, Governor Newsom signed AB 1276, which expands the scope of AB 1884 by prohibiting food providers and third-party food delivery platforms from providing disposable foodware, such as cutlery, straws, and condiment packets to a consumer unless requested by the consumer.

SUBCOMMITTEE FINDINGS

On September 26, 2022, staff presented AB 1276 to the Economic Development and Waterfront Subcommittee noting that an amendment to Chapter 8.08 was forthcoming and received no opposing comments.

STAFF ANALYSIS

Like Chapter 8.08, AB 1276 is designed to reduce plastic waste associated with excess packaging and undesired condiments. The intended outcome of implementing the proposed Ordinance update is to decrease plastic in landfills as well as plastic pollution in the streets and waterways of Pittsburg where it causes serious environmental harm. To achieve compliance with AB 1276, the proposed Ordinance updates:

- Expand and define sustainable food packaging items besides polystyrene as disposable foodware and standard condiments including:
 - Utensils, which are defined as forks, knives, spoons, and sporks
 - Chopsticks
 - Condiment cups and packets
 - Straws
 - Stirrers
 - Splash sticks
 - Cocktail sticks
- Establish complaint-based enforcement mechanisms by:
 - Updating the City's responsible enforcement party to Enforcement Official, consistent with the City's other existing solid waste regulations
 - Expanding enforcement in the existing chapter beyond polystyrene products to disposable foodware and standard condiments
- Establish fines for foodware and condiment infractions in alignment with state law and reduce previously adopted fines for polystyrene infractions
- Delineate those exempt and non-exempt from this legislation
- Address third party food delivery platforms like Uber Eats, Grub Hub, Door Dash, etc.
- Change the title of Chapter 8.08 from Sustainable Food Packaging – Polystyrene Products Regulation” to “Sustainable Food Packaging and Condiments”

The City has contacted the Pittsburg Chamber of Commerce and Sustainable Contra Costa to conduct outreach to the business community and consumers. Staff will continue working within the Pittsburg community to build awareness of the provisions of the proposed Ordinance. It is expected that restaurants and businesses will experience a positive fiscal impact due to the distribution of less inventory.

Following this introduction of the Ordinance amending Chapter 8.08 Sustainable Food Packaging – Polystyrene Products Regulation, the item will return for adoption at the next regular City Council meeting thereafter and go into effect thirty (30) days after adoption.

ATTACHMENTS: Ordinance Amending Chapter 8.08 “Sustainable Food Packaging and Condiments”

Report Prepared By: Sara Bellafronte, Senior Administrative Analyst

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Ordinance of the City of Pittsburg	)	
Amending Chapter 8.08 of the Pittsburg	)	ORDINANCE NO. 22-
Municipal Code Regarding Sustainable Food	)	
<u>Packaging And Condiments</u>	)	

WHEREAS, in 2021, the California State legislature passed and the Governor signed Assembly Bill 1276 to regulate single-use foodware accessories and standard condiments; and

WHEREAS, the new law requires a city to authorize an enforcement agency to enforce the requirements of the law.

NOW, THEREFORE, the City Council of the City of Pittsburg Does ORDAIN as follows:

SECTION 1. Amendment to the Pittsburg Municipal Code Chapter 8.08. Chapter 8.08 of the Pittsburg Municipal Code is hereby amended to read as follows:

(New language is in ***bold italic***, deleted language-is in ~~strikethrough~~)

Chapter 8.08

SUSTAINABLE FOOD PACKAGING ***AND CONDIMENTS*** POLYSTYRENE
PRODUCTS REGULATION

Sections:

- 8.08.010 Purpose.
- 8.08.020 Definitions.
- 8.08.030 Permitted and prohibited ~~food service ware~~ ***foodware***
- 8.08.040 Prohibition on sale of polystyrene ~~food service ware and~~ ***foodware***
polystyrene coolers.
- 8.08.050 Exemptions.
- 8.08.060 Certification of compliance.
- 8.08.070 Enforcement and violation - Penalty

8.08.010 Purpose.

The purposes of this chapter are ***to reduce excess packaging and undesired condiments and prohibit disposable foodware accessories from being bundled or packaged in a way that prohibits the consumer from taking only the item desired, and to*** eliminate and regulate the use of polystyrene products in order to protect the health of Pittsburgh citizens and promote environmentally sustainable practices in the city.

8.08.020 Definitions.

As used in this chapter, unless the context otherwise clearly indicates, the words and phrases are defined as follows:

“ASTM standard” means meeting the standards of the American Society for Testing and Materials (ASTM) International standards D6400 or D6868 for compostable materials, as those standards may be amended.

“City contractor” means any person that enters into an agreement with the city to furnish products or services to or for the city.

“City facility” means any building, structure, property, park, open space, or vehicle, owned or leased by the city, its agents, agencies, departments or franchisees.

“City-sponsored event” means any event, activity or meeting organized or sponsored, in whole or in part, by the city or any department of the city.

“Compostable” means the product is capable of composting, ***accepted by the franchised hauler as compostable***, and is labeled in accordance with California law, or is consistent with the timeline and specifications of ASTM D6400 and D6868, without regard to material type.

“Consumer” means a person is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food provider, and does not offer the food for resale.

“Correctional Institution” means any state prison, county jail, city jail, Division of Juvenile Justice facility, county- or city-operated juvenile facility, including juvenile

halls, camps, or schools, or any other state or local correctional institution, including a court facility.

“Disposable ~~food service ware~~ **foodware**” or “disposables” means single-use, disposable products used for eating, serving or transporting prepared food, including but not limited to ***utensils (forks, knives, spoons, and sporks), chopsticks, condiment cups and packets, straws, stirrers, splash sticks, cocktail sticks, plates, bowls, trays, wrappers*** or wrapping, platters, cartons, condiment containers, cups or drink ware, lids, or any other container in or on which prepared foods are placed or packaged for consumption, and other items that are designed for one-time use for prepared foods including service ware for take-out foods and/or leftovers from partially consumed meals prepared by food providers.

“Establishment” means a place of business of a Food Provider or other person subject to the requirements of this chapter.

“Food ~~p~~**Provider**” means any person or place that ***stores, provides, prepares, serves, vends, packages*** or sells, prepared food within the city to the general public to be consumed ***by humans*** on the premises or for take-away consumption. Food provider includes but is not limited to: (1) a grocery store, supermarket, restaurant, drive-through, cafe, coffee shop, snack shop, sandwich shop, hotel, motel, movie house, theatre, bar, public food market, farmers’ market, convenience store, or similar fixed place where prepared food is available for sale on the premises or for take-away consumption, and (2) any mobile store, food vendor, caterer, food truck, vending machine or similar mobile outlet where prepared food is available for sale on the premises or for take-away consumption. Food provider also includes any organization, group or other person that regularly provides prepared food to its members or the general public as a part of its activities or services, ***except at set forth in subsection 8.08.050 below.***

“Person” means any person, business, corporation, or event organizer or promoter; public, nonprofit or private entity, agency or institution; or partnership, association or other organization or group, however organized.

“Polystyrene” means a thermoplastic petrochemical material utilizing the styrene monomer, including but not limited to polystyrene foam or expanded polystyrene, (sometimes incorrectly called Styrofoam™, a Dow Chemical Co. trademarked form of expanded polystyrene foam insulation) processed by any number of techniques, including but not limited to fusion of polymer spheres (expandable bead polystyrene),

injection molding, foam molding, or extrusion-blow molding (extruded foam polystyrene), and clear or solid polystyrene (oriented polystyrene). The recycle code for polystyrene is “6” or “PS,” either alone or in combination with other letters. This definition applies to all polystyrene ~~food service ware~~ **foodware** and other products, regardless of whether it exhibits a recycle code. Expanded polystyrene (EPS) is generally used to make such items as cups, bowls, plates, trays, clamshell containers, meat trays and egg cartons.

“Polystyrene cooler” means any cooler or ice chest made of polystyrene foam, where such foam is not fully encased in another material by its original manufacturer.

“Polystyrene ~~food service ware~~ **foodware**” means disposable ~~food service ware~~ **foodware** that contains or utilizes polystyrene.

“Prepared food” means any food or beverage that is: (1) ready to consume without any further food preparation, alteration or repackaging; and (2) prepared, provided, sold or served by a food provider using any cooking, packaging or food preparation technique. Prepared food may be eaten either on or off the food provider’s premises. Prepared food does not include: (1) any raw uncooked meat, poultry, fish or eggs, unless provided for consumption without further food preparation, and (2) fresh produce provided for consumption without food preparation or repackaging, including fruits, vegetables, and herbs, sold by grocery stores, supermarkets, food markets, farmers’ markets and other food vendors.

“Ready-to-eat food” means food that is in a form that is edible without additional preparation to achieve food safety, is raw or partially cooked food of animal origin and the consumer is advised as such, or may receive additional preparation for palatability or aesthetic, epicurean, gastronomic, or culinary purposes.

“Recycle code” means a resin identification code placed on certain goods to identify the material composition for separation of different types of goods for recycling. ***“Single-use” means designed to be used once and then discarded, and not designed for repeated use and sanitizing.***

“Standard Condiment” means relishes, spices, sauces, confections, or seasoning that require no additional preparation and that are usually used on a food item after preparation, including ketchup, mustard, mayonnaise, soy sauce, hot sauce, salsa, salt pepper, sugar, and sugar substitutes.

“Third-party food delivery platform” has the same meaning as in section 113930.5 of the Health and Safety Code.

8.08.030 Permitted and prohibited ~~food service ware~~ **foodware**.

A. No food provider shall distribute or sell any polystyrene ~~food service ware~~ **foodware** in conjunction with the sale or distribution of prepared food at any location within the city.

B. Food providers that distribute prepared food in disposable ~~food service ware~~ **foodware** shall: (1) distribute only disposables that exhibit a recycle code other than No. 6 or PS or which are reusable or compostable, and (2) maintain documentation about the composition of the disposable ~~food service ware~~ **foodware**. Documentation may include information from the supplier, manufacturer, or bulk packaging of the disposables, and any other relevant information demonstrating that the disposable material is not polystyrene.

C. No person shall distribute or sell prepared food in any polystyrene ~~food service ware~~ **foodware** at city facilities that have been rented, leased or are otherwise being used with permission of the city. This subsection is limited to use of city facilities for which a person has entered into an agreement with the city to rent, lease or otherwise occupy a city facility. All facility rental agreements for any city facility shall include a provision requiring contracting parties to assume responsibility for preventing the utilization and/or distribution of polystyrene ~~food service ware~~ **foodware** while using city facilities. The facility rental agreement shall indicate that a violating contractor's security deposit will be forfeited if the city manager or his designee determines that polystyrene ~~food service ware~~ **foodware** was used in violation of the rental agreement.

D. No person shall use or distribute polystyrene ~~food service ware~~ **foodware** at city-sponsored events, city-managed concessions, or city meetings open to the public. This subsection shall apply to the function organizers, agents of the organizers, city contractors, food providers and any other person that enters into an agreement with one or more of the function organizers to sell or distribute prepared food or otherwise provide a service related to the function. For the purpose of this section, a “function organizer” means the person(s) principally responsible for making decisions about a function's date, time, location, program, choice of vendors, or similar decisions.

E. The city, its departments, and its city contractors, agents, and employees acting in their official capacity, shall not purchase or acquire polystyrene-food service ware **foodware**, or distribute it for public use.

F. Except as provided in (H) and (I), below, a food provider, for on-premises dining or when using a third-party food delivery platform, shall not provide any disposable foodware or standard condiment packaged for single use to a consumer unless the disposable foodware accessory or standard condiment is requested by the consumer.

G. Disposable foodware and standard condiments packaged for single use provided by food providers for use by consumers shall not be bundled or packaged in a manner that prohibits a consumer from taking only the type of disposable foodware or standard condiment desired without also having to take a different type of disposable foodware or standard condiment.

H. A food provider may ask a drive-through consumer if the consumer wants disposable foodware if the disposable foodware is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.

I. A food provider that is located entirely within a public use airport, as defined in section 77.3 of Title 14 of the Code of Federal Regulations, may ask a walk-through consumer if the consumer wants disposable foodware if the disposable foodware is necessary for the consumer to consume ready-to-eat food, or to prevent spills of or safely transport ready-to-eat food.

J. A third-party food delivery platform shall provide consumers with the option to request disposable foodware or standard condiments from a food provider serving ready-to-eat food.

(1) If a food provider uses any third-party delivery platform for ready-to-eat food, the food provider shall customize its menu with a list of available disposable foodware and standard condiments, and only the disposable foodware or standard condiments selected by the consumer shall be provided by the food provider. If a consumer does not select any disposable foodware or standard condiments, no disposable foodware or standard condiment shall be provided by the food provider for delivery of ready-to-eat food.

K. Nothing in this section shall prohibit a food provider from making unwrapped disposable foodware available to a consumer using refillable self-service dispensers that dispense one item at a time to allow for disposable foodware to be obtained.

L. Nothing in this section shall prohibit a food provider from making standard condiments available to a consumer using refillable self-service dispensers to allow for standard condiments to be obtained. A food provider that offers standard condiments is encouraged to use bulk dispensers for the condiments rather than condiments packaged for single use. All food providers using any disposable ~~food ware~~ **foodware** for providing prepared food to customers will use compostable or recyclable disposable ~~food ware~~ **foodware** ~~that~~ is accepted by the local franchise hauler.

GM. A food provider may charge a “take-out fee” to customers to cover the cost difference.

8.08.040 Prohibition of sale of polystyrene ~~food service ware~~ **foodware** and polystyrene coolers. No person shall sell any polystyrene ~~food service ware~~ **foodware** or polystyrene cooler at any location within the city.

8.08.050 Exemptions.

A. Regarding all disposable foodware except polystyrene foodware, the following are exempt from the provisions of this chapter:

- 1. Correctional Institutions.***
- 2. Health care facilities licensed pursuant to Article 1 of Chapter 2 of Division 2 of the Health and Safety Code (commencing with section 1250), or facilities that are owned or operated by a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (commencing with Health & Safety Code section 1340).***
- 3. Residential care facilities licensed pursuant to Division 2 of the Health and Safety Code (commencing with section 1200).***
- 4. Public and private school cafeterias.***

B. Regarding polystyrene foodware, the following are exempt from the provisions of this chapter:

1. Food prepared or packaged outside of the city, provided such food is not altered, packaged or repackaged within the city limits.
- ~~2. Coolers and ice chests, other than those defined as polystyrene coolers in this chapter.~~

~~3. Disposable food service ware composed entirely of aluminum.~~

4.2. Food brought by individuals for personal consumption to city facilities, including but not limited to city parks and facilities, provided the city facility is being used for individual recreation or similar purposes.

C. ~~5. The city manager or his/her designee~~ **enforcement official as defined in chapter 8.04** may temporarily suspend the provisions of this chapter for the immediate preservation of the public health, safety, or welfare in the event of an emergency or disaster as determined in his or her sole discretion.

DB. Food providers that are obligated to purchase or have purchased polystyrene ~~food service ware~~ **foodware** under a contract entered into within the year prior to the effective date of the ordinance codified in this chapter are exempt from the provisions of this chapter for six months following its effective date.

E. ~~The city manager or his/her designee~~ **enforcement official** may temporarily exempt any person from chapter ~~8.08 8.08.030~~ following the operative date of the ordinance codified in this chapter, as follows:

1. A request for an exemption shall be filed in writing with the ~~city manager or his/her designee~~ **enforcement official** and shall include documentation of the reason for the claimed exemption and any other information necessary for the city to make its decision. The city may require the applicant to provide additional information as necessary to make the required determinations.

2. The ~~city manager or his/her designee~~ **enforcement official** may approve the exemption for a maximum of one year, with or without conditions, upon finding that compliance would create an undue hardship. If the applicant requests to use or sell specific items or types of disposable ~~food service ware~~ **foodware**, the ~~city manager or his/her designee~~ **enforcement official** shall find that a suitable compostable, reusable or recyclable alternative does not exist for a specific application and/or that imposing the requirements of this chapter on that item or type of disposable ~~food service ware~~ **foodware** would cause undue hardship.

3. An applicant granted an exemption shall reapply prior to the end of the one-year exemption period and demonstrate continued undue hardship if the applicant wishes to have the exemption extended. The ~~city manager's or his or her~~

designee's **enforcement official's** decision to grant or deny an exemption or to grant or deny an extension of a previously issued exemption shall be in writing and shall be final.

8.08.060 Certification of compliance.

A. All food providers subject to PMC ~~8.088-08-030~~ shall certify compliance with **polystyrene-related provisions of** this chapter on an annual basis. Such reporting must be done on a form prescribed by the city manager, and must be signed by a responsible agent or officer of the food provider confirming that the information provided on the form is accurate and complete. All reporting must be submitted no later than 45 days after the end of each calendar year.

B. If the reporting form covering the food provider's first year is submitted on time and is compliant with this chapter, then the food provider shall participate in self-recertification reporting each subsequent year by completing and keeping the annual report on site and available to the city manager and/or his designee. Each food provider shall also keep records that verify data in each year's on-site report. A food provider that participates in self-recertification may destroy the completed reports and related records after five years have elapsed since the date of the report.

C. If the reports required by this section are not timely submitted by a food provider, or not maintained in compliance with subsection (B) of this section, such food provider shall be subject to the fines set forth in PMC 8.08.070 and or be required to submit annual reporting to the city as provided in subsection (A) of this section, in addition to on-site inspections.

8.08.070 Enforcement and violation – Penalty.

A. Violation of this chapter is hereby declared a public nuisance; this chapter shall be enforced in accordance with PMC 1.20.030, except as modified below or by any other applicable law.

B. No person owning, leasing, occupying or having charge or possession of any property in the city shall maintain a public nuisance under PMC 1.20.020, which includes, but is not limited to, leaving or storing any polystyrene packaging materials, polystyrene coolers, or polystyrene food service ware **foodware** outside an enclosed building or structure.

~~C. The city manager and code enforcement officer have~~ **enforcement official as defined in Chapter 8.04 has** primary responsibility for enforcement of this chapter. The ~~city manager's office~~ **enforcement official** is authorized to promulgate regulations and to take any and all other actions reasonable and necessary to enforce this chapter, including, but not limited to, investigating violations, issuing citations, assessing fines and entering the premises of any establishment subject to this chapter during business hours. Other city staff may assist with this enforcement responsibility by entering the premises of an establishment as part of their regular inspection functions and reporting any alleged violations to the city manager.

~~D. If the city manager or code enforcement officer~~ **enforcement official** determines that a violation of this chapter has occurred, he/she shall issue a **notice of violation** ~~written citation to the operator of a subject establishment that a violation has occurred and the potential penalties that will apply for future violations.~~

~~E. Any person that violates or fails to comply with any of the requirements of this chapter after a written citation has been issued for that violation shall be guilty of an infraction.~~

~~FE. If a person has subsequent violations of this chapter that are similar in kind to the first violation addressed in a written citation, the following penalties shall be imposed and shall be payable by the operator of the establishment to the city of Pittsburgh:~~ **Any subsequent violation of the same section of this chapter shall be subject to enforcement as follows:**

1. Issue a second notice of violation.

2. Upon a third violation, issue a written citation publishable by a fine of twenty-five dollars (\$25) for each day in violation, not to exceed three hundred dollars (\$300) annually. Any person that violates or fails to comply with any of the requirements of this chapter after a second notice of violation has been issued for that violation shall be guilty of an infraction.

F. All penalties imposed shall be payable by the operator of the establishment to the City of Pittsburgh ~~fine not exceeding \$100.00 for the first violation after the written citation is given;~~

~~2. A fine not exceeding \$200.00 for a second violation of the same section within 12 months; or~~

~~3. A fine not exceeding \$500.00 for a third and any subsequent violations of the same section within 12 months.~~

b. 1. All fines collected pursuant to this chapter shall be deposited in the police support services – administrative citations account to assist code enforcement with its costs of implementing and enforcing the requirements of this chapter.

c. 2. Any operator of an establishment that receives a ~~written~~ citation may request an administrative review of the accuracy of the determination or the propriety of any citation issued, by filing a request for appeal with the city manager no later than 30 days after receipt of a ~~written~~ citation. The notice of appeal must include all facts supporting the appeal and any statements and evidence, including copies of all written documentation and a list of any witnesses that the appellant wishes to be considered in connection with the appeal, and an appeal fee in the amount set by resolution of the city council. Failure to timely request a hearing or to pay the appeals processing fee constitutes a waiver of the right to appeal and a failure to exhaust administrative remedies. The appeal will be heard by a hearing officer designated by the city manager.

d. 3. The hearing officer shall conduct a hearing concerning the appeal within 45 days from the date that the notice of appeal is filed, or on a later date if agreed upon by the appellant and the city of Pittsburg, and shall give the appellant 10 business days' prior citation of the date of the hearing. The hearing officer may sustain, rescind, or modify the written citation, by written decision. The written decision shall be served on the appellant. The hearing officer shall have the power to waive any portion of the fine in a manner consistent with the decision. The decision of the hearing officer is final and effective on the date of service of the written decision, is not subject to further administrative review, and constitutes the final administrative decision.

SECTION 2. CEQA.

The project is exempt from the requirements of the California Environmental Quality Act (CEQA) under categorical exemption Class 7, "Actions by Regulatory Agencies for Protection of Natural Resources," of the state CEQA Guidelines, Section

15307, because it is required to comply with California law for protection of the environment by reducing the amount of organics going to landfills.

SECTION 3. Severability.

If any section, subdivision, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

SECTION 4. Publication.

The ordinance shall be posted and published in accordance with the California Government Code.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Pittsburg held on October 17, 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing the Acceptance and Appropriation of the Office of Traffic Safety Grant Funds for the Selective Traffic Enforcement Program (STEP)

MEETING DATE: October 17, 2022

EXECUTIVE SUMMARY

The Pittsburg Police Department is seeking City Council authorization to accept and appropriate grant funds from the Office of Traffic Safety. The \$130,000 grant will provide resources to fund various traffic enforcement and safety programs.

FISCAL IMPACT

There is no impact to the City's General Fund. Upon award of the grant funds, the Police Department is requesting appropriation of \$130,000 to the Fiscal Year (FY) 2022/23 budget to fund overtime costs for supervisors, uniformed officers, and civilian staff to conduct (5) driving under the influence (DUI) checkpoint operations, (13) DUI roving patrols, (5) collaborative DUI enforcement operations, (32) Traffic Enforcement Operations, in-state travel for approved DUI enforcement schools, and DUI enforcement equipment. State funds allocated under this agreement shall not exceed \$130,000.

RECOMMENDATION

Staff recommends City Council approval of the attached resolution authorizing the acceptance and appropriation of funds and authorizing the City Manager or designee to act on the City's behalf relative to this grant including the establishment of necessary fiscal accounting.

BACKGROUND

The goal of the Selective Traffic Enforcement Program (STEP) is to induce motorists to drive safely. To achieve this goal, the STEP model combines intensive enforcement of a specific traffic safety law with extensive communication, education, and outreach informing the public about the enforcement activity. First used in Canada, the evolution of STEP has brought high-visibility enforcement campaigns popularized by the National Highway Traffic Safety Administration's Click It or Ticket seat belt program.

SUBCOMMITTEE FINDINGS

This item was presented to the Public Safety Subcommittee on October 4, 2022.

STAFF ANALYSIS

The premise of the STEP model is that an individual's discomfort or fear of being stopped for a traffic safety violation outweighs the desire not to comply with the law. Like any good deterrence program designed to change motorists' behavior, STEP is conducted throughout the year to maintain positive behavior, public awareness, and law enforcement engagement.

The major organizational components of a STEP are project staffing and management, problem identification and goal setting, and program and evaluation design. Each of these three components are vital to the success of a STEP.

For Pittsburgh, the goal of the STEP is to reduce the number of victims killed and injured in all automobile crashes. This includes alcohol related and all other primary collision factor incidents. The Police Department will conduct selective traffic operations, DUI roving patrols, and a motorcycle safety operation as well as provide additional training related to DUI enforcement during a twelve month grant period to meet this goal. These operations are very effective forms of enforcement and increase the perception of the risk of arrest if they are adequately publicized and highly visible to the public.

ATTACHMENTS: Resolution

Report Prepared By: Steve Albanese, Chief of Police

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Authorizing Acceptance and Appropriation of)
The Office of Traffic Safety Selective Traffic) RESOLUTION NO. 22-
Enforcement Program (STEP) Grant)

WHEREAS, the Pittsburgh Police Department has applied for and was awarded \$130,000 in grant program funds from the Office of Traffic Safety Selective Traffic Enforcement Program (STEP) Grant; and,

WHEREAS, the grant funds are intended to pay the City's overtime costs for supervisors, uniformed officers and civilian staff to conduct selective traffic enforcement operations including; driving under the influence (DUI) checkpoints, DUI roving patrols, collaborative roving patrols, equipment and travel during the one year grant period; and

WHEREAS, staff recommends that the City accept these funds and authorize their use for local law enforcement actions as proposed in the grant application and in this Resolution.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the City Manager or designee to accept funds on the City's behalf relative to this grant, including the establishment of necessary fiscal accounting and execution of all necessary documents.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 17th day of October 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Accepting Project 2232—
Pavement Maintenance Fiscal Year 2020/21 as Complete and
Authorizing the City Engineer to File a Notice of Completion

MEETING DATE: October 17, 2022

EXECUTIVE SUMMARY

Project 2232—Pavement Maintenance Fiscal Year 2020/21 (Project) consisted of pavement resurfacing in the Highland Meadows and Hillsdale subdivisions. This resolution will accept the construction contract as complete and authorize the City Engineer to file a Notice of Completion.

FISCAL IMPACT

The Project was funded by \$322,427 from Project 2224—Pavement Maintenance FY 2019/20, \$200,000 from Fund 203 Highway User Tax Account (HUTA), and \$327,648 from Project 2024—Pavement Maintenance Fiscal Year (FY) 2021/22.

After payment of all expenditures, the remaining balance will be returned to the source for use on future pavement maintenance projects. A Budget Summary is attached as Exhibit A.

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution accepting Project 2232—Pavement Maintenance FY 2020/21 as complete and authorize the City Engineer to execute a Notice of Completion. Staff recommends that all remaining funds be returned to the source for use on future pavement maintenance projects.

BACKGROUND

The Project consisted of pavement resurfacing in the Highland Meadows and Hillsdale subdivisions, and it was initially combined with similar projects in the City of Martinez and the City of Clayton. The City of Martinez, acting as lead procurement agency, bid Project 2232 as a single project. The scope of work was listed separately within the bid specifications as reflected in Addendum 5, Additive Alternate Bid Schedule A (Pittsburg).

On June 17, 2019, the City Council adopted Resolution 19-13643, approving the FY 2019/20 operating budget and appropriating \$322,427 from Fund 203 HUTA and Fund 228 Road Maintenance and Rehabilitation Account (RMRA) to Project 2224—Pavement Maintenance FY 2019/20.

On December 21, 2020, the City Council adopted Resolution 20-13859 approving Addendum 1 to the City's Five-Year Capital Improvement Program for FY 2019/20 through 2023/24 and appropriated \$200,000 from Fund 203 HUTA to Project 2232—Pavement Maintenance FY 2020/21.

On April 6, 2021, construction bids were opened, and Bay Cities Paving & Grading, Inc. (Contractor) was the lowest responsive and responsible bidder, with a base bid in the amount of \$728,249.70.

On June 21, 2021, the City Council adopted Resolution 21-13944, approving the 5-Year Capital Improvement Program for FY 2021/22 through 2025/26 and allocating \$400,000 from Fund 203 HUTA and Fund 228 RMRA to Project 2024—Pavement Maintenance FY 2021/22.

On July 19, 2021, the City Council adopted Resolution 21-13962 combining the scope of Projects 2204 and 2224 with Project 2232, re-allocating \$850,075 to Project 2232, accepting the plans and specifications, waiving competitive bidding requirements, and awarding a contract in the amount of \$728,249.70 to the Contractor.

On July 29, 2022, the Contractor reached substantial completion at which point the one-year warranty was initiated.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

The three-layer pavement resurfacing treatment is expected to prolong the life of the roadways by 10 to 15 years.

The total anticipated expenditures for the Project are \$772,000. After all Project expenditures are paid, the estimated remaining balance will be returned to the source for use on future pavement maintenance related projects.

ATTACHMENTS: Resolution
 Exhibit A – Budget Summary
 Notice of Completion

Report Prepared By: John Rose, Engineering Technician

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adoption of a City Council Resolution)
Accepting Project 2232—Pavement)
Maintenance FY 2020/21 as Complete)
and Authorizing the City Engineer to file)
a Notice of Completion)

RESOLUTION NO. 22-

WHEREAS, Project 2232—Pavement Maintenance FY 2020/21 (Project) consisted of pavement resurfacing in the Highland Meadows and Hillsdale subdivisions; and

WHEREAS, on June 17, 2019, the City Council adopted Resolution 19-13643 approving the Fiscal Year (FY) 2019/20 operating budget and allocating \$322,427 from Fund 203 Highway User Tax (HUTA) and Fund 228 Road Maintenance and Rehabilitation Account (RMRA) to Project 2224—Pavement Maintenance FY 2019/20; and

WHEREAS, on December 21, 2020, the City Council adopted Resolution 20-13859 approving Addendum 1 to the City's 5-Year Capital Improvement Program for FY 2019/20 through 2023/24 and appropriating \$200,000 from Fund 203 HUTA to Project 2232—Pavement Maintenance FY 2020/21; and

WHEREAS, on April 6, 2021, construction bids were opened, and Bay Cities Paving & Grading, Inc. (Contractor) was the lowest responsive and responsible bidder; and

WHEREAS, on June 21, 2021, the City Council adopted Resolution 21-13944 approving the 5-Year CIP for FY 2021/22 through 2025/26 and allocating \$400,000 from Fund 203 HUTA and Fund 228 RMRA to Project 2024—Pavement Maintenance FY 2021/22; and

WHEREAS, on July 19, 2021, the City Council adopted Resolution 21-13962 combining the scope of Projects 2204 and 2224 with Project 2232, re-allocating \$850,075 to Project 2232, accepting the plans and specifications, waiving competitive bidding requirements, and awarding a contract in the amount of \$728,249.70 to the Contractor; and

WHEREAS, on July 29, 2022, the Contractor reached substantial completion and the one-year warranty period began; and

WHEREAS, the total expenditures for the Project to date including design, construction, and staff costs are estimated to be \$772,000; and

WHEREAS, all remaining funds will be returned to the source for use on future pavement maintenance projects.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the Project as complete and authorizes the City Engineer to execute the Notice of Completion with the Contra Costa County Office of the Recorder within 10 business days.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on October 17, 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Mayor

ATTEST BY:

Alice E. Evenson, City Clerk

NOTICE OF COMPLETION
Recording Requested By: City of Pittsburg

Upon Recording Return To:
City of Pittsburg
Engineering Records
65 Civic Avenue
Pittsburg, CA 94565-3814

NOTICE IS HEREBY GIVEN PURSUANT TO SECTION 3093 OF THE CALIFORNIA CIVIL CODE:

1. That on the 17th day of May 2022 the City of Pittsburg, State of California, did enter into a contract with:
Bay Cities Paving and Grading, Inc.
1450 Civic Court, Building B
Concord, CA 94520

as Contractor for certain improvement work: To wit, Project 2232—Pavement Maintenance FY 2020/21 in Pittsburg, California of which the City of Pittsburg is the Owner in fee.

2. That the surety upon the bond of the Contractor for said improvement work is:
Travelers Casualty and Surety Company of America
100 California Street, Suite 300
San Francisco, CA 94111

3. That the real property herein referred to is situated in the City of Pittsburg, County of Contra Costa, State of California, and is described as follows:
Various locations throughout the neighborhoods of Willow Landing, Hillsdale, and Highland Meadows subdivisions in the City of Pittsburg.

4. That said improvement work was accepted by the City Council of the City of Pittsburg as complete on the 17th day of October 2022.

State of California)
County of Contra Costa)
Richard Abono
Director of Public Works/City Engineer, City of Pittsburg

5. I, Richard Abono, being first duly sworn, depose and say that: I am the Director of Public Works and City Engineer of the City of Pittsburg, a municipal corporation of the State of California, and I am authorized to make this verification for, and on behalf of, said City, that I have read the foregoing Notice of Completion and know the contents thereof; and the same is true to the best of my knowledge and belief.

Richard Abono
Director of Public Works/City Engineer, City of Pittsburg

A notary public or other officer completing this certificate
Verifies only the identity of the individual who signed the
Document to which this certificate is attached, and not the
truthfulness, accuracy. or validity of that document.

State of California)
County of Contra Costa)

Subscribed and sworn to (or affirmed) before me on this day of , 2022 by
Richard Abono proved to me on the basis of satisfactory evidence to be the person who appeared
before me. I certify under PENALTY OF PURJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

Candace Hatch, Notary Public

EXHIBIT A
Budget Summary
Project 2232—Street Maintenance FY 2020/21

Project Funding	Project 2224—Pavement Maintenance FY 2019/20	\$322,427
	Project 2232—Pavement Maintenance FY 2020/21	\$200,000
	Project 2024—Pavement Maintenance FY 2021/22	\$327,648
Funding Total		\$850,075
Project Expenditures:		
Design: (Code 2122)	Consultant Design	\$9,736
	Subtotal	\$9,736
Miscellaneous: (Code 1399)	Advertising	\$0
	Reproduction	\$0
	Subtotal	\$0
Construction: (Code 2281)	Construction Contract	\$728,250
	Contingency (~10%)	\$0
	Subtotal	\$728,250
Wages/Benefits (Code 1101)	During Design Management	\$9,000
	During Construction Management	\$12,047
	Subtotal	\$21,047
Admin Overhead (Code 2372)	During Design Management	\$2,000
	During Construction Management	\$10,967
	Subtotal	\$12,967
Estimated Total Expenditures		\$772,000
Estimated Remaining		\$78,075

**CITY OF PITTSBURG
CITY COUNCIL/AGENCY CONCURRENT MEETING MINUTES**

DATE: October 3, 2022

LOCATION: Council Chamber, City Hall, 65 Civic Avenue, Pittsburg, CA 94565

CITY COUNCIL/AGENCY MEMBERS

Holland Barrett White, Mayor/Chair
Shanelle Scales-Preston, Vice-Mayor/Chair
Juan Antonio Banales, Council/Agency Member
Jelani Killings, Council/Agency Member
Marilyn Craft, Council/Agency Member
S.L. Floyd, Agency Member
Annie Hill Herring, Agency Member

APPOINTED OFFICIALS

Garrett Evans, City Manager/Executive Director
Donna Mooney, City Attorney/Legal Counsel
Alice E. Evenson, City Clerk/Agency Secretary (elected)
Nancy Parent, City Treasurer (elected)

Mayor White called the meeting to order at 7:21 P.M. in the City Council Chamber at City Hall, 65 Civic Avenue, Pittsburg, CA after convening in Closed Session at 5:03 P.M. for the following items:

John Salamida, Trans Bay Cable, addressed the Board on Item 1.

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS pursuant to Section 54956.8:

Property: 590 W. 10th Street (APN 085-270-019); Pittsburg Power Company negotiators: Garrett Evans, Maria Aliotti; Negotiating parties: Trans Bay Cable; Under negotiation: Price and terms of payment

2. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Initiation of litigation pursuant to Section 54956.9(d)(4)

Number of cases: One (1)

3. CONFERENCE WITH LABOR NEGOTIATORS Pursuant to Section 54957.6

City designated representatives: Mary Egan, MRG, LLC; Jennifer Brizel

Unrepresented employees: City Manager and City Attorney

City Attorney Mooney stated there was no reportable action in Closed Session for Items 1 and 2. For Item 3, the City Council voted unanimously to direct Council Members Banales and Killings to study the two contracts and negotiate further through the labor negotiators.

ROLL CALL

All Members were present.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

PRESENTATIONS

4. Contra Costa Transportation Authority Programs, Projects and Visions for the Future
5. Civicorps

PROCLAMATIONS

6. Clean Air Day
7. National Breast Cancer Awareness Month
8. National Arts and Humanities Month
9. National Filipino American History Month
10. National Italian American Heritage Month
11. National Immigrants Day

CITY MANAGER REPORTS/REMARKS

City Manager Evans reported on upcoming City events.

PUBLIC COMMENTS

Crystal DuShane and Siu Ling spoke regarding establishing an artist co-op in the Old Town area.

COMMITTEE REPORTS

Member Killings attended the Economic Development subcommittee, the Government Performance subcommittee, and the MBK Initiative subcommittee.

Member Banales attended the Finance subcommittee.

Vice-Mayor Scales-Preston attended the Tri Delta Transit meeting and the PAL meeting.

CITY COUNCIL MEETING

CONSIDERATION

12. By Minute Order, Select Commission Appointments to Vacancies on the Community Advisory, Planning Commission and Youth Advisory Commission

City Manager Evans stated for ongoing Youth Commission vacancies staff will be presenting candidates periodically when interviews can be arranged.

On Motion by Member Craft, seconded by Member Banales to appoint Isabel Romena to the Community Advisory Commission and carried unanimously.

On Motion by Member Banales, seconded by Vice-Mayor Scales-Preston to appoint Shavaun Tolliver to the Planning Commission and carried unanimously.

On Motion by Member Craft, seconded by Member Banales to appoint Ariana Barakzai to the Youth Advisory Commission and carried unanimously.

13. Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Execute a Consultant Service Agreements with 4LEAF, Inc. for On-Call Code Enforcement Officer Services

On Motion by Member Killings, seconded by Member Banales to adopt and carried unanimously.

14. Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Execute the Seventh Amendment to the Amended and Restated Purchase and Sale Agreement by and Between the City of Pittsburg and Stay Cal Pittsburg LLC and Authorizing the City Manager to Negotiate and Execute Amendments and Agreements to Carry Out the Seventh Amendment

On Motion by Member Killings, seconded by Member Craft to adopt and carried unanimously.

15. Consideration of a City Council Request for a Future Agenda Item Related to Creating a Community Volunteer Database

On Motion by Member Craft, seconded by Vice-Mayor Scales-Preston to direct staff to take steps necessary to create a community volunteer database and carried unanimously.

16. Consideration of a City Council Request for a Future Agenda Item Related to Creating a Culture and Diversity Initiative

On Motion by Mayor White, seconded by Member Craft to direct staff to take steps necessary to further evaluate creation of a culture and diversity initiative and carried unanimously.

CONFLICT OF INTEREST STATEMENT

There were no conflicts of interest statements.

COMBINED CITY COUNCIL, PITTSBURG ARTS AND COMMUNITY FOUNDATION, PITTSBURG POWER COMPANY, SOUTHWEST PITTSBURG GHAD II AND SUCCESSOR AGENCY
CONSENT CALENDAR

On Motion by Member Banales, seconded by Vice Mayor/Chair Scales-Preston to adopt and carried unanimously.

17. Minutes of September 19, 2022

18. Adoption of a City Council Resolution to Authorize the City Manager to Execute Agreements with the California Department of Transportation for the Living Green Pittsburg – Trail and Community Outreach Project

19. Adoption of a City Council Resolution Approving the Re-allocation of Funds from Project 5209 to Project 5003 and Approving a Consultant Agreement for the Design of Project 5003 West Santa Fe Avenue Sewer and Water Rehabilitation Project

20. Adoption of a City Council Resolution to Designate City Agents Authorized to Apply for State and Federal Disaster Relief Assistance

21. Adoption of City Council Resolution Authorizing the City Manager to Execute a Contract for the Purchase of a New E60 Excavator

22. Adoption of a City Council Resolution Authorizing the City Manager to Negotiate and Execute a Professional Services Agreement for a Wharf Asset Evaluation

23. Adoption of a City Council Ordinance Approving a Zoning Map Amendment for Liberty Residential Subdivision Phase II, AP-21-1599 (GP, RZ, SUBD, DR)

24. Adoption of a City Council Resolution Approving the Installation of Speed Humps on Manville Avenue

25. Adoption of City Council Resolution Authorizing City Manager to Execute a Contract for New Chevrolet Vehicles

26. Adoption of a City Council Resolution Approving an Agreement with Metropolitan Transportation Commission for Traffic Signal Synchronization on Buchanan Road, Railroad Avenue, and West Leland Road Corridors

27. Adoption of a City Council Resolution Approving Agreements between California Department of Transportation (Caltrans) and City of Pittsburg for the BART Pedestrian and Bicycle Connectivity Project

COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

There were no requests for future agenda items.

COUNCIL MEMBER REMARKS

Member Craft noted Pittsburg's native son, artist Dr. Ronald McDowell was commissioned to do a portrait of Willie Brown which was unveiled at City Hall last Saturday. She also attended a balloon drop celebrating the Pittsburg Library's extended hours.

ADJOURNMENT

The City Council adjourned at 8:55 P.M. to October 17, 2022 *in memory of Dave Weeden*.

Respectfully submitted,

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Making Findings in Support of Continuing to Hold Public Subcommittee Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

MEETING DATE:

EXECUTIVE SUMMARY

Assembly Bill 361 (AB 361) amended the Brown Act to allow local legislative bodies to continue to meet remotely during proclaimed states of emergency under specified conditions. Findings must be made every 30 days.

FISCAL IMPACT

There is no fiscal impact to the General Fund by this action.

RECOMMENDATION

The City Council adopt the attached resolution, continue in-person meetings with the exception of subcommittee meetings which will remain virtual.

BACKGROUND

Beginning in March 2020, Governor Newsom issued a series of Executive Orders aimed at containing the novel coronavirus. Among these were Executive Orders—N-25-20 and N-29-20 (collectively, the “Brown Act Orders”) — that waived requirements in the Brown Act expressly or impliedly requiring the physical presence of legislative body members, staff, or the public at local agency meetings.

On June 11, 2021, the Governor issued Executive Order N-08-21, to begin winding down some of the prior measures that were adopted to respond to COVID-19. Notably, N-08-21 established an end date to the Brown Act Orders, effective September 30, 2021.

On September 16, Governor Newsom signed Assembly Bill 361 which amended the Brown Act to allow local legislative bodies to continue to meet remotely during proclaimed states of emergency under specified conditions and so long as certain findings are made by a majority of the legislative body. As detailed in the attached resolution, findings were made on October 17, 2022, and are effective for 30 days.

SUBCOMMITTEE FINDINGS

This item was not submitted to a subcommittee.

STAFF ANALYSIS

Local legislative bodies such as a city council that wish to continue meeting by teleconference must comply with the requirements of California Government Code Section 54953, which was amended by AB 361.

Specifically, newly amended Government Code Section 54953 requires the following procedures:

- Give notice and post agendas as otherwise required by the Brown Act;
- List on the agenda how the public can electronically attend and comment at the meeting. Note that a public agency is not required to offer an in-person option for the public to attend and comment at such a meeting;
- Provide an opportunity to comment in advance of and during the meeting;
- Allow a reasonable amount of time to register, if required, and comment on each agenda item or at least the amount of time allowed per agency meeting protocols, whichever is longer;
- No action may be taken during a disruption that inhibits the broadcast of the meeting or the public's ability to comment;
- All votes must be via rollcall;
- Comply with state and federal civil rights and non-discrimination laws; and
- Take all precautions to protect the statutory and constitutional rights of the public.

While it only applies in situations where the Governor has proclaimed a state of emergency, and not, for instance, when only a local health officer has declared an emergency, AB 361 provides an explicit avenue for local public agencies to meet remotely in the case of a public health, or other, emergency that inhibits the opportunity to meet in person. AB 361 provides the flexibility to meet by teleconference through December 31, 2023, unless extended.

The City Council resolution, if approved, would authorize teleconferenced meetings of subcommittees.

Making the findings would allow teleconferenced meetings for the next 30 days.

ATTACHMENTS: Resolution

Report Prepared By: Garrett Evans, City Manager

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Making Findings in Support of Continuing to)
Hold Public Subcommittee Meetings By) RESOLUTION NO. 22-
Teleconference Pursuant to California)
Government Code Section 54953(e))

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing; and

WHEREAS, on October 4, 2021, and November 1, 2021, the City Council adopted a resolution authorizing teleconferenced meetings for the City Council, commissions, and subcommittees; and

WHEREAS, following an improvement in the incidence of COVID cases, the City Council adopted Resolutions on November 29, 2021, December 20, 2021, January 18, 2022, February 7, 2022, March 7, 2022, April 4, 2022, May 2, 2022, June 6, 2022, June 20, 2022, July 18, 2022, August 15, 2022, and September 19, 2022 to authorize meetings with public participation by teleconference and in-person attendance by members of the City Council and commissions, and otherwise fully teleconferenced meetings for subcommittees; and

WHEREAS, with the emergence of the Omicron variant, which may spread more easily than other variants, and in the wake of holiday gatherings of persons, the incidence of COVID increased markedly and then decreased but continues to be transmitted in the community.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.
2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, and on March 1, 2022, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the City Council hereby approves meetings of subcommittees to be held by teleconference in compliance with California Government Code Section 54953(e). As there are numerous subcommittees, some which are comprised of members of more than one legislative body, and meet frequently, for the protection of the health of attendees all subcommittee meetings are to be held by teleconference.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 17th day of October 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing the Execution of a Consultant Service Agreement with FirstCarbon Solutions for the Siena at San Marco (Units 16 and 17) Subdivision.

MEETING DATE: October 17, 2022

EXECUTIVE SUMMARY

The proposed item would authorize the City Manager to execute a consultant service agreement with FirstCarbon Solutions (FCS) in an amount not to exceed \$214,168 for contract planning services related to the proposed development of land (Siena at San Marco) in San Marco "Village C" and "Village O" (Units 16 and 17) generally located in the northern portion of the San Marco development, with its northern boundary abutting State Highway 4.

FISCAL IMPACT

Staff is requesting the City Council allocate to the consultant budget \$214,168 to cover consultant costs related to the processing of the proposed application. The requested budget would cover the estimated \$171,335 cost for California Environmental Quality Act (CEQA) services by FCS, along with an approximately 25% contingency of \$42,833.

Prior to execution of any consultant contracts, the applicant, Discovery Builders, would be required to execute a reimbursement agreement with the City and provide funds to cover the base cost. As such, there is no fiscal impact to the City.

RECOMMENDATION

City Council adopt the attached resolution authorizing the City Manager to execute a consultant service agreement with FCS for CEQA services related to the Siena at San Marco Subdivision.

BACKGROUND

The San Marco Subdivision Project, as initially approved in 1992, involved the construction of 2,938 new units on a 639-acre site on the south side of State Highway 4 spread over numerous different neighborhoods, or "villages," pursuant to a planned development zoning ordinance. The original development plan called for a total of 1,363 single-family units and 1,575 multi-family units. The environmental impacts of the project were studied under the 1992 Final Subsequent Environmental Impact Report for the San Marco Subdivision (1992 SEIR).

Due to the complexity of the project, the City and applicant solicited proposals for CEQA services from multiple consultants and selected the FCS proposal.

SUBCOMMITTEE FINDINGS

The item was not presented to a subcommittee.

STAFF ANALYSIS

Discovery Builders is now seeking an amendment which would:

1. Transfer 112 units from other villages into "Village C,"
2. Convert 181 units, both those originally in "Village C" and those transferred into "Village C," from multi-family units to single-family units, and
3. Convert 25 multi-family units within "Village O" to single-family units.

In total, the amendment will result in the conversion of a total of 206 multi-family units to single-family units, allowing for construction of a 206-lot single-family residential subdivision, also known as Siena at San Marco (Units 16 and 17).

Due to the complexity of the project, staff and the applicant recommend the City utilize FCS to prepare the CEQA environmental clearance document. Prior to entering into any contract, the City will require a fully executed Reimbursement Agreement submitted by the applicant.

ATTACHMENTS:

1. FCS Consultant Services Agreement
2. Resolution

Report Prepared By: Alison Hodgkin, Associate Planner

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Authorizing the Execution of a Consultant)
Service Agreement with FirstCarbon)
Solutions for the Siena at San Marco (Units)
16 and 17) Subdivision)

RESOLUTION NO. 22-

WHEREAS, the applicant has made a formal application for the development of the proposed project titled "Siena at San Marco" generally located in the northern portion of the San Marco development, with its northern boundary abutting State Highway 4; and

WHEREAS, in 2021, the City and applicant solicited proposals for environmental review services pursuant to the California Environmental Quality Act (CEQA) from multiple consultants and selected the FirstCarbon Solutions proposal; and

WHEREAS, FirstCarbon Solutions has provided their respective services to the City for more than a decade, and were chosen for their thorough analyses and satisfactory performance; and

WHEREAS, Discovery Builders, Inc. will be required to deposit funds with the City in an amount sufficient to reimburse the cost of project management and environmental review services.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby authorizes the City Manager to execute a consultant service agreement with FirstCarbon Solutions in an amount not to exceed \$214,168, upon completion of a Reimbursement Agreement with Discovery Builders Inc. and allocates \$214,168 to the consultant budget.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 17th day of October 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk

**CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF PITTSBURG AND
FCS INTERNATIONAL, INC., DBA FIRSTCARBON SOLUTIONS
(Environmental Consultant)**

THIS Agreement ("Agreement") for consulting services is made by and between the City of Pittsburgh ("City") and FCS International, Inc., dba FirstCarbon Solutions, a California corporation ("Consultant") (together referred to as the "Parties") as of October 17, 2022 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A, and incorporated herein, at the time and place and in the manner specified therein.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on December 31, 2024, or the date the Consultant completes the services specified in Exhibit A, whichever occurs first, unless the term of the Agreement is otherwise terminated or extended, as referenced herein.
- 1.2 Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, requests in writing the reassignment of any such persons to ensure Consultant performs services in accordance with the Standard of Performance, Consultant shall, immediately upon receiving City's request, reassign such persons.
- 1.4 Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided herein above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed Two Hundred Fourteen Thousand, One Hundred Sixty Eight dollars (\$214,168), (\$171,335), plus a 25% contingency of (\$42,833) as set forth in Exhibit B, attached hereto and incorporated herein for services to be performed and reimbursable expenses incurred under this Agreement. This dollar amount is not a

guarantee that the City will pay that full amount to the Consultant, but is merely a limit of potential City expenditures under this Agreement.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information, unless waived by the City Manager, or his or her designee:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall pay undisputed invoices that comply with the above requirements within 30 days from the receipt of the invoice.

2.3 Final Payment. Consultant shall submit its final invoice within 60 days of completing its services. Consultant's failure to submit its final invoice

within this 60-day period shall constitute Consultant's waiver of any further billings to, or payments from, City.

- 2.4 Reimbursable Expenses.** Reimbursable expenses, if any, are specified in Exhibit B and included in the total compensation referenced in Section 2. Expenses not listed in Exhibit B are not chargeable to, or reimbursable by, City.
- 2.5 Payment of Taxes.** Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.
- 2.6 Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of a written authorization from the City Manager, or his or her designee.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement

Section 4. INSURANCE REQUIREMENTS. Before beginning any services under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance specified herein and maintain that insurance throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid or proposal. Consultant shall be fully responsible for the acts and omissions of its subcontractors or other agents.

- 4.1 Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant in the amount required by applicable law. The requirement to maintain Statutory Workers' Compensation and Employer's Liability Insurance may be waived by the City upon written verification that Consultant is a sole proprietor and does not have any employees and will not have any employees during the term of this Agreement.
- 4.2 Commercial General and Automobile Liability Insurance.**
- 4.2.1 General requirements.** Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than \$2,000,000 per occurrence and \$4,000,000 aggregate,

combined single limit coverage for risks associated with the work contemplated by this Agreement.

Consultant, at its own cost and expense, shall maintain commercial automobile liability insurance for the term of this agreement in an amount not less than \$1,000,000 per occurrence for risks associated with the work contemplated by this Agreement.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an “occurrence” basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition) covering any auto (Code 1), or if Consultant has no owned autos, hired (code 8) and non-owned autos (Code 9). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Commercial General and Automobile Liability Insurance shall cover on an occurrence basis.
- b. City, its officers, officials, employees, agents, and volunteers shall be covered as additional insureds for liability arising out of work or operations on behalf of the Consultant, including materials, parts, or equipment furnished in connection with such work or operations; or automobiles owned, leased, hired, or borrowed by the Consultant. Coverage can be provided in the form of an endorsement to the Consultant’s insurance at least as broad as CG 20 10 11 85, or both CG 20 10 10 01 and CG 20 37 10 01.
- c. For any claims related to this Agreement or the work hereunder, the Consultant’s insurance covered shall be primary insurance as respects the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be

excess of the Consultant's insurance and non-contributing.

- d. The policy shall cover inter-insured suits and include a "separation of Insureds" or "severability" clause which treats each insured separately.
- e. Consultant agrees to give at least 30 days prior written notice to City before coverage is canceled or modified as to scope or amount.

4.3 Professional Liability Insurance.

4.3.1 General requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$1,000,000 per occurrence or claim covering the Consultant's errors and omissions.

4.3.2 Claims-made limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must purchase an extended period coverage for a minimum of five (5) years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

4.4 All Policies Requirements.

4.4.1 Submittal Requirements. Consultant shall submit the following to City prior to beginning services:

- a. Certificate of Liability Insurance in the amounts specified in this Agreement; and
- b. Additional Insured Endorsement as required for the General Commercial and Automobile Liability Policies.

4.4.2 Acceptability of Insurers. All insurance required by this Agreement is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.3 Deductibles and Self-Insured Retentions. Insurance obtained by the Consultant shall have a self-insured retention or deductible of no more than \$100,000.

4.4.4 Wasting Policies. No policy required herein shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

4.4.5 Waiver of Subrogation. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect 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.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents, and subcontractors.

4.4.6 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein, and Consultant shall ensure that City, its officers, officials, employees, agents, and volunteers are covered as additional insured on all coverages.

4.4.7 Excess Insurance. If Consultant maintains higher insurance limits than the minimums specified herein, City shall be entitled to coverage for the higher limits maintained by the Consultant.

4.5 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option: 1) obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; 2) order Consultant to stop work under this Agreement and withhold any payment that becomes due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof; and/or 3) terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

5.1 General Indemnification. Consistent with California Civil Code Section 2782.8, Consultant shall, to the fullest extent permitted by law, indemnify, protect, defend and hold harmless City, and its employees, officials, and agents, from any and all demands, losses, claims, costs, liabilities, and expenses for any damage, injury, or death, including any and all administrative fines, penalties, or costs imposed as a result of an administrative proceeding, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, employees, agents, contractors, subconsultants, or any persons under its direction or control. If requested by City, Consultant shall defend any such suits at its sole cost and expense. If City elects to provide its own defense, Consultant shall reimburse City for any expenditures, including reasonable attorneys' fees and costs. Consultants' obligations under this section exist regardless of concurrent negligence or willful misconduct on the part of City or any other person; provided, however, that Consultant will not be required to indemnify, including the cost to defend, City for the proportion of liability a court determines does not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, its officers, employees, agents, contractors, subconsultants, or any persons under its direction or control. This Section **5.1** shall survive any expiration or termination of this Agreement.

5.2 PERS Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of

Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

- 6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City.
- 6.2 Consultant Not an Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder. Consultant shall also, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates as determined by the California Department of Industrial Relations.
- 7.3 Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have, and will maintain at their sole cost and expense, all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.
- 7.4 Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, genetic information, marital status, sex, sexual orientation, gender or gender identity, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under

this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** Upon ten calendar days' prior written notice, City may cancel this Agreement at any time and without cause upon such written notification to Consultant. In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.
- 8.2 Amendments.** The parties may amend this Agreement only by a writing signed by the parties hereto.
- 8.3 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the City Manager, or his or her designee. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the City Manager, or his or her designee.
- 8.4 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant, including but not limited to the provisions of Section 5, shall survive the termination of this Agreement.
- 8.5 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:

- 8.5.1 Immediately terminate the Agreement;
- 8.5.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
- 8.5.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
- 8.5.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.
- 8.5.5 The remedies mentioned in this Agreement are not exclusive of any other right, power or remedy permitted by law. The City's failure or delay in exercising any remedy shall not constitute a waiver of such remedy or preclude the further exercise of City's rights.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Consultant's Performance.** All final versions of reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement, and the City may use, reuse or otherwise dispose of the documents without Consultant's permission. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential drafts and will not be released to third parties by Consultant without prior written approval of City.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required

by law, from the date of final payment to the Consultant to this Agreement. All such records shall be maintained in accordance with generally accepted accounting principles and shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Pursuant to Government Code Section 8546.7, the Agreement may be subject to the examination and audit of the State Auditor for a period of 3 years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in Contra Costa County or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

10.7 Solicitation. Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.8 Notices. Any notice, demand, request, consent or approval that either party is required to give the other pursuant to this Agreement, shall be in writing and may be given by either (i) personal service, or (ii) certified United States mail, postage prepaid, return receipt requested. Notice shall be effective upon personal delivery or delivery to the addresses specified below, as reflected on the receipt of delivery or return receipt, as applicable.

Consultant: FirstCarbon Solutions (FCS)
1350 Treat Boulevard, Suite 380
Walnut Creek, CA 94597
ATTN: Jason Brandman

City: City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
ATTN: City Manager

10.9 Professional Seal. Where applicable in the determination of the City Manager, or his or her designee, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility."

10.10 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A and B represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. To the extent there are any inconsistencies between this Agreement, the Exhibits, and Consultant's proposal, the Agreement shall control. To the extent there are any inconsistencies

between the Exhibits and the Consultant's Proposal, the Exhibits shall control.

Exhibit A Scope of Services
Exhibit B Compensation Schedule

10.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.12 Construction of Agreement. Each party hereto has had an equivalent opportunity to participate in the drafting of the agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.

10.13 No Third Party Beneficiaries. This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any third parties.

The Parties have executed this Agreement as of the Effective Date.

CITY OF PITTSBURG

CONSULTANT

Garrett Evans, City Manager

Name: Jason Brandman
Title: Vice President/Director

Attest:

Alice Evenson, City Clerk

Approved as to Form:

Donna Mooney, City Attorney

EXHIBIT A

SCOPE OF SERVICES

The following technical scope of services identifies each task in the preparation of the necessary documents and includes all the work products associated with each task.

Task 1 Project Initiation

FCS will develop an initial data needs list, coordinate with the City, and mobilize the Project Team. FCS Project Director and Project Manager will attend one kickoff meeting with the City and applicant to receive the requested project-related information, discuss project plans, identify any data gaps, coordinate critical path activities, and ensure that the proposed deliverable schedule is consistent with the overall project timeline. FCS will be prepared to discuss key issues of environmental concern related to the project.

Task 2 Prepare Comprehensive Project Description

Using the information obtained from City staff and the applicant at the kickoff meeting, FCS will prepare a comprehensive project description for the City's review and approval that clearly describes and illustrates the proposed development activity, required discretionary approvals, and other pertinent information to describe the "whole of the action" pursuant to the requirements of CEQA. The approved Project Description will form the basis for evaluating the project.

The project description will include all of the information required to define the project for purposes of CEQA, including a clear explanation of the development components of the proposed project, a description of the construction and operational activities and schedules/timelines associated with the project, and clearly illustrated project primary components displayed in exhibits based on geographic information systems (GIS) data. Since the Project is a modification to an approved development, the Project description will also include a description of the Original Project and will focus on how the Project amends this Original Project.

The draft project description will be submitted to the City for review and approval prior to the development of the CEQA document, and the FCS team will finalize the project description based on the comments/revisions and direction provided by the City. Please note that changes to the project made after the City has issued their approval of the project description may necessitate scope and budget augmentation and may extend the project schedule.

FCS will complete the following deliverable:

- Submit one (1) electronic copy in PDF and Word formats (via email) of the Project Description to the City.

Task 3 Prepare Technical Studies And Other Analyses

FCS has in-house experts to conduct the analyses for Air Quality, and the results of the analysis can be incorporated directly into the appropriate Addendum sections. Each analysis will compare impacts of the Project against the baseline of the impacts associated with the Original Project pursuant to Public Resources Code section 21166. If requested, FCS can convert the results of each analysis into a stand-alone report that would require City approval prior to incorporating it into the appropriate Addendum sections. Please note that if this task is required by the City, additional time would be needed for preparing the stand-alone reports and for the City to review and provide comments. As a result, FCS would request an augment to cover this additional level of effort.

Subtask 3.1: Air Quality, Greenhouse Gas, and Energy Analysis

FCS will prepare an Air Quality, Greenhouse Gas (GHG), and Energy Analysis consistent with the requirements of the State CEQA Guidelines and Bay Area Air Quality Management District (BAAQMD) to support the CEQA document. The results of the Air Quality, GHG, and Energy Analysis will be directly incorporated into the appropriate section of the Addendum, with modeling data being placed in the appendices to the extent any modeling is necessary. This task assumes the preparation of a separate, stand-alone Air Quality, GHG, and Energy report will not be necessary.

The proposed project would include construction and operational activities that would generate ozone precursor and criteria air pollutant emissions. FCS will use methodologies and guidance from BAAQMD's CEQA Air Quality Guidelines to model and evaluate the proposed project's impacts related to air quality, GHG emissions, and energy consumption. To perform this analysis, the tasks listed below are required.

Air Quality Analysis

FCS will prepare an air quality analysis consistent with the requirements of the State CEQA Guidelines and BAAQMD to support the CEQA document. The proposed project would include construction and operational activities that would generate ozone precursor and criteria air pollutant emissions. FCS will use methodologies and guidance from BAAQMD's CEQA Air Quality Guidelines to model and evaluate the proposed project's air quality impacts.

Short-term construction emissions will be quantified using the latest version of the California Emissions Estimator Model (CalEEMod). The modeling will incorporate the type and size of the proposed uses, construction phasing schedule, and other construction data (duration of construction, area of land to be disturbed/graded, etc.). This task assumes construction modeling runs for up to two potential construction development phases. If additional construction phasing is proposed, such modeling would be addressed under a separate scope and budget. The construction modeling will take account of the fact that the Project site has already undergone grading, and that the scope

of change under review is the conversion of 206 units from a multi-family to a single-family configuration. A single model run contemplating 206 single-family units shall first be run and, if emissions fall below applicable thresholds, this simplified analysis shall be used as it represents a very conservative measure of the Project's impacts. If impacts are shown to exceed applicable significance thresholds, a second model run assuming 206 multi-family units shall be run, and the difference between the two model runs shall be compared to applicable thresholds.

With respect to operational impacts, BAAQMD screening thresholds and methodologies will be utilized to evaluate regional criteria air pollutant and precursor emissions. The relevant modifications under the Project are the movement of 112 units to the Village C, and the conversion of 206 multi-family units to single-family units. A "unit population" of 206 units, whether in a single-family or multi-family format, falls below the BAAQMD screening threshold for operational air quality impacts. This approach will be reviewed and verified, and any additional analysis that is necessary will be performed.

Health Risk Assessment

Based on the existence of off-site sensitive receptors within 1,000 feet of the Project Site (single-family residences located approximately 730 feet from the proposed project's northern border, across Highway 4), FCS recommends performing a Health Risk Assessment (HRA) to evaluate potential construction-related toxic air contaminants (TACs) impacts.

To facilitate the estimation of construction-generated health risks, a construction-level HRA will be prepared. The major TAC that affects health impacts in the air is diesel particulate matter (DPM). DPM from the operation of diesel trucks and heavy construction equipment has been identified by the California ARB as a carcinogen that can result in long-term health impacts. The proposed project has the potential to generate substantial DPM emissions during construction that would expose nearby sensitive receptors to elevated levels of TACs. The following tasks will be required for the HRA:

- Define what a sensitive receptor is and identify nearby sensitive receptors.
- Identify applicable federal, State, and BAAQMD rules and regulations.
- Identify health risk standards and acceptable cancer and acute and chronic non-cancer risk thresholds from diesel emissions that are detailed in the HRA Guidelines.
- Obtain the on-site construction equipment DPM emissions rates that were calculated in the Air Quality Analysis prepared for the proposed project.
- Obtain the daily construction truck trip estimates used in the Air Quality Analysis and calculate each truck trip's DPM emissions rates.

- Calculate the DPM concentrations at the nearby sensitive receptors associated with the on-site construction equipment and off-site truck emissions up to 1,000 feet from the project site, based on the emissions rates provided in the previous steps and the methodology described in the California Office of Environmental Health Hazard Assessment HRA Guidelines.
- Utilize the prior task's calculated toxic air emission levels to calculate the cancer risk and the chronic and acute non-cancer health impacts at the nearby residential uses from construction of the proposed project.

This scope assumes that construction would occur in a single phase. If multiple phases of development and unit occupation would occur, the effort to model and analyze that phased development would be accomplished as an additional service not included in this task. FCS assumes that an operational HRA **will not be warranted** to identify and quantify the potential cumulative health risks during project operations. However, in the process of evaluating operational air quality emissions, FCS will confirm whether potential operation emission levels would warrant an HRA. If an operational HRA is required, it would be accomplished as an additional service not included in this task.

Greenhouse Gas Analysis (Informational Only)

The 1992 SEIR omitted discussion of Greenhouse Gases, and therefore by operation of law, it should not be evaluated in any CEQA document for the Project. However, for informational purposes, FCS will prepare a Greenhouse Gas Analysis using the same methodology that the City used in the 2012 MND. FCS will quantify the marginal increase (if any) in construction and operational GHG emissions between the Project and the Original Project and compare the estimated marginal increase in greenhouse gas emissions for both construction and operational GHG emissions to the quantitative BAAQMD threshold of 4.6 MCO₂e per year per service population.

Energy Analysis

The Initial Study for the 1992 SEIR concluded that the energy needs associated with construction of the residential project and its ongoing occupancy would not require any unusual or substantially greater level of energy consumption than that of other conventional residential developments. FCS will provide an analysis of energy impacts attributable to Project to determine whether the Project will result in any new significant energy impacts that the Original Project did not. Consistent with the CEQA Guidelines Appendix F Energy Analysis requirements, the Energy Analysis will summarize relevant federal, State, and local regulations and policies that address energy consumption and demand, alternative fuels, and nonrenewable resources to determine whether the proposed project would conflict with or obstruct any required policies or mandatory measures related to energy conservation. Using the model inputs and assumptions associated with the Air Quality Analyses, FCS will provide energy consumption estimates associated with construction and operation of the Project. Specifically, the

analysis will calculate on-site construction equipment fuel and electricity consumption, off-site construction vehicle fuel consumption, and project operation electricity, natural gas, and vehicle fuel consumption. The analysis will take account of the fact that the scope of change under review is the conversion of 206 units from a multi-family to a single-family configuration. An initial analysis contemplating 206 single-family units shall first be undertaken and, if impacts are determined to be insignificant, this simplified analysis shall be used as it represents a very conservative measure of the Project's impacts. If impacts are shown to exceed applicable significance thresholds, a second analysis will compare these above-described energy consumption estimates with the corresponding energy consumption estimates of the Original Project. The Energy Analysis will consider project design features that may affect the energy efficiency of the proposed project.

Subtask 3.2: Cultural Resources Analysis (Peer Review of 1992 SEIR Study)

The 1992 SEIR identified potential cultural resources that could be impacted by construction of the Original Project, including necessary grading of the Village C site. The Project will not involve any new grading or excavation activity that was not studied in the 1992 SEIR, and therefore a wholly new Cultural Resources Analysis is not expected to be required. FCS will confirm that the existing cultural resources analysis meets the Office of Historic Preservation (OHP) standards for Phase I evaluations and can be used to support determinations in any additional CEQA reporting. If the analysis demonstrates that an updated Cultural Resources Analysis is necessary, it would be accomplished as an additional service not included in this task.

Subtask 3.3: Peer Review of Other Applicant-Provided Studies

FCS will provide a peer review of the Biological Resources Report, Noise Assessment, Phase I ESA, Phase II Investigation Report, Geotechnical Study, and Traffic Impact Study for the purposes of this SOW and to ensure these studies are adequate and meet the standards of quality for use in the CEQA document. It is also understood from recent conversations with the City and applicant team that a water supply adequacy memorandum will be provided by the applicant. The peer review will be conducted to ensure these reports have been prepared in conformance with all applicable requirements for subsequent CEQA review of a modification to an approved project and meet the City's standards of quality for use in the Addendum. FCS will provide one set of consolidated comments in a memorandum to the applicant and City. It is assumed that a hydrology and water quality analysis will be provided by the applicant in time for preparation of the draft document.

FCS will complete the following deliverable:

- Submit electronic version (via email) of the Peer Review Memorandum in PDF format to the City.

Task 4 Preparation of Initial Study/Addendum

Subtask 4.1: Administrative Draft IS/Addendum

FCS will prepare an Administrative Draft IS/Addendum for City staff review that will evaluate the proposed project's impacts. The IS format will include separate sections for discussion of each CEQA Guidelines Appendix G Environmental Checklist impact category, and it will be adequately supported by exhibits (including color GIS mapping, as appropriate). The IS/Addendum will evaluate Project impacts in light of the conclusions in the 1992 SEIR to determine whether the Project as currently proposed would result in any new or more severe effects than were previously evaluated and disclosed in the 1992 SEIR studying the Original Project. The administrative draft IS/Addendum will confirm whether an addendum to the 1992 SEIR is the appropriate level of review, or whether a subsequent MND or EIR should be prepared. If the conclusion of the Administrative Draft IS/Addendum confirm that a subsequent MND or EIR should be prepared, FCS will submit a revised scope of work covering that level of effort.

The following resource categories identified in the CEQA Appendix G checklist will be evaluated in the IS:

- Aesthetics, Light, and Glare
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural and Tribal Cultural Resources
- Geology, Soils, and Seismicity
- Greenhouse Gas Emissions (Informational Only)
- Energy
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Transportation
- Utility Systems
- Wildfire

FCS will complete the following deliverable:

- Submit electronic version (via email) of the Administrative Draft IS/Addendum to the applicant and City of Pittsburgh

Subtask 4.2: Screencheck Draft IS/Addendum

Following receipt of one set of consolidated comments from City Staff/Applicant Team on the Administrative Draft IS/Addendum, FCS will make revisions as directed by City Staff and in accordance with the overall Scope of Work. The Screencheck Draft IS/Addendum will be prepared as a final print copy for review by City Staff prior to

printing; it is FCS's intent that this submittal will satisfactorily address all City Staff comments on the Administrative Draft IS/Addendum. Should an additional level of effort be required for what has been budgeted for this task, a Scope of Work and Budget Augment may be required.

FCS will complete the following deliverable:

- Submit one electronic version (via email) of the Screencheck Draft IS/Addendum to the Applicant and City of Pittsburgh

Subtask 4.3: Final Initial Study/Addendum

Following receipt of one set of consolidated City comments on the Screencheck Draft IS/Addendum, FCS will finalize the IS/Addendum. Technical memorandums and output files prepared by FCS will be included as Appendices to the IS/Addendum. This task assumes no more than 20 staff hours will be required to address City comments. Should an additional level of effort be required, a Scope of Work and Budget Augment may be required.

FCS will complete the following deliverable:

- Submit one electronic version (via email) of the Final IS/Addendum with Technical Reports and modeling output/data base searches in Word and PDF format.

Task 5 Mitigation Monitoring and Reporting Program

If any refinements to the mitigation measures included in the 1992 SEIR were identified (such as current best practices for construction dust control, noise attenuation, etc.), FCS will prepare an updated Mitigation Monitoring and Reporting Program (MMRP), pursuant to CEQA Guidelines Section 15097. The MMRP will contain all applicable mitigation measures from the 1992 SEIR, as well as the refinements identified in the IS/Addendum. This comprehensive MMRP will provide the City with a single source of reference to the full range of mitigation measures to be implemented. For each measure or group of similar measures, the agency responsible for ensuring proper implementation will be identified, along with the timing and method of verification.

FCS will complete the following deliverable:

- Submit one electronic version (via email) of the MMRP to the City of Pittsburgh

Task 6 Notice of Determination

After approval of the Final Addendum, FCS will prepare a Notice of Determination (NOD) form pursuant to CEQA Guidelines Section 15094. Once reviewed and approved

by City staff, FCS will post the NOD with the Contra Costa County Clerk's Office. Timely filing (within 5 working days of final decision) of the NOD by the Lead Agency (City) reduces the statute of limitations on court challenges to the approval under CEQA from 180 days to 30 days. FCS will not be responsible for paying the California Department of Fish and Wildlife Service (CDFW) and processing fees associated with this task.

FCS will complete the following deliverables:

- Submit one electronic version (via email) of the NOD to the City for review
- Submit two hard copies of the NOD to the Contra Costa County Clerk's Office for filing
- Submit one electronic version (via email) of the conformed NOD to the City

Task 7 Meeting Attendance

FCS will meet by phone with the City staff and Applicant Team during the preparation of the IS/Addendum to discuss and resolve problems, develop strategies, and participate in communications. This proposal and its associated budget cover attendance by FCS's Project Manager at three meetings, which may include a combination of coordination calls with the City and/or Applicant and public hearing(s). A not-to-exceed budget has been established to cover meeting attendance. If City staff requests additional meeting attendance by FCS staff, or if the amount of time involved in these meetings exceeds the initial budget allocation, FCS will notify the client of the additional costs and obtain authorization for the extra meeting time.

Task 8 Project Management

In addition to the research, analysis, communications, and report writing tasks described above, FCS will perform a variety of project management duties to ensure that the IS/Addendum meets the City's standards of quality, and that it is delivered on time and within budget. These duties will include team supervision and coordination, oral and written communications with City staff, the Applicant, at the direction of the City, project accounting, and quality assurance review by FCS's Project Director and Technical Editor of all deliverable products. These services also will include ongoing support to City staff, such as providing input to staff reports, regular schedule updates, and discussions of technical issues. This task assumes 42 hours of staff time.

Task 9 Planning and Entitlement Support

Subtask 9.1: Preliminary Review

The project involves multiple approvals and environmental review. The project will be reviewed for consistency and compliance with the City of Pittsburg General Plan and Municipal Code regulations and practices and in accordance with the requirements of the Subdivision Map Act and the California Environmental Quality Act (CEQA). FCS

assumes that the project will require review from the City's Planning Commission and approval from the City Council.

FCS will review the project in accordance with City of Pittsburg requirements and practices. It is anticipated that the Preliminary Review process will include the following tasks:

FCS will complete the following deliverables:

- Participation in one kick-off meeting with FCS and City staff to identify and review protocols and communications; review and discuss expectations and desired outcomes.
- Participation in one kick-off meeting with FCS, City staff, and applicant team to review protocols and communications.

Background Data Collection and Review

FCS to receive and review data and information relevant to project review from the City and project applicant, including plans and technical studies and reports. Data collection also includes previous staff reports, resolutions, and conditions of approval that may apply to the property.

Subtask 9.2: Permit Process

Application Coordination and Initial Review

Communication and coordination are essential to a successful project review process. FCS will communicate regularly with City staff and the applicant team to ensure a thorough, accurate, and timely application review process. FCS staff will work remotely and will be available to participate in meetings online to coordinate review tasks with City staff, public agencies, and the project applicant team.

In consultation with City staff and departments, FCS will identify application submittal requirements and will provide up to three rounds of review and comment regarding the submittal. FCS will prepare a letter to the applicant team identifying the status of the application (e.g., complete or incomplete) and identifying any items required for the application to be deemed complete. FCS will coordinate distribution to, and comments received from city departments and applicable agencies.

Analysis

FCS will prepare written staff reports with recommended conditions of approval and resolutions. Staff reports will include project information, relevant background information, identify potential project issues and responses, analysis of project conformance with applicable policies and requirements, and recommended conditions of approval. In consultation with City staff, FCS will prepare a consistency analysis per the Housing

Accountability Act (HAA) (Gov. Code §65589.5) regarding project consistency with the City's objective standards. FCS will prepare resolutions that reference requisite findings for decision maker actions. The staff report will be prepared as an Administrative Draft, Draft, and Final report; FCS will coordinate with City staff at each stage of the report process.

Subtask 9.3: Public Meetings

FCS will prepare and deliver PowerPoint presentations for public meetings before the Planning Commission and City Council. The scope of services assumes one Planning Commission and one City Council meeting.

FCS will complete the following deliverables:

- Transmittal memoranda (2) describing project and soliciting input
- Incomplete/completeness Letters
- Notices for Public Hearings
- Planning Commission and City Council staff reports, conditions of approval, resolutions, exhibits
- Attendance at public meeting (i.e., Land Use Committee meeting)
- Attendance and presentation at hearings

Assumptions

- Amendments to Development Agreement to be prepared by City
- Housing Agreement to be prepared by City
- Design review is not included in this SOW
- City staff responsible for preparation and distribution of Public Hearing Notices
- City staff responsible for project information on the City website as may be required
- City staff responsible for assembly and distribution of agenda packet materials
- Scope of services does not include appeals
- Public meetings will occur virtually
- Applicant team to provide plans, maps, photos, architectural renderings, and exhibits as may be required

Subtask 9.4: Project Management (Entitlement Support)

FCS will communicate regularly with City staff and the applicant team to ensure a thorough, accurate and timely application review process. FCS will participate in meetings with City staff and the applicant team to develop a preliminary project review schedule and address issues as they arise throughout the project. FCS staff will work remotely and will be available to participate in meetings online.

FCS will complete the following deliverables:

- Kick-Off Meeting
- Development Review Meeting with City Staff

- On-going Management

Tasks Outside of Scope of Work

Below are tasks FCS has identified as being outside of its Scope of Work for the proposed project.

Newspaper Noticing/Local Noticing

FCS assumes that City staff will be responsible for noticing the Planning Commission and City Council meetings at which the IS/Addendum may be considered.

Schedule

FCS has prepared the following schedule outlining the anticipated timing of each task.

Task	Week
Task 1: Project Initiation	1
Task 2: Comprehensive Project Description	1-2
Task 3: Preparation of Technical Studies and Other Analyses	
<i>Peer Review of Other Applicant Technical Studies*</i>	3-4
<i>Air Quality/GHG Emissions/Energy Analysis**</i>	12
<i>Cultural Resources Assessment (Peer Review of 1992 SEIR Study)</i>	3-4
Task 4: Preparation of IS/Addendum	
<i>FCS provides Administrative Draft IS/Addendum</i>	14
<i>City completes review of Administrative Draft IS/Addendum</i>	18
<i>FCS provides Screencheck Draft IS/Addendum</i>	20
<i>City completes review of Screencheck Draft IS/Addendum</i>	22
<i>FCS provides Final IS/Addendum</i>	24
Task 5: Mitigation Monitoring and Reporting Program	22-24
Task 6: Notice of Determination	To be determined
Task 7: Attend Meetings (Including Public Hearings)	To be determined
Task 8: Project Management and Coordination	Ongoing
Task 9: Planning and Entitlement Support	Ongoing
<i>*Note: Assumes receipt of all technical studies by at Project Initiation</i>	
<i>**Assumes approval of Traffic Study and receipt of RFI by Week 4.</i>	

EXHIBIT B COMPENSATION SCHEDULE

The cost for completion of environmental consulting services described in Exhibit A is anticipated not to exceed \$171,335. The tasks are summarized in the Technical Scope of Services of Exhibit A and costs by task are shown in the table below.

Tasks	Fee
Task 1: Project Initiation	\$2,960
Task 2: Project Description	\$5,880
Task 3: Technical Analyses and Other Analyses	
Subtask 3.1: Air Quality, Greenhouse Gas Emissions, and Energy Analysis	\$17,670
Subtask 3.2: Cultural Resources Assessment (Peer Review of 1992 SEIR Study)	\$4,205
Subtask 3.3: Peer Review of Other Applicant Technical Studies	\$8,675
Task 4: Preparation of Initial Study/Addendum	
Subtask 4.1: Administrative Draft Initial Study/Addendum	\$22,960
Subtask 4.2: Screencheck Draft Initial Study/Addendum	\$9,675
Subtask 4.3: Final Initial Study/Addendum	\$4,700
Task 5: Mitigation Monitoring and Reporting Program	\$1,070
Task 6: Notice of Determination	\$265
Task 7: Meeting Attendance	\$5,060
Task 8: Project Management	\$6,040
Task 9: Planning and Entitlement Support	\$79,975
Total FCS Professional Labor	\$169,135
Direct Costs	\$2,200
Total FCS Professional Labor with Direct Costs	\$171,335

- Costs have been allocated to tasks, based upon FCS's proposed approach. During the work, FCS may, on its sole authority, re-allocate costs among tasks, as circumstances warrant, so long as the adjustments maintain the total price within its authorized amount.
- FCS's Project Manager will be the primary representative at the project meeting and public hearing.

- Printing costs are based on the method of printings and bindings proposed, numbers of copies proposed as work products, and estimated page lengths. Document printing costs are estimated and will be finalized at the time of printing. On further clarification of the documents (paper and/or digital CD) that the City Staff will need during the preparation effort, FCS will specifically identify a detailed reproduction work plan with more specific costs.
- Direct expenses are billed at the amount charged, plus a 10 percent administration cost.

CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700

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.

CONSULTANT

By: _____

Title: _____

2784982.1



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Accepting the Public Improvements for Subdivision 9497—Vista Del Mar II

MEETING DATE: October 17, 2022

EXECUTIVE SUMMARY

Public improvements constructed within Subdivision 9497—Vista Del Mar II, a 156-home development west of Alves Ranch Road, are complete. The developer has requested the City accept the public improvements for continuous maintenance.

FISCAL IMPACT

When the public improvements are accepted, there will be increased maintenance service costs that will be partially offset by the typical revenues collected from private residences.

RECOMMENDATION

Staff recommends the City Council adopt the attached resolution accepting the public improvements as complete and assume responsibility for maintenance of these facilities.

BACKGROUND

In 2004, William Lyon Homes, Inc. and Alves Ranch, LLC submitted a plan to develop approximately 293-acres as a residential and commercial subdivision known as the Vista Del Mar development. The 2004 Vista Del Mar project anticipated: approximately 1,100 housing units spanning the north and south sides of West Leland Road, approximately 257,000 square feet of commercial floor space, an approximately 11.33-acre school and park site, approximately 117.68 acres of permanent hillside open space, landscaped buffers, public and private roadways, a detention basin, a water tank site, and a water pump station site.

On October 18, 2004, the City Council adopted Resolution 04-10168 certifying that the Final Environmental Impact Report (2004 FEIR) for the Vista Del Mar project (SCH # 2004012097) was prepared in accordance with the California Environmental Quality Act (CEQA).

On November 29, 2004, after having reviewed and considered the environmental documentation prepared for the Vista Del Mar project, the City Council adopted Resolution 04-10191, approving CEQA findings, adopting a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program (MMRP).

On December 6, 2004, the City Council adopted Ordinance 04-1230, rezoning the portion of the project located north of West Leland Road, Alves Ranch site, to CO-P (Commercial Office with a Master Plan Overlay) and RH-P (High Density Residential with a Master Plan Overlay) Districts, however, no specific master plan was adopted at that time. On the same night, the City Council also approved Ordinance 04-1231, a Development Agreement for the full Vista Del Mar project allowing development for up to 540 medium and high-density residential units and no more than 20 acres of business commercial development.

In August 2008, the property owner proposed a master plan for development of the Alves Ranch site, and on January 20, 2009, the City Council adopted Ordinance 08-1312, approving the Alves Ranch Master Plan and an EIR addendum, which allowed for up to 560 housing units, a 0.6-acre recreational facility, and 221,500 square feet of commercial floor area on approximately 14 acres.

On January 20, 2009, the City Council adopted Ordinance 08-1312 approving the Alves Ranch Master Plan and EIR addendum.

On May 28, 2019, the Planning Commission adopted Resolution 10121 recommending approval of the proposal in its entirety.

On July 1, 2019, the City Council adopted Resolution 19-13653 certifying that the Final EIR for the proposed project was prepared in accordance with CEQA Guidelines. The Final EIR includes the Draft SEIR and responses to all comments received during the public review period.

On July 15, 2019, the City Council adopted Ordinance 19-1470 approving a zoning map amendment and the fourth amendment to the Development Agreement for the Alves Ranch project.

On October 31, 2019, the Fourth Amendment to the Development Agreement was executed, relating to changes in the zoning classification from Commercial Office to Community Commercial and a modification of the number of affordable housing units to be constructed.

On October 19, 2020, the City Council adopted Resolution 20-13844 approving the final map, improvement and grading plans, and subdivision improvement agreement for Subdivision 9497—Vista Del Mar II.

SUBCOMMITTEE FINDINGS

This item was not presented at a subcommittee.

STAFF ANALYSIS

The subdivision improvements for Phase 2 have been constructed in accordance with the approved plans. Upon acceptance, the City will release the payment and performance bond. The developer will provide a Warranty Bond to be released only upon correction of any defects or failures, including cause of failure or defect, of the subdivision improvements to the satisfaction of the City Engineer.

ATTACHMENTS: Resolution

Report Prepared By: Calvin Chung, Associate Engineer

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Adopting a City Council Resolution)
Accepting the Public Improvements)
Within Subdivision 9497—)
Vista Del Mar II)

RESOLUTION NO. 22-

WHEREAS, on October 18, 2004, the City Council adopted Resolution 04-10168 certifying that the Final Environmental Impact Report (2004 FEIR) for the Vista Del Mar project (SCH # 2004012097) was prepared in accordance with the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, on November 29, 2004, after having reviewed and considered the environmental documentation, the City Council adopted Resolution 04-10191, approving CEQA findings, and adopting a Statement of Overriding Considerations and a Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on December 6, 2004, the City Council adopted Ordinance 04-1230, rezoning the portion of the project located north of West Leland Road, Alves Ranch site, to CO-P (Commercial Office with a Master Plan Overlay) and RH-P (High Density Residential with a Master Plan Overlay) Districts, however, no specific master plan was adopted at that time. On the same night, the Council also approved Ordinance 04-1231, a Development Agreement for the full Vista Del Mar project allowing development for up to 540 medium and high-density residential units and no more than 20 acres of business commercial development; and

WHEREAS, in August 2008, the property owner proposed a master plan for development of the Alves Ranch site, and on January 20, 2009, the City Council adopted Ordinance 08-1312, approving the Alves Ranch Master Plan and an EIR addendum, which allowed for up to 560 housing units, a 0.6-acre recreational facility, and 221,500 square feet of commercial floor area on approximately 14 acres; and

WHEREAS, on January 20, 2009, the City Council adopted Ordinance 08-1312 approving the Alves Ranch Master Plan and EIR addendum; and

WHEREAS, on May 28, 2019, the Planning Commission adopted Resolution 10121 recommending approval of the proposal in its entirety; and

WHEREAS, on July 1, 2019, the City Council adopted Resolution 19-13653 certifying that the Final EIR for the proposed project was prepared in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines; and

WHEREAS, on July 15, 2019, the City Council adopted Ordinance 19-1470 approving a zoning map amendment and the fourth amendment to the Development Agreement for the Alves Ranch project; and

WHEREAS, on October 31, 2019, the Fourth Amendment to the Development Agreement relating to the changes in the zoning classification from Commercial Office to Community Commercial and modify the number of affordable housing units to be constructed was executed; and

WHEREAS, on October 19, 2020, the City Council adopted Resolution 20-13844 approving the final map, improvement and grading plans, and subdivision improvement agreement for Subdivision—9497 Vista Del Mar II; and

WHEREAS, William Lyon Homes, Inc., (Developer) entered into a Subdivision Improvement Agreement with the City of Pittsburg for the construction of certain public improvements; and

WHEREAS, the City Engineer has determined that said improvements have been completed in accordance with the agreement and approved construction plans, fee obligations have been met, and therefore recommends approval of the Developer's request for acceptance for continuous maintenance.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburg hereby accepts for continuous maintenance of subsurface facilities including water, stormwater, and sewer conveyance system facilities as shown on the approved improvement plans for the subdivision.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 17th day of October 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution to Modify the Uniform Allowance and Amend the AFSCME Miscellaneous A and Management, Professional, Confidential Agreements

MEETING DATE: October 17, 2022

EXECUTIVE SUMMARY

The City Manager, upon recommendation from the Director of Human Resources, recommends amendments to the uniform allowance sections of the American Federation of State, County & Municipal Employees (AFSCME) Memorandums of Understanding (MOUs). The City Council is asked to approve the amendments to the AFSCME Miscellaneous A and Management Professional Confidential Memorandums of Understanding.

FISCAL IMPACT

The 2022/23 fiscal impact for the uniform allowance amendment is estimated to be \$1800 for the fiscal year.

RECOMMENDATION

The City Council adopt a resolution to approve the amendments of the AFSCME MOUs to add five classifications to the uniform allowance section.

BACKGROUND

Following the ratification and adoption of the ASFCME Miscellaneous A and Management, Professional, Confidential agreements, staff identified five classifications to be listed in the uniform allowance section of the MOUs and uniform allowance to ensure consistency with past practice and alignment with similar job classifications. The classifications of Community Outreach Coordinator (assigned to Police Department), Code Enforcement Officer I/II, Code Enforcement Supervisor, Crime Analyst and Police Services Administrator were added to the classification plan within the last five years but not included in the uniform allowance section.

The classifications of Community Outreach Coordinator (assigned to Police Department), Crime Analyst and Police Services Administrator should be eligible to receive uniform allowance in the amount of \$300 per year. The classifications of Code Enforcement Officer I/II and Code Enforcement Supervisor should be eligible to receive uniform allowance in the amount of \$600 per year.

The City provided AFSCME Miscellaneous A and Management, Professional, Confidential units notice of the proposed amendment to the uniform allowance section to include the additional classifications required to wear uniform and AFSCME was in agreement with the amendment. The City prepared the attached Side Letters of Agreement for AFSCME's signature on September 23, 2022.

SUBCOMMITTEE FINDINGS

This item was not presented to a subcommittee.

STAFF ANALYSIS

In accordance with the Meyers-Milias-Brown Act, the City Council is asked to adopt a resolution to approve changes to the Memorandums of Understanding and modify the uniform allowance section to provide uniform allowance pay in the amount of \$300 per year to the Community Outreach Coordinator (assigned to Police Department), Crime Analyst and Police Services Administrator and \$600 per year to the Code Enforcement Officer I/II, Code and Enforcement Supervisor.

ATTACHMENTS: Exhibit A Side Letter
 Resolution

Report Prepared By: Jennifer Brizel, Human Resources Director

To the Memorandum of Understanding
Between the City of Pittsburgh and AFSCME Miscellaneous A Unit
July 1, 2022 – June 30, 2025

This will confirm an understanding reached between the City of Pittsburgh and the American Federation of State, County and Municipal Employees (AFSCME), Miscellaneous A Unit.

7.1 Uniform Allowance

The annual uniform allowance will be three hundred dollars (\$300) for employees in the classifications of Community Outreach Coordinator (assigned to Police Department), Lead Records Clerk, Police Records Clerk and Property and Evidence Coordinator required to wear a work uniform. Employees in these classifications shall receive this uniform allowance for the term of this agreement.

The uniform allowance is prorated to \$11.5385 and payable every pay period with a regular paycheck.

The annual uniform allowance will be six hundred dollars (\$600) for employees in the classifications of Code Enforcement Officer I/II, Police Evidence Technician, Lead Community Services Specialist and Community Services Specialist required to wear a work uniform. Employees in these classifications shall receive this uniform allowance for the term of this agreement.

The uniform allowance is prorated to \$23.0769 and payable every pay period with a regular paycheck.

The City Manager or designee shall prescribe minimum standards of appearance for employees. Different standards may be applied to different classes, depending upon the type of work required of the employees. Employees shall be neatly groomed and suitably dressed for their duties, so that they present a favorable appearance to the public.

If the City provides at City expense either a uniform allowance or uniforms, the City Manager or designee shall ordinarily require the employee to wear the prescribed uniform on duty. The City Manager or designee may require some employees who receive uniform allowances or who are furnished with uniforms, to wear other clothing on duty, either regularly or occasionally, if the needs of the department require it.

FOR AFSCME

By _____
Kym Anderson
Business Agent

FOR CITY OF PITTSBURG

By _____
Garrett Evans
City Manager

By _____
Jennifer Brizel
Director of Human Resources

To the Memorandum of Understanding
Between the City of Pittsburg and AFSCME MPC Unit
July 1, 2022 – June 30, 2025

This will confirm an understanding reached between the City of Pittsburg and the American Federation of State, County and Municipal Employees (AFSCME), Management, Professional, Confidential Unit.

7.1 Uniform Allowance

The annual uniform allowance will be three hundred dollars (\$300) for the following classifications:

- Crime Analyst
- Executive Assistant to the Chief of Police
- Police Records Supervisor
- Police Services Administrator
- confidential Administrative Assistant, if assigned to the Police Department

The uniform allowance is prorated to \$11.5385 and payable every pay period with a regular paycheck.

The Chief of Police shall prescribe minimum standards of appearance for police department employees. Different standards may be applied for different classes, depending upon the type of work required of the employees. Employees shall be neatly groomed and suitably dressed for their duties, so that they present a favorable appearance to the public.

If the City provides at City expense either a uniform allowance or uniforms, the Chief of Police shall ordinarily require the employee to wear the prescribed uniform on duty. The Chief of Police may require some employees who receive uniform allowances or who are furnished with uniforms, to wear other clothing on duty, either regularly or occasionally, if the needs of the department require it.

The annual uniform allowance will be six hundred dollars (\$600) for employees in the classification of Code Enforcement Supervisor required to wear a work uniform. Employees in these classifications shall receive this uniform allowance for the term of this agreement.

The uniform allowance is prorated to \$23.0769 and payable every pay period with a regular paycheck.

The City Manager or designee shall prescribe minimum standards of appearance for employees. Different standards may be applied to different classes, depending upon the type of work required of the employees. Employees shall be neatly groomed and suitably dressed for their duties, so that they present a favorable appearance to the public.

If the City provides at City expense either a uniform allowance or uniforms, the City Manager or designee shall ordinarily require the employee to wear the prescribed uniform on duty. The City Manager or designee may require some employees who receive uniform allowances or who are furnished with uniforms, to wear other clothing on duty, either regularly or occasionally, if the needs of the department require it.

FOR AFSCME

By _____
Kym Anderson
Business Agent

FOR CITY OF PITTSBURG

By _____
Garrett Evans
City Manager

By _____
Jennifer Brizel
Director of Human Resources

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Amending the American Federation of _____)
State, County & Municipal Employees AFSCME)
Memorandums of Understanding to Modify the)
Uniform Allowance Section of the Agreement)

RESOLUTION NO. 22-

WHEREAS, the City and AFSCME Miscellaneous A and Management, Professional Confidential recommend an amendment of the Memorandums of Understanding (MOUs) to provide uniform allowance to the classifications of Community Outreach Coordinator (assigned to Police Department), Crime Analyst and Police Services Administrator in the amount of \$300 per year and Code Enforcement Officer I/II and Code Enforcement Supervisor in the amount of \$600 per year; and

WHEREAS, the City and AFSCME Miscellaneous A and Management, Professional Confidential met and conferred regarding the proposed changes; and

WHEREAS, the City prepared the attached Side Letters of Agreement to amend the AFSCME Miscellaneous A and Management, Professional, Confidential Memorandums of Understanding (MOUs) for signatures on September 23, 2022; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the amendment to the Memorandums of Understanding with AFSCME Miscellaneous A and Management, Professional, Confidential.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 17th day of October 2022 by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Making Findings in Support of Continuing to Hold Public Subcommittee Meetings by Teleconference Pursuant to California Government Code Section 54953(e)

MEETING DATE:

EXECUTIVE SUMMARY

Assembly Bill 361 (AB 361) amended the Brown Act to allow local legislative bodies to continue to meet remotely during proclaimed states of emergency under specified conditions. Findings must be made every 30 days.

FISCAL IMPACT

There is no fiscal impact to the General Fund by this action.

RECOMMENDATION

The City Council adopt the attached resolution, continue in-person meetings with the exception of subcommittee meetings which will remain virtual.

BACKGROUND

Beginning in March 2020, Governor Newsom issued a series of Executive Orders aimed at containing the novel coronavirus. Among these were Executive Orders—N-25-20 and N-29-20 (collectively, the “Brown Act Orders”) — that waived requirements in the Brown Act expressly or impliedly requiring the physical presence of legislative body members, staff, or the public at local agency meetings.

On June 11, 2021, the Governor issued Executive Order N-08-21, to begin winding down some of the prior measures that were adopted to respond to COVID-19. Notably, N-08-21 established an end date to the Brown Act Orders, effective September 30, 2021.

On September 16, Governor Newsom signed Assembly Bill 361 which amended the Brown Act to allow local legislative bodies to continue to meet remotely during proclaimed states of emergency under specified conditions and so long as certain findings are made by a majority of the legislative body. As detailed in the attached resolution, findings were made on October 17, 2022, and are effective for 30 days.

SUBCOMMITTEE FINDINGS

This item was not submitted to a subcommittee.

STAFF ANALYSIS

Local legislative bodies such as a city council that wish to continue meeting by teleconference must comply with the requirements of California Government Code Section 54953, which was amended by AB 361.

Specifically, newly amended Government Code Section 54953 requires the following procedures:

- Give notice and post agendas as otherwise required by the Brown Act;
- List on the agenda how the public can electronically attend and comment at the meeting. Note that a public agency is not required to offer an in-person option for the public to attend and comment at such a meeting;
- Provide an opportunity to comment in advance of and during the meeting;
- Allow a reasonable amount of time to register, if required, and comment on each agenda item or at least the amount of time allowed per agency meeting protocols, whichever is longer;
- No action may be taken during a disruption that inhibits the broadcast of the meeting or the public's ability to comment;
- All votes must be via rollcall;
- Comply with state and federal civil rights and non-discrimination laws; and
- Take all precautions to protect the statutory and constitutional rights of the public.

While it only applies in situations where the Governor has proclaimed a state of emergency, and not, for instance, when only a local health officer has declared an emergency, AB 361 provides an explicit avenue for local public agencies to meet remotely in the case of a public health, or other, emergency that inhibits the opportunity to meet in person. AB 361 provides the flexibility to meet by teleconference through December 31, 2023, unless extended.

The City Council resolution, if approved, would authorize teleconferenced meetings of subcommittees.

Making the findings would allow teleconferenced meetings for the next 30 days.

ATTACHMENTS: Resolution

Report Prepared By: Garrett Evans, City Manager

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Making Findings in Support of Continuing to)
Hold Public Subcommittee Meetings By) RESOLUTION NO. 22-
Teleconference Pursuant to California)
Government Code Section 54953(e))

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency due to COVID-19; and

WHEREAS, on March 10, 2020, the Contra Costa County Board of Supervisors issued an emergency proclamation to respond to COVID-19; and

WHEREAS, on March 16, 2020, the City Council proclaimed the existence of a local emergency in response to COVID-19; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which suspended specified requirements under the Brown Act with regard to teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended measures to promote social distancing; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which modified and replaced the Brown Act language of Executive Order N-25-20, continuing to suspend specified requirements under the Brown Act for teleconferenced meetings of legislative bodies during the period in which state or local public health officials have imposed or recommended social distancing measures; and

WHEREAS on June 11, 2021, the Governor issued Executive Order N-08-21, which modified and replaced the Brown Act language of Executive Order N-29-20 and set forth an end date of September 30, 2021; and

WHEREAS, in September 2021 the State Legislature passed Assembly Bill 361, which was signed into law by the Governor on September 19, 2021; and

WHEREAS, AB 361 amended the Brown Act at Government Code Section 54953 to allow, until January 1, 2024, a legislative body to use teleconferencing without adhering to specified requirements so long as, among other circumstances, the meeting is held during a proclaimed state of emergency and state or local officials have imposed or recommended measures to promote social distancing, and so long as the legislative body reconsiders the circumstances every 30 days; and

WHEREAS, on September 20, 2021, the Contra Costa County Health Officer issued recommendations for public meetings, which recommendations include social distancing; and

WHEREAS, on October 4, 2021, and November 1, 2021, the City Council adopted a resolution authorizing teleconferenced meetings for the City Council, commissions, and subcommittees; and

WHEREAS, following an improvement in the incidence of COVID cases, the City Council adopted Resolutions on November 29, 2021, December 20, 2021, January 18, 2022, February 7, 2022, March 7, 2022, April 4, 2022, May 2, 2022, June 6, 2022, June 20, 2022, July 18, 2022, August 15, 2022, and September 19, 2022 to authorize meetings with public participation by teleconference and in-person attendance by members of the City Council and commissions, and otherwise fully teleconferenced meetings for subcommittees; and

WHEREAS, with the emergence of the Omicron variant, which may spread more easily than other variants, and in the wake of holiday gatherings of persons, the incidence of COVID increased markedly and then decreased but continues to be transmitted in the community.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby makes the following findings:

1. The circumstances of the state of emergency have been reconsidered. The state of emergency declared by the Governor has not been terminated. The state of emergency declared by the County Board of Supervisors has not been terminated. The state of emergency declared by the City Council has not been terminated.
2. State or local officials continue to impose or recommend measures to promote social distancing. The County Health Official on September 21, 2021, and on March 1, 2022, issued a recommendation for social distancing, among other recommendations, during public meetings.

BE IT FURTHER RESOLVED that the City Council hereby approves meetings of subcommittees to be held by teleconference in compliance with California Government Code Section 54953(e). As there are numerous subcommittees, some which are comprised of members of more than one legislative body, and meet frequently, for the protection of the health of attendees all subcommittee meetings are to be held by teleconference.

PASSED AND ADOPTED by the City Council of the City of Pittsburg at a regular meeting on the 17th day of October 2022, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing Execution of the Equipment Lease Purchase Agreement with Motorola Solutions to Replace the Police Radio System to Meet California Department of Justice Requirements

MEETING DATE: October 17, 2022

EXECUTIVE SUMMARY

At its September 19, 2022, meeting, City Council authorized the City Manager to negotiate and execute an agreement with Motorola Solutions Inc. to upgrade all Police radio systems to include encryption of all radio traffic. Staff now recommends City Council authorization to execute the Equipment Lease Purchase Agreement and approval of the Certified Lessee Resolution, as required by the supplier.

FISCAL IMPACT

The seven-year Equipment Lease Purchase Agreement with Motorola Solutions shall not exceed \$1,501,631. The Police Department's General Fund Budget (Fund 110) will include annual payments of \$247,579.75 commencing Fiscal Year (FY) 2023/24 and concluding FY 2029/30. This cost will include the equipment replacement and the encryption. Motorola Solutions, Inc. is the only provider which can supply the encryption for the Motorola System as the engineering is proprietary and Motorola is the Sole Source Provider.

RECOMMENDATION

Adopt the Resolution authorizing the execution of the Equipment Lease Purchase Agreement with Motorola Solutions to replace the police radio system to meet California Department of Justice Requirements.

BACKGROUND

The California Department of Justice now requires law enforcement agencies to provide confidentiality of information transmitted over the radio system with digital encryption. The department is currently working with East Bay Regional Communication System (EBRCS) to meet these requirements through the sole source vendor of Motorola Solutions, Inc.

SUBCOMMITTEE FINDINGS

This item has been presented to and supported by the Public Safety Subcommittee on September 6, 2022.

STAFF ANALYSIS

The current radio communications equipment is twelve years old. This current equipment will be out of service in 2023; Motorola will no longer service or manufacture parts as the model is antiquated. Instead of encrypting the current antiquated equipment, this resolution would authorize the purchase of upgraded and modernized radio equipment and the encryption from Motorola Solutions, Inc. in the amount of \$1,501,631 through a seven-year municipal lease purchase. The first payment of \$247,579.75 from the FY 2023/24 Police Department's general fund budget will be made in September 2023 and six additional payments will be made annually over the next six annual budget cycles. The updated radio equipment will allow the department to meet and exceed the encryption requirements for all police radio communication within the EBRCS communication network.

Staff recommends adoption of the Resolution authorizing approval and execution of the Equipment Lease Purchase Agreement with Motorola Solutions to replace all communications equipment and meet the California Department of Justice and FBI Criminal Justice Information Services Security Policy

ATTACHMENTS: Equipment Lease Purchase Agreement
 Resolution

Report Prepared By: Steve Albanese, Chief of Police

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the matter of:

Authorizing Execution of the Equipment Lease)
Purchase Agreement with Motorola Solutions to)
Replace Police Radio System to Meet California)
Department of Justice Requirements)

RESOLUTION NO. 22-

WHEREAS, the City needs to replace the Police Department radio system and is required to encrypt all Police Department radio traffic; and

WHEREAS, Motorola Solutions, Inc., is the only provider that provides encryption service to Motorola equipment; and

WHEREAS, the City and Motorola seek to enter into a seven-year Equipment Lease-Purchase Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council as follows:

1. Determination of Need. The Governing Body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment or other personal property described in the Lease between City of Pittsburgh (Lessee) and Motorola Solutions, Inc. (Lessor).
2. Approval and Authorization. The Governing body of Lessee has determined that the Lease, substantially in the form presented to this meeting, is in the best interests of the Lessee for the acquisition of such Equipment or other personal property, and the Governing Board hereby approves the entering into of the Lease by the Lessee and hereby designates and authorizes the following person(s) referenced in the Lease to execute and deliver the Lease on Lessee's behalf with such changes thereto as such person deems appropriate, and any related documents, including any escrow agreement, necessary to the consummation of the transactions contemplated by the Lease.
3. Adoption of Resolution. The signatures in the Lease from the designated individuals for the Governing Body of the Lessee evidence the adoption by the Governing Body of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Pittsburgh at a regular meeting on the 17TH day of October 2022, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk

LESSEE FACT SHEET

Please help Motorola provide excellent billing service by providing the following information:

1. Complete Billing Address City of Pittsburg
65 Civic Avenue, Pittsburg, CA 94565

E-mail Address: jlowe@pittsburgca.gov

Attention: Joyce Lowe

Phone: 925-252-4993
2. Lessee County Location: 65 Civic Avenue, Pittsburg, CA 94565
3. Federal Tax I.D. Number 94-600395
4. Purchase Order Number to be referenced on invoice (if necessary) or other "descriptions" that may assist in determining the applicable cost center or department: Police Department
5. Equipment description that you would like to appear on your invoicing: Pittsburg Police Department, Motorola Lease

Appropriate Contact for Documentation / System Acceptance Follow-up:

6. Appropriate Contact & Mailing Address Joyce Lowe
65 Civic Avenue Type text here
Pittsburg CA 94565

Phone: 925-252-4993
Fax: 925-252-4111
7. Payment remit to address: Motorola Solutions Credit Company LLC
P.O. Box 71132
Chicago IL 60694-1132

Thank you

EQUIPMENT LEASE-PURCHASE AGREEMENT

Lease Number: 25320

LESSEE:

City of Pittsburg
65 Civic Avenue
Pittsburg CA 94565

LESSOR:

Motorola Solutions, Inc.
500 W. Monroe
Chicago IL 60661

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the equipment and/or software described in Schedule A attached hereto ("Equipment") in accordance with the following terms and conditions of this Equipment Lease-Purchase Agreement ("Lease").

1. TERM. This Lease will become effective upon the execution hereof by Lessor. The Term of this Lease will commence on date specified in Schedule A attached hereto and unless terminated according to terms hereof or the purchase option, provided in Section 18, is exercised this Lease will continue until the Expiration Date set forth in Schedule B attached hereto ("Lease Term").

2. RENT. Lessee agrees to pay to Lessor or its assignee the Lease Payments (herein so called), including the interest portion, in the amounts specified in Schedule B. The Lease Payments will be payable without notice or demand at the office of the Lessor (or such other place as Lessor or its assignee may from time to time designate in writing), and will commence on the first Lease Payment Date as set forth in Schedule B and thereafter on each of the Lease Payment Dates set forth in Schedule B. Any payments received later than ten (10) days from the due date will bear interest at the highest lawful rate from the due date. Except as specifically provided in Section 5 hereof, the Lease Payments will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, or recoupment for any reason whatsoever. Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments during the Lease Term and hereby covenants that a request for appropriation for funds from which the Lease Payments may be made will be requested each fiscal period, including making provisions for such payment to the extent necessary in each budget submitted for the purpose of obtaining funding. It is Lessee's intent to make Lease Payment for the full Lease Term if funds are legally available therefor and in that regard Lessee represents that the Equipment will be used for one or more authorized governmental or proprietary functions essential to its proper, efficient and economic operation.

3. DELIVERY AND ACCEPTANCE. Lessor will cause the Equipment to be delivered to Lessee at the location specified in Schedule A ("Equipment Location"). Lessee will accept the Equipment as soon as it has been delivered and is operational. Lessee will evidence its acceptance of the Equipment either (a) by executing and delivering to Lessor a Delivery and Acceptance Certificate ^{65 Civic Avenue} provided by Lessor; or (b) by executing and delivering the form of acceptance provided for in the Contract (defined below).

Even if Lessee has not executed and delivered to Lessor a Delivery and Acceptance Certificate or other form of acceptance acceptable to Lessor, if Lessor believes the Equipment has been delivered and is operational, Lessor may require Lessee to notify Lessor in writing (within five (5) days of Lessee's receipt of Lessor's request) whether or not Lessee deems the Equipment (i) to have been delivered and (ii) to be operational, and hence be accepted by Lessee. If Lessee fails to so respond in such five (5) day period, Lessee will be deemed to have accepted the Equipment and be deemed to have acknowledged that the Equipment was delivered and is operational as if Lessee had in fact executed and delivered to Lessor a Delivery and Acceptance Certificate or other form acceptable to Lessor.

4. REPRESENTATIONS AND WARRANTIES. Lessor acknowledges that the Equipment leased hereunder is being manufactured and installed by Lessor pursuant to contract (the "Contract") covering the Equipment. Lessee acknowledges that on or prior to the date of acceptance of the Equipment, Lessor intends to sell and assign Lessor's right, title and interest in and to this Agreement and the Equipment to an assignee ("Assignee").

LESSEE FURTHER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY SET FORTH IN THE CONTRACT, LESSOR MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE OR KIND WHATSOEVER, AND AS BETWEEN LESSEE AND THE ASSIGNEE, THE PROPERTY SHALL BE ACCEPTED BY LESSEE "AS IS" AND "WITH ALL FAULTS". LESSEE AGREES TO SETTLE ALL CLAIMS DIRECTLY WITH LESSOR AND WILL NOT ASSERT OR SEEK TO ENFORCE ANY SUCH CLAIMS AGAINST THE ASSIGNEE. NEITHER LESSOR NOR THE ASSIGNEE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER AS A RESULT OF THE LEASE OF THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, PROPERTY DAMAGE OR LOST PRODUCTION WHETHER SUFFERED BY LESSEE OR ANY THIRD PARTY.

Lessor is not responsible for, and shall not be liable to Lessee for damages relating to loss of value of the Equipment for any cause or situation (including, without limitation, governmental actions or regulations or actions of other third parties).

5. NON-APPROPRIATION OF FUNDS. Notwithstanding anything contained in this Lease to the contrary, Lessee has the right to not appropriate funds to make Lease Payments required hereunder in any fiscal period and in the event no funds are appropriated or in the event funds appropriated by Lessee's governing body or otherwise available by any lawful means whatsoever in any fiscal period of Lessee for Lease Payments or other amounts due under this Lease are insufficient therefor, this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments or other amounts herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available. The Lessee will immediately notify the Lessor or its Assignee of such occurrence. In the event of such termination, Lessee agrees to peaceably surrender possession of the Equipment to Lessor or its Assignee on the date of such termination, packed for shipment in accordance with manufacturer specifications and freight prepaid and insured to any location in the continental United States designated by Lessor. Lessor will have all legal and equitable rights and remedies to take possession of the Equipment. Non-appropriation of funds shall not constitute a default hereunder for purposes of Section 16.

6. LESSEE CERTIFICATION. Lessee represents, covenants and warrants that: (i) Lessee is a state or a duly constituted political subdivision or agency of the state of the Equipment Location; (ii) the interest portion of the Lease Payments shall be excludable from Lessor's gross income pursuant to Section 103 of the Internal Revenue Code of 1986, as it may be amended from time to time (the "Code"); (iii) the execution, delivery and performance by the Lessee of this Lease have been duly authorized by all necessary action on the part of the Lessee; (iv) this Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; (v) Lessee will comply with the information reporting requirements of Section 149(e) of the Internal Revenue Code of 1986 (the "Code"), and such compliance shall include but not be limited to the execution of information statements requested by Lessor; (vi) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the Lease to be an arbitrage bond within the meaning of Section 148(a) of the Code; (vii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, this Lease to be a private activity bond within the meaning of Section 141(a) of the Code; (viii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the interest portion of the Lease Payment to be or become includible in gross income for Federal income taxation purposes under the Code; and (ix) Lessee will be the only entity to own, use and operate the Equipment during the Lease Term.

Lessee represents, covenants and warrants that: (i) it will do or cause to be done all things necessary to preserve and keep the Lease in full force and effect, (ii) it has complied with all laws relative to public bidding where necessary, and (iii) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period.

If Lessee breaches the covenant contained in this Section, the interest component of Lease Payments may become includible in gross income of the owner or owners thereof for federal income tax purposes. In such event, notwithstanding anything to the contrary contained in Section 11 of this Agreement, Lessee agrees to pay promptly after any such determination of taxability and on each Lease Payment date thereafter to Lessor an additional amount determined by Lessor to compensate such owner or owners for the loss of such excludibility (including, without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive (absent manifest error). Notwithstanding anything herein to the contrary, any additional amount payable by Lessee pursuant to this Section 6 shall be payable solely from Legally Available Funds.

It is Lessor's and Lessee's intention that this Agreement not constitute a "true" lease for federal income tax purposes and, therefore, it is Lessor's and Lessee's intention that Lessee be considered the owner of the Equipment for federal income tax purposes.

7. TITLE TO EQUIPMENT; SECURITY INTEREST. Upon shipment of the Equipment to Lessee hereunder, title to the Equipment will vest in Lessee subject to any applicable license; provided, however, that (i) in the event of termination of this Lease by Lessee pursuant to Section 5 hereof; (ii) upon the occurrence of an Event of Default hereunder, and as long as such Event of Default is continuing; or (iii) in the event that the purchase option has not been exercised prior to the Expiration Date, title will immediately vest in Lessor or its Assignee, and Lessee shall immediately discontinue use of the Equipment, remove the Equipment from Lessee's computers and other electronic devices and deliver the Equipment to Lessor or its Assignee. In order to secure all of its obligations hereunder, Lessee hereby (i) grants to Lessor a first and prior security interest in any and all right, title and interest of Lessee in the Equipment and in all additions, attachments, accessions, and substitutions thereto, and on any proceeds therefrom; (ii) agrees that this Lease may be filed as a financing statement evidencing such security interest; and (iii) agrees to execute and deliver all financing statements, certificates of title and other instruments necessary or appropriate to evidence such security interest.

8. USE; REPAIRS. Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinances, insurance policies, the Contract, any licensing or other agreement, and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of the possession, use or maintenance of the Equipment. Lessee, at its expense will keep the Equipment in good repair and furnish and/or install all parts, mechanisms, updates, upgrades and devices required therefor.

9. ALTERATIONS. Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without damage to the Equipment.

10. LOCATION; INSPECTION. The Equipment will not be removed from, [or if the Equipment consists of rolling stock, its permanent base will not be changed from] the Equipment Location without Lessor's prior written consent which will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operation.

11. LIENS AND TAXES. Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances except those created under this Lease. Lessee shall pay, when due, all charges and taxes (local, state and federal) which may now or hereafter be imposed upon the ownership, licensing, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes, Lessee shall reimburse Lessor therefor within ten days of written demand.

12. RISK OF LOSS: DAMAGE; DESTRUCTION. Lessee assumes all risk of loss or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair (an "Event of Loss"), Lessee at the option of Lessor will: either (a) replace the same with like equipment in good repair; or (b) on the next Lease Payment date, pay Lessor the sum of: (i) all amounts then owed by Lessee to Lessor under this Lease, including the Lease payment due on such date; and (ii) an amount equal to all remaining Lease Payments to be paid during the Lease Term as set forth in Schedule B.

In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Lease Payment and the Balance Payment (as set forth in Schedule B) to be made by Lessee with respect to that part of the Equipment which has suffered the Event of Loss.

13. INSURANCE. Lessee will, at its expense, maintain at all times during the Lease Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts,

covering such risks, and with such insurers as shall be satisfactory to Lessor, or, with Lessor's prior written consent, Lessee may self-insure against any or all such risks. All insurance covering loss of or damage to the Equipment shall be carried in an amount no less than the amount of the then applicable Balance Payment with respect to such Equipment. The initial amount of insurance required is set forth in Schedule B. Each insurance policy will name Lessee as an insured and Lessor or its Assigns as an additional insured, and will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or its Assigns as their interests may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event that Lessee has been permitted to self-insure, Lessee will furnish Lessor with a letter or certificate to such effect. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto.

14. INDEMNIFICATION. Lessee shall, to the extent permitted by law, indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages or liabilities, including attorneys' fees and court costs, arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, licensing, possession, use, operation, rejection, or return and the recovery of claims under insurance policies thereon.

15. ASSIGNMENT. Without Lessor's prior written consent, Lessee will not either (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Lease or the Equipment or any interest in this Lease or the Equipment or; (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. Lessor may assign its rights, title and interest in and to this Lease, the Equipment and any documents executed with respect to this Lease and/or grant or assign a security interest in this Lease and the Equipment, in whole or in part. Any such assignees shall have all of the rights of Lessor under this Lease. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Lessee covenants and agrees not to assert against the Assignee any claims or defenses by way of abatement, setoff, counterclaim, recoupment or the like which Lessee may have against Lessor. No assignment or reassignment of any Lessor's right, title or interest in this Lease or the Equipment shall be effective unless and until Lessee shall have received a notice of assignment, disclosing the name and address of each such assignee; provided, however, that if such assignment is made to a bank or trust company as paying or escrow agent for holders of certificates of participation in the Lease, it shall thereafter be sufficient that a copy of the agency agreement shall have been deposited with Lessee until Lessee shall have been advised that such agency agreement is no longer in effect. During the Lease Term Lessee shall keep a complete and accurate record of all such assignments in form necessary to comply with Section 149(a) of the Code, and the regulations, proposed or existing, from time to time promulgated thereunder. No further action will be required by Lessor or by Lessee to evidence the assignment, but Lessee will acknowledge such assignments in writing if so requested.

After notice of such assignment, Lessee shall name the Assignee as additional insured and loss payee in any insurance policies obtained or in force. Any Assignee of Lessor may reassign this Lease and its interest in the Equipment and the Lease Payments to any other person who, thereupon, shall be deemed to be Lessor's Assignee hereunder.

16. EVENT OF DEFAULT. The term "Event of Default", as used herein, means the occurrence of any one or more of the following events: (i) Lessee fails to make any Lease Payment (or any other payment) as it becomes due in accordance with the terms of the Lease when funds have been appropriated sufficient for such purpose, and any such failure continues for ten (10) days after the due date thereof; (ii) Lessee fails to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder and such failure is not cured within twenty (20) days after written notice thereof by Lessor; (iii) the discovery by Lessor that any statement, representation, or warranty made by Lessee in this Lease or in writing delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (iv) proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted against or by Lessee, or a receiver or similar officer shall be appointed for Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within twenty (20) days after the institution or occurrence thereof; or (v) an attachment, levy or execution is threatened or levied upon or against the Equipment.

17. REMEDIES. Upon the occurrence of an Event of Default, and as long as such Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies: (i) by written notice to Lessee, declare all amounts then due under the Lease, and all remaining Lease Payments due during the fiscal period in effect when the default occurs to be immediately due and payable, whereupon the same shall become immediately due and payable; (ii) by written notice to Lessee, request Lessee to (and Lessee agrees that it will), at Lessee's expense, promptly discontinue use of the Equipment, remove the Equipment from all of Lessee's computers and electronic devices, return the Equipment to Lessor in the manner set forth in Section 5 hereof, or Lessor, at its option, may enter upon the premises where the Equipment is located and take immediate possession of and remove the same; (iii) sell or lease the Equipment or sublease it for the account of Lessee, holding Lessee liable for all Lease Payments and other amounts due prior to the effective date of such selling, leasing or subleasing and for the difference between the purchase price, rental and other amounts paid by the purchaser, Lessee or sublessee pursuant to such sale, lease or sublease and the amounts payable by Lessee hereunder; (iv) promptly return the Equipment to Lessor in the manner set forth in Section 5 hereof; and (v) exercise any other right, remedy or privilege which may be available to it under applicable laws of the state of the Equipment Location or any other applicable law or proceed by appropriate court action to enforce the terms of the Lease or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment. In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

18. PURCHASE OPTION. Upon thirty (30) days prior written notice from Lessee to Lessor, and provided that no Event of Default has occurred and is continuing, or no event, which with notice or lapse of time, or both could become an Event of Default, then exists, Lessee will have the right to purchase the Equipment on the Lease Payment dates set forth in Schedule B by paying to Lessor, on such date, the Lease Payment then due together with the Balance Payment amount set forth opposite such date. Upon satisfaction by Lessee of such purchase conditions, Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, without warranty, express or implied, except that the Equipment is free and clear of any liens created by Lessor.

19. NOTICES. All notices to be given under this Lease shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five days subsequent to such mailing.

20. SECTION HEADINGS. All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

21. GOVERNING LAW. This Lease shall be construed in accordance with, and governed by the laws of, the state of the Equipment Location.

22. DELIVERY OF RELATED DOCUMENTS. Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Lease.

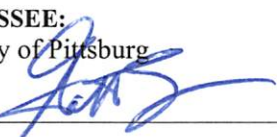
23. ENTIRE AGREEMENT; WAIVER. This Lease, together with Schedule A Equipment Lease-Purchase Agreement, Schedule B, Evidence of Insurance, Statement of Essential Use/Source of Funds, Certificate of Incumbency, Certified Lessee Resolution (if any), Information Return for Tax-Exempt Governmental Obligations and the Delivery and Acceptance Certificate and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitutes the entire agreement between the parties with respect to the Lease of the Equipment, and this Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of the Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

24. EXECUTION IN COUNTERPARTS. This Lease may be executed in several counterparts, either electronically or manually, all of which shall constitute but one and the same instrument. Lessor reserves the right to request receipt of a manually-executed counterpart from Lessee. Lessor and Lessee agree that the only original counterpart for purposes of perfection by possession shall be the original counterpart manually executed by Lessor and identified as "Original", regardless of whether Lessee's execution or delivery of said counterpart is done manually or electronically.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the 27 day of September, 2022.

LESSEE:
City of Pittsburg

By: 

Printed Name: Garrett Evans
Title: City Manager

Approved as to Form:



City Attorney

LESSOR:
MOTOROLA SOLUTIONS, INC.

By: _____

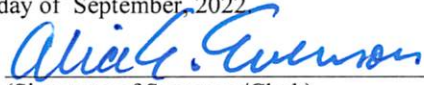
Uygar Gazioglu
Title Treasurer

CERTIFICATE OF INCUMBENCY

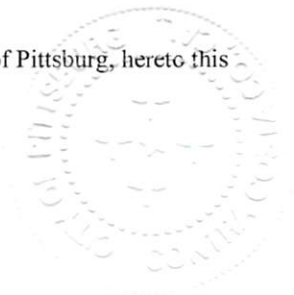
I, Alice Evenson do hereby certify that I am the duly elected or
(Printed Name of Secretary/Clerk)

appointed and acting Secretary or Clerk of the City of Pittsburg, an entity duly organized and existing under the laws of the **State of California** that I have custody of the records of such entity, and that, as of the date hereof, the individual(s) executing this agreement is/are the duly elected or appointed officer(s) of such entity holding the office(s) below his/her/their respective name(s). I further certify that (i) the signature(s) set forth above his/her/their respective name(s) and title(s) is/are his/her/their true and authentic signature(s) and (ii) such officer(s) have the authority on behalf of such entity to enter into that certain Equipment Lease Purchase Agreement number **25320**, between City of Pittsburg and Motorola Solutions, Inc. If the initial insurance requirement on Schedule B exceeds \$1,000,000, attached as part of the Equipment Lease Purchase Agreement is a Certified Lessee Resolution adopted by the governing body of the entity.

IN WITNESS WHEREOF, I have executed this certificate and affixed the seal of City of Pittsburg, hereto this
27 day of September, 2022.

By: 
(Signature of Secretary/Clerk)

SEAL



OPINION OF COUNSEL

With respect to that certain Equipment Lease-Purchase Agreement 25320 by and between Motorola Solutions, Inc. and the Lessee, I am of the opinion that: (i) the Lessee is, within the meaning of Section 103 of the Internal Revenue Code of 1986, a state or a fully constituted political subdivision or agency of the State of the Equipment Location described in Schedule A hereto; (ii) the execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee, (III) the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; and (iv) Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease, and such monies have been properly budgeted and appropriated for this purpose in accordance with State law. This opinion may be relied upon by the Lessor and any assignee of the Lessor's rights under the Lease.



Donna Mooney
Attorney for City of Pittsburg

**SCHEDULE A
EQUIPMENT LEASE-PURCHASE AGREEMENT**

**Schedule A 25320
Lease Number:**

This Equipment Schedule is hereby attached to and made a part of that certain Equipment Lease-Purchase Agreement Number **25320** ("Lease"), between Lessor and Lessee.

Lessor hereby leases to Lessee under and pursuant to the Lease, and Lessee hereby accepts and leases from Lessor under and pursuant to the Lease, subject to and upon the terms and conditions set forth in the Lease and upon the terms set forth below, the following items of Equipment

QUANTITY	DESCRIPTION (Manufacturer, Model, and Serial Nos.)
	Refer to attached Equipment List.
Equipment Location:	

Initial Term: 84 Months

Commencement Date: 10/1/2022

First Payment Due Date: 10/1/2023

7 annual payments as outlined in the attached Schedule B, plus Sales/Use Tax of \$0.00, payable on the Lease Payment Dates set forth in Schedule B.

City of Pittsburg (Schedule B)

Compound Period: Annual

Nominal Annual Rate: 3.720%

CASH FLOW DATA

Event	Date	Amount	Number	Period	End Date
1 Lease	10/1/2022	\$ 1,501,630.84	1		
2 Lease Payment	10/1/2023	\$ 247,603.66	7	Annual	10/1/2029

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Lease Payment	Interest	Principal	Balance
Lease	10/1/2022				\$ 1,501,630.84
1	10/1/2023	\$ 247,603.66	\$ 55,860.67	\$ 191,742.99	\$ 1,309,887.85
2	10/1/2024	\$ 247,603.66	\$ 48,727.83	\$ 198,875.83	\$ 1,111,012.02
3	10/1/2025	\$ 247,603.66	\$ 41,329.65	\$ 206,274.01	\$ 904,738.01
4	10/1/2026	\$ 247,603.66	\$ 33,656.25	\$ 213,947.41	\$ 690,790.60
5	10/1/2027	\$ 247,603.66	\$ 25,697.41	\$ 221,906.25	\$ 468,884.35
6	10/1/2028	\$ 247,603.66	\$ 17,442.50	\$ 230,161.16	\$ 238,723.19
7	10/1/2029	\$ 247,603.66	\$ 8,880.47	\$ 238,723.19	\$ -
Grand Totals		\$ 1,733,225.62	\$ 231,594.78	\$ 1,501,630.84	

INITIAL INSURANCE REQUIREMENT: \$1,501,630.84

Except as specifically provided in Section five of the Lease hereof, Lessee agrees to pay to Lessor or its assignee the Lease Payments, including the interest portion, in the amounts and dates specified in the above payment schedule.

ORIGINAL ISSUE DISCOUNT:

Lessee acknowledges that the amount financed by Lessor is \$1,476,839.00 and that such amount is the issue price for this Lease Payment Schedule for federal income tax purposes. The difference between the principal amount of this Lease Payment Schedule and the issue price is original issue discount as defined in Section 1288 of the Code. The yield for this Lease Payment Schedule for federal income tax purposes is 4.17%. Such issue price and yield will be stated in the applicable Form 8038-G.

EVIDENCE OF INSURANCE

Fire, extended coverage, public liability and property damage insurance for all of the Equipment listed on Schedule A number **25320** to that Equipment Lease Purchase Agreement number **25320** will be maintained by the City of Pittsburg as stated in the Equipment Lease Purchase Agreement.

This insurance is provided by:

Municiple Pooing Authority

Name of insurance provider

P.O. Box 67

Address of insurance provider

Walnute Creek, CA 94597

City, State and Zip Code

925-943-1100

Phone number of local insurance provider

www.mpa-nc.com

E-mail address

In accordance with the Equipment Lease Purchase Agreement Number **25320** , City of Pittsburg , hereby certifies that following coverage are or will be in full force and effect:

Type	Amount	Effective Date	Expiration Date	Policy Number
Fire and Extended Coverage	* SEE ATTACHED INSURANCE CERTIFICATE			
Property Damage				
Public Liability				

Certificate shall include the following:

Description: All Equipment listed on Schedule A number 25320 to that Equipment Lease Purchase Agreement number 25320. Please include equipment cost equal to the Initial Insurance Requirement on Schedule B to Equipment Lease Purchase Agreement number 25320 and list any deductibles.

Certificate Holder:

MOTOROLA SOLUTIONS, INC. and or its assignee as additional insured and loss payee
1303 E. Algonquin Road
Schaumburg, IL 60196

If self insured, contact Motorola representative for template of self insurance letter.

STATEMENT OF ESSENTIAL USE/SOURCE OF FUNDS

To further understand the essential governmental use intended for the equipment together with an understanding of the sources from which payments will be made, please address the following questions by completing this form or by sending a separate letter:

1. What is the specific use of the equipment?

Equipment to be utilized for Police Department and public safety

2. Why is the equipment essential to the operation of **City of Pittsburg**?

Communication and resource equipment needed for officers and staff for police services

3. Does the equipment replace existing equipment? yes

If so, why is the replacement being made?

Current equipment has reached end of service life and upgrades needed.

4. Is there a specific cost justification for the new equipment? No

If yes, please attach outline of justification.

5. What is the expected source of funds for the payments due under the Lease for the current fiscal year and future fiscal years? City of Pittsburg General Fund



**OFFICE OF THE CITY MANAGER/EXECUTIVE DIRECTOR
65 Civic Avenue
Pittsburg, CA 94565**

TO: Mayor and Council Members

FROM: Garrett Evans, City Manager

SUBJECT: Adoption of a City Council Resolution Authorizing the City Manager to Execute the First Amendment to the Consulting Services Agreement with Anchor QEA and to Negotiate and Execute a Reimbursement and Indemnity Agreement with New York Landing Homeowners Association for Dredge Design

MEETING DATE: October 17, 2022

EXECUTIVE SUMMARY

The City has a Consultant Agreement with Anchor QEA for the marina dredge project and construction management (Agreement). In preparation for a 2023 dredge project (Project) that includes the New York Landing Homeowners Association (HOA) waterway (Waterway), design services and approvals from the Dredged Material Management Office (DMMO) are needed to prepare construction bid documents. Staff seeks to amend the City's current Agreement to include the Waterway in the Project and allow the City Manager to negotiate reimbursement and Project terms with the HOA for dredging the Waterway.

FISCAL IMPACT

The City's current Agreement with Anchor QEA for project and construction management sets forth a maximum compensation of \$268,800. Including the Waterway in the Project scope will require increasing the compensation by approximately \$192,800 to cover project and construction management costs, for a total Project cost of \$461,600. The increased cost is largely due to the sediment characterization process for the Waterway required for DMMO approval. The increased cost will have no impact to the General Fund. Pursuant to the Covenants, Conditions, and Restrictions that govern the HOA, the HOA must reimburse the City for any dredge work conducted in the Waterway. The obligation will be included in the Reimbursement and Indemnification Agreement (R&I Agreement) prior to execution of the proposed First Amendment to the City's Design Contract with Anchor QEA that will obligate the City to pay for any additional services.

Should an R&I Agreement be executed, which includes the Waterway in the Project, several project and construction management tasks will be shared between the City and HOA resulting in approximately \$30,000 in project and construction management savings and a potential per-unit savings during future construction phases.

RECOMMENDATION

Staff recommends City Council adoption of the attached Resolution authorizing the City Manager to execute First Amendment to the Agreement with Anchor QEA and to negotiate and execute a R&I Agreement with the HOA for dredge design.

BACKGROUND

In 1987, the former Redevelopment Agency of the City of Pittsburg conveyed by Grant Deed real property known as Marina Park to Ridgeview Builders, Inc. for residential development, and easements pursuant to an Easement Agreement to Ridgeview Builders, Inc. for development of, access to, and use of an inland Waterway adjacent to the residential development. Consistent with the Easement Agreement, Ridgeview Builders, Inc. established the HOA to govern residential development, establish Covenants, Conditions, and Restrictions (CC&R's) regarding the rights of the HOA, and designating duties including those associated with dredging the Waterway. Article 7.2 of the CC&Rs require the HOA to pay the cost of any maintenance dredging the City performs in the Waterway.

The City received a 10-year dredge permit in September 2019 that allows maintenance dredging at Basins 1-3, the public launch ramps, and the Waterway. In 2020, the City completed one dredge episode in Basin 2 near and around the fuel docks.

In February 2021, the City executed the Agreement with Anchor QEA for dredge project management and has since completed all surveying and sampling tasks required for design and DMMO approval of the Project in Basin 3. As shown in Attachment 4, the proposed Project area is at the entrance of the Waterway from the Marina and will remove silt that currently impedes dredging of the Waterway.

The buildup of silt in the Waterway impedes ingress and egress of vessels at low tide. The HOA therefore requested collaboration with the City to dredge the Waterway at the same time as Basin 3, as allowed in CC&Rs. On October 3, 2022, the HOA board of directors voted to, upon City approval, authorize adding the Waterway in the City's design and bid of its 2023 Marina Dredge Project and pay the City the HOA's share of the project management, design, and bid preparation costs.

SUBCOMMITTEE FINDINGS

On September 26, 2022 the City's Economic Development and Waterfront subcommittee discussed and expressed support for combining the projects and charging a management fee.

STAFF ANALYSIS

Including the Waterway in the City's Project is anticipated to reduce the project and construction management costs to the City by approximately \$30,000. Drawing on the economies of scale, the City may also experience a construction cost savings per unit of dredge material removed due to an increased Project size. Additionally, dredging Basin 3 and the Waterway simultaneously avoids the possibility of resiltting at Basin 3 before the HOA could separately accomplish dredging of the Waterway.

On October 3, 2022, the HOA board of directors confirmed its willingness and ability to fund Phase I of the Project pertaining to the Waterway dredge design, DMMO approval, and bid document preparation. Staff intends to mitigate risk and avoid financial loss in taking on the Waterway through a R&I Agreement. The R&I Agreement sets forth provisions addressing accounting, risk management, and contingencies. The First Amendment to the City's Agreement with Anchor QEA would become effective after execution of an R&I Agreement, ensuring no City obligation to pay for non-City costs associated with the Waterway without guaranteed reimbursement and indemnification.

The City is on target to receive DMMO approvals early in its review period which allows the City to advertise the Project sooner and is expected to attract more favorable bids and more reliable dredgers than projects advertised later in the dredge season.

ATTACHMENTS: Reimbursement & Indemnification Agreement
 First Amendment to Consultant Services Agreement
 Waterway Map
 Resolution

Report Prepared by: Sara Bellafronte, Senior Administrative Analyst

BEFORE THE CITY COUNCIL OF THE CITY OF PITTSBURG

In the Matter of:

Authorizing the City Manager to Execute the)
First Amendment to the Consulting Services)
Agreement with Anchor QEA and Negotiate)
And Execute a Reimbursement and)
Indemnity Agreement with New York)
Landing Homeowners Association for)
Dredge Design)

RESOLUTION NO. 22-

WHEREAS, in 1987, the former Redevelopment Agency of the City of Pittsburgh conveyed, by Grant Deed, real property known as Marina Park to Ridgeview Builders, Inc. for residential development, as well as easements pursuant to an Easement Agreement to Ridgeview Builders, Inc. for development of, access to, and use of an inland waterway adjacent to the residential development (Waterway); and

WHEREAS, consistent with the Easement Agreement, Ridgeview Builders, Inc. established the New York Landing Homeowners Association (HOA) to govern residential development, establish City-approved Covenants, Conditions, and Restrictions (CC&Rs) regarding the rights and responsibilities of the HOA, and delegated duties including reimbursement to the City for costs incurred to dredge the Waterway; and

WHEREAS, Section 7.2 of CC&Rs of the HOA require the HOA to pay the cost of any maintenance dredging the City performs in the waterway on the HOA's behalf; and

WHEREAS, in 2018, the City received 10-year permits from the interagency Dredged Material Management Office (DMMO) to conduct maintenance dredging projects throughout the Marina. Pursuant to these permits, the City is authorized to conduct dredge projects in the Waterway; and

WHEREAS, in February 2021, the City executed a Consultant Agreement with Anchor QEA for the marina dredge project and construction management (Agreement) and has since completed all surveying and sampling tasks required for design and DMMO approval of a 2023 dredge episode in Basin 3 at the entrance of the Waterway from the Marina (Project); and

WHEREAS, buildup of silt in the Waterway impedes ingress and egress of vessels at low tide; and

WHEREAS, the HOA has requested inclusion of the Waterway in the City's Project, as allowed in the CC&R's; and

WHEREAS, a dredge project with a larger project footprint and a single dredge contractor is anticipated to result in cost savings for both parties due to cost sharing and economy of scale; and

WHEREAS, on September 26, 2022, the City's Economic Development and Waterfront Subcommittee discussed and expressed support for combining the projects. and suggested charging a management fee; and

WHEREAS, on October 3, 2022, the HOA board of directors confirmed availability of funds and voted to authorize adding the Waterway into the City's design and bid of the Project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Pittsburg hereby authorizes the City Manager to execute the First Amendment to the Agreement.

BE IT FURTHER RESOLVED that the City Manager is authorized to increase the compensation in the First Amendment by up to \$192,800, for a maximum of \$461,600, if necessary, after receiving results of laboratory testing of sediment.

BE IT FURTHER RESOLVED, that the City Manager is authorized to negotiate and execute a Reimbursement and Indemnity Agreement with the HOA for dredge design.

PASSED AND ADOPTED by the City Council of the City of Pittsburg, at a regular meeting on the 17th day of October 2022, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

:

Holland Barrett White, Mayor

ATTEST:

Alice E. Evenson, City Clerk

**REIMBURSEMENT AND INDEMNIFICATION AGREEMENT BY AND BETWEEN THE
CITY OF PITTSBURG AND THE NEW YORK LANDING HOME OWNERS
ASSOCIATION.**

THIS REIMBURSEMENT AND INDEMNIFICATION AGREEMENT (“Agreement”) is made and entered into on October 31, 2022, by and between the City of Pittsburg, a California municipal corporation (“City”), and the New York Landing Homeowners Association, a California nonprofit mutual benefit corporation, (“HOA”), in Pittsburg, California, (collectively referred to herein as “parties”) with respect to the matters hereinafter stated.

1. Recitals.

- A. In 1987, the Redevelopment Agency of the City of Pittsburg conveyed by Grant Deed real property known as Marina Park to Ridgeview Builders, Inc. for residential development, as well as easements pursuant to an Easement Agreement to Ridgeview Builders, Inc. for development of, access to, and use of an inland waterway adjacent to the residential development (Waterway). A depiction of this Waterway, its location between the Marina Park Development and the Pittsburg Municipal Marina (Marina), and its proximity to the Sacramento-San Joaquin River Delta is attached hereto as Exhibit A.
- B. Consistent with the Easement Agreement, Ridgeview Builders, Inc. established the HOA to govern residential development, establish City-approved Covenants, Conditions, and Restrictions (CC&Rs) regarding the rights and responsibilities of the HOA, and delegated duties including reimbursement to the City for costs incurred to dredge the Waterway.
- C. Section 7.2 of CC&Rs of the HOA require the HOA to pay the cost of any maintenance dredging the City performs in the waterway on the HOA’s behalf.
- D. In 2018, the City received 10-year permits from the interagency Dredged Material Management Office (DMMO) to conduct maintenance dredging projects throughout the Marina. Pursuant to these permits, the City is authorized to conduct dredge projects in the Waterway.
- E. The City is preparing to dredge Marina Basin 3 in 2023. The proposed project area within Basin 3 is in the proximity of the entrance of the Waterway from the Marina. Dredging is expected to remove silt that so as to facilitate dredging within the Waterway.
- F. The buildup of silt in the Waterway impedes ingress and egress of vessels at low tide.

- G. The HOA has requested collaboration with the City to dredge the Waterway at the same time as Basin 3, as allowed in the CC&R's.
- H. A dredge project with a larger project footprint and a single dredge contractor is expected to result in cost savings for both parties due to economy of scale.
- I. On September 26, 2022 the City's Economic Development and Waterfront Subcommittee discussed and expressed support for combining the projects.
- J. October 3, 2022, HOA board of directors voted to:
 - (1) Authorize adding the Waterway into the City's design and bid of the City's 2023 Marina Dredge Project, and
 - (2) Pay the City the HOA's share of the project management, design, and bid preparation costs, pursuant to terms and conditions established with the City.
- K. Parties seek to establish reimbursement terms and apportion responsibilities for the inclusion of the Waterway in the 2023 Marina Dredge Project design scope.

2. **Reimbursement Payments.**

A. HOA shall reimburse the City for all project management, design, and bid preparation costs incurred for the Waterway portion of the 2023 Dredge Project. Payments received by the City from the HOA for these costs are referred to herein as Reimbursement Payments.

B. The City will use the Reimbursement Payments by HOA to reimburse the City for its expenses incurred for managing and designing the project and preparing the bid documents for the Waterway portion of the 2023 Dredge Project. These activities pertain only to the Waterway and may include, but not be limited to:

- (1) Project management for the Waterway portion including:
 - a. City staff time including attorney time
 - b. Project management consultant costs and expenses
- (2) The **following** Waterway sediment characterization conducted in accordance with DMMO requirements:
 - a. Development of a Sampling and Analysis Plan;
 - b. Sample collection and laboratory analysis;
 - c. Development of a Sampling and Analysis Report;
- (3) DMMO coordination;

(4) Development of dredge design documents by a City-retained consultant and/or City staff;

(5) Preparation of Bid Set

All of the activities referenced above are referred to herein collectively as the “Project Services.”

3. Initial Deposit.

On or before November 1, 2022, HOA shall pay to the City Two Hundred Fifty Thousand dollars (\$250,000) as an initial deposit for Project Services costs (Initial Deposit Amount). The Initial Deposit Amount corresponds to the Waterway portion of Project Services to be provided by the City’s 2023 Dredge Project consultant Anchor QEA, City staff, and City Attorney.

HOA acknowledges that the nature and scope of Project Services are dependent upon factors that may be largely outside of the control of the City. Accordingly, HOA acknowledges and agrees that while no additional services will be conducted by the City for the Waterway without prior written consent of the HOA, additional services and therefore additional funds may be needed.

4. Monthly Invoicing and Release of Funds.

City will deduct expenses incurred by City Staff and/or the City Attorney for the services provided under this Agreement from the Initial Deposit Amount on a monthly basis. The City will provide supporting documentation describing the services rendered. All supporting documentation for Project Costs with the supporting documentation shall be sent to the attention of:

Name: New York Landing Homeowners Association

Address: c/o HAS – Rosie Rivera
2266 Camino Ramon
San Ramon, CA 94583

If the cumulative expenses incurred by the City exceed the Initial Deposit Amount then the HOA shall provide additional Reimbursement Payments to cover the balance. If HOA fails to make the Reimbursement Payment(s) within thirty (30) days of receipt of any additional Reimbursement Payments invoices, or within such greater periods of time as may be provided in the notice or as agreed upon by the Parties, then the City may direct that all work be suspended until HOA has made such additional Reimbursement Payment(s).

5. Authority and Obligations of the City.

City fully understands and agrees to each of the following:

A. City acknowledges that HOA shall only provide Reimbursement Payments for expenses incurred in connection with the Project Services.

B. Except as provided herein, City makes no promise, representation, or warranty, express or implied, that the City, its staff or consultants will provide the Project Services referenced in this Agreement by a certain date. City reserves the right to terminate the project.

6. Authority and Obligation of HOA.

HOA agrees:

A. To make timely payments for expenses incurred for Project Services as specified in this Agreement

B. To cooperate fully in the implementation of this Agreement

C. To comply fully with all applicable City, local, regional, state, and federal rules, regulations, resolutions, ordinances, and laws, as they may exist now or in the future.

7. Amendment.

This Agreement, including any exhibits hereto, may be amended only by mutual written agreement of the parties.

8. No Agency, Joint Venture or Partnership.

City and HOA hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and HOA and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between City and HOA.

9. Indemnification.

A. HOA shall indemnify, defend and hold harmless the City and its officers, officials, agents, employees and volunteers against any and all liability, claims, actions, causes of action or demands whatsoever against any of them, including any injury to or death of any person or damage to property, liability for negligent supervision of construction, construction defects (latent or patent), cost overruns or other liability of any nature, fines or penalties, arising out of or in any way connected with the performance of the Agreement except for damages caused by the sole negligence or willful misconduct of the City. If City elects to provide its own defense, Consultant shall

reimburse City for any expenditures, including reasonable attorneys' fees and costs.

B. HOA agrees to release the City and its officers, officials, agents, employees and volunteers from any claims by or liability to the HOA arising out of the design, construction and management of the Project, including construction defects except for claims or liability caused by the sole negligence or willful misconduct of City or its officers, officials, agents, employees or designated volunteers. The HOA's sole remedy, if any, for any claims or liability that are not caused by the sole negligence or willful misconduct of City, or its officers, officials, agents employees or designated volunteers shall be with the contractors (including all service vendors) engaged by the City. In this regard, the City agrees to assign to the HOA any right to proceed against any contractors of City for any damages to the HOA.

10. Venue and Applicable Law.

Any action by any party to this Agreement shall be brought in the appropriate court of competent jurisdiction within the County of Contra Costa, State of California, notwithstanding any other provision of law which may provide that such action may be brought in some other location. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

11. Entire Agreement.

Each party acknowledges that this Agreement sets forth all covenants, promises, conditions and understanding between the parties regarding the matters set forth herein, and there are no promises, conditions, or understanding either oral or in writing between the parties other than as set forth herein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties unless reduced to writing and signed by them.

12. Effect of Waiver.

No waiver by a party of any provision of this Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by a party of any remedy provided in this Agreement or at law shall not prevent the exercise by that party of any other remedy provided in this Agreement or at law.

13. Interpretation of Agreement.

This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations, and agreements whether oral or written. Any amendment to this Agreement, including an oral modification supported by new consideration, must be reduced to writing and signed by both parties before it will be effective. Both parties have had an equal opportunity to participate in the drafting of this Agreement. The usual construction of an agreement as to the drafting party shall not apply to this Agreement.

THE HOA

By:

CITY OF PITTSBURG

Garrett Evans, City Manager

ATTEST:

Alice Evenson, City Clerk

APPROVED AS TO FORM:

Donna Mooney, City Attorney

EXHIBIT A
MAP



**FIRST AMENDMENT TO
CONSULTING SERVICES AGREEMENT BETWEEN
CITY OF PITTSBURG
AND ANCHOR QEA, LLC**

This First Amendment to the Principal Agreement made and entered into on February 16, 2021, hereafter referred to as Agreement, between Anchor QEA, LLC, a Washington limited liability company, therein referred to as Company, and the City of Pittsburg, a municipal corporation, therein referred to as City, is made and entered into on this 31st day of October, 2022.

WHEREAS, in 1987, In 1987, the Redevelopment Agency of the City of Pittsburg conveyed by Grant Deed real property known as Marina Park to Ridgeview Builders, Inc. for residential development, as well as easements pursuant to an Easement Agreement to Ridgeview Builders, Inc. for development of, access to, and use of an inland waterway adjacent to the residential development (Waterway); and

WHEREAS, Consistent with the Easement Agreement, Ridgeview Builders, Inc. established the HOA to govern residential development, establish City-approved Covenants, Conditions, and Restrictions (CC&Rs) regarding the rights and responsibilities of the HOA, and delegated duties including reimbursement to the City for costs incurred to dredge the Waterway; and

WHEREAS, Section 7.2 of CC&Rs of the HOA require the HOA to pay the cost of any maintenance dredging the City performs in the waterway on the HOA's behalf; and

WHEREAS, in 2018, the City received 10-year permits from the interagency Dredged Material Management Office (DMMO) to conduct maintenance dredging projects throughout the Marina. Pursuant to these permits, the City is authorized to conduct dredge projects in the Waterway; and

WHEREAS, in February, 2021, the City executed the Agreement with Company for dredge project and construction management of a 2023 episode in Basin 3 and at the public launch ramps (Project); and

WHEREAS, Company has since completed all surveying and sampling tasks under the Agreement required for design and DMMO approval of the Project; and

WHEREAS, October 3, 2022, HOA board of directors voted to authorize adding the Waterway into the City's design and bid of the City's 2023 Marina Dredge Project, and pay the City the HOA's share of the project management, design, and bid preparation costs, pursuant to terms and conditions established with the City; and

WHEREAS, on October 17, 2022 the Pittsburg City Council will vote to delegate negotiation and execution authority of a Reimbursement and Indemnification Agreement (R&I Agreement) between the City and the HOA to the City Manager; and

WHEREAS, if an R&I Agreement is reached by October 31, 2022, the Waterway will be added to the Project scope increasing the compensation and time required to complete the Project.

NOW, THEREFORE, Company and City do mutually agree as follows:

1. Term. Section 1.1 of the Agreement is hereby amended to read as follows:

The term of this Agreement shall begin on the Effective Date and shall end on December 31, 2024, unless the term of the Agreement is otherwise terminated or extended, as referenced herein.

2. Compensation. The first paragraph of Section 2 of the Agreement is hereby amended to read as follows:

City hereby agrees to pay Consultant a sum not to exceed four hundred sixty-one thousand six hundred dollars (\$461,600) as set forth in Exhibit A, attached hereto and incorporated herein for services to be performed and reimbursable expenses incurred under this Agreement. This dollar amount is not a guarantee that the City will pay that full amount to the Consultant, but is merely a limit of potential City expenditures under this Agreement. Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

3. Scope of Services. Exhibit A of the Agreement is hereby amended to add the services set forth in Attachment 1 of this First Amendment

4. Compensation Schedule. Exhibit B of the Agreement is hereby replaced with Attachment 2 of this First Amendment.

5. Integration. This First Amendment contains the entire agreement between the parties with respect to its subject matter and supersedes whatever oral or written understanding they may have had prior to the execution of this First Amendment. This First Amendment shall not be amended or modified except by a written agreement executed by each of the parties. Except as specifically revised herein, all terms and conditions of the Agreement shall remain in full force and effect, and Company shall perform all duties, obligations and conditions required under the Agreement.

6. Inconsistencies. In the event of any conflict or inconsistency between the provisions of this First Amendment and the Agreement, the provisions of this First Amendment shall control in all respects.

7. Ambiguities. The parties have each carefully reviewed this First Amendment and have agreed to each term of this First Amendment. No ambiguity shall be presumed to be construed against either party.

8. Counterparts. This First Amendment may be executed by the parties in one or more counterparts all of which collectively shall constitute one document and agreement.

9. Authority. The person signing this First Amendment for Company hereby represents and warrants that he or she is fully authorized to sign this First Amendment on behalf of Company.

IN WITNESS WHEREOF, the parties have entered into this First Amendment on the day and year first hereinabove appearing.

COMPANY:

CITY:

ANCHOR QEA, LLC

CITY OF PITTSBURG, a municipal
corporation of the State of California

By: _____
Josh Burnam, Partner

By: _____
Garrett Evans, City Manager

ATTEST:

By: _____
Alice Evenson, City Clerk

APPROVED AS TO FORM:

By: _____
Donna Mooney, City Attorney

Task 1: Project Management comprises project team meetings, phone calls, contract management, and general project management.

**Task 2: Sediment Characterization and Dredged Material Management
Office Coordination for Residential Channel**

The channel requires sediment characterization and approval of disposal by the Dredged Material Management Office (DMMO). It is assumed that sediment shall be placed either in-Bay at SF-9 or at the Montezuma Wetlands Restoration Project (Montezuma). If the dredged sediment is not suitable for those locations, Company, shall provide an additional scope of work and cost proposal to evaluate alternate disposal locations (e.g., the San Francisco Deep Ocean Disposal Site or an upland landfill).

Task 2.1: Sampling and Analysis Plan

Under Task 2.1, Company shall develop a Sampling and Analysis Plan (SAP) for sample collection and analytical testing of dredged sediments. The SAP shall be prepared in accordance with the following documents:

- Evaluation of Dredged Material Proposed for Discharge in Waters of the U.S. – Testing Manual (ITM)¹
- Guidelines for Implementing the Inland Testing Manual in the San Francisco Bay Region² (PN 01-01)
- Beneficial Reuse of Dredged Materials: Sediment Screening and Testing Guidelines³

The SAP shall detail the sampling and analysis methods to be followed during field sample collection and laboratory analyses to determine sediment suitability for SF-9 and Montezuma. A draft SAP shall be submitted electronically to the City of Pittsburg (City) for review, and one round of review with minimal revisions is anticipated. The final SAP shall be submitted electronically to the DMMO agencies and the City. Prior to sampling, approval of the SAP shall be requested at a DMMO meeting.

¹ U.S. Environmental Protection Agency, 1998. Evaluation of Dredged Material Proposed for Discharge in Waters of the U.S. – Testing Manual. EPA-823-B-98-004. February 1998.

² Dredged Material Management Office, 2001. Guidelines for Implementing the Inland Testing Manual in the San Francisco Bay Region. September 21, 2001.

³ San Francisco Bay Regional Water Quality Control Board, 2000. Beneficial Reuse of Dredged Materials: Sediment Screening and Testing Guidelines.

As part of Task 2.1, Company shall also update the previous Health and Safety Plan that was prepared for prior efforts to reflect the current project site and conditions. The Health and Safety Plan shall provide background information, emergency phone numbers, the route to the nearest hospital, potential chemicals of concern, personal protective equipment requirements, key personnel responsibilities, and health and safety procedures.

Task 2.2: Sample Collection and Laboratory Analysis

Company and its subcontractor, Leviathan Environmental Services, LLC, shall use a vibracore to collect sediment cores from approximately eight locations within two dredge units. Enough sediment shall be collected and archived to characterize sediments for in-Bay disposal or placement at Montezuma according to the approved SAP. Reference sediment shall be collected from the SF-9 reference site.

Individual core samples and Z-layer samples shall be archived from each core. Depending on composite sediment chemistry results, limited chemical analysis of these samples may be required. An individual core sample shall only be analyzed if there is a need to refine the dredge areas based on elevated chemistry values. A Z-layer sample shall only be analyzed to characterize the newly exposed surface layer if the dredged sediment exhibits elevated chemical concentrations. These additional analyses shall only be conducted if requested by DMMO. Additional analysis of individual core samples and Z-layer samples is not included in this cost proposal.

In accordance with DMMO guidelines, two composite samples shall be submitted for physical and chemical analyses and biological testing to determine suitability for in-Bay disposal and placement at Montezuma. Sediment chemistry shall include total solids, total organic carbon, grain size, metals, organotins, polycyclic aromatic hydrocarbons, organochlorine pesticides, and polychlorinated biphenyls. Biological testing for in-Bay disposal shall include two solid-phase tests and one suspended particulate-phase test. During solid-phase biological testing, reference sediment shall be tested concurrently with the composite sample for comparative purposes. Additional analysis for placement at Montezuma shall include modified elutriate chemistry for metals and bioassay testing.

Company shall perform data validation to ensure laboratory analyses meet the project data quality objectives.

Task 2.3: Sampling and Analysis Report

Company shall produce a Sampling and Analysis Report (SAR) detailing results of all

testing, final sampling locations, any deviations from the SAP, and conclusions regarding the suitability of dredged sediment. The SAR shall be prepared in accordance with the ITM, PN-01-01, and DMMO guidelines, as required. A draft SAR shall be submitted electronically to the City for review, and one round of review with minimal revisions is anticipated. The final SAR shall be submitted electronically to the DMMO agencies and the City.

Assumptions

Assumptions for Tasks 2.1 through 2.3 are as follows:

- Two dredge units are assumed for characterization based on the proposed volume of dredged material. DMMO requests for additional dredge units shall result in increased costs to Task 2.2.
- Composite samples shall be created from approximately eight individual stations (four per composite). The actual number of individual stations required shall be subject to DMMO approval.
- Company shall spend up to 2 days in the field collecting and processing sediment cores, plus mobilization and demobilization time. DMMO requests for different (or additional) testing strategies may affect the final cost of this project. Task 2.2 costs could increase if sampling lasts longer than 2 days.
- The complete field program and analyte list for sediment composite samples shall be subject to DMMO approval.
- Limited individual core sample or Z-layer sample analysis may be required by DMMO depending on composite sample results. Analysis of individual core samples and Z-layer samples is not included in this cost estimate.
- Company shall attend one DMMO meeting to discuss the SAP and one DMMO meeting to discuss the SAR.

Task 3: Tier 1 Exclusion Request – Launch Ramp and Basin 3

Company shall conduct a Tier I evaluation summarizing existing data and potential changes in site conditions to demonstrate prior sediment testing results remain valid for the Launch Ramp and Basin 3. The Tier I evaluation shall assess deposition of new material, changes in land uses, and any spills or discharges that may affect sediment quality. The final Tier I evaluation shall be submitted electronically to the DMMO agencies and the City. The Tier I evaluation shall then be presented at a DMMO meeting. The DMMO meeting shall be attended by one Company representative.

Task 4: Dredging Design Documents – Residential Channel

Under this task, Company shall prepare design drawings, technical specifications, an

opinion of probable costs, and a bid form for the dredging work in the residential channel. The design would

include defining the extents of the dredging prisms within the channel. The development of these documents would occur concurrently with the sediment investigation processes to the extent feasible.

The design drawings shall depict channel site features necessary to inform a dredging contractor of existing site conditions, including site bathymetry; existing shorelines, docks, marine features, and structures; site mooring areas and access restrictions (if any); required extents and limits of dredging; dredging side slopes; allowable overdepth limits; and typical cross sections. We would request any existing as-built or similar drawings from the City, including dock or ramp infrastructure, existing or abandoned utilities, or similar structures.

The technical specifications would include detailed requirements for dredging and placement of sediment in-Bay at SF-9 or at Montezuma, in compliance with all permit conditions and environmental restrictions included in the existing dredging permits. A bid form shall be included with the technical specifications, which shall contain estimates of payable dredge quantities, subdivided according to different dredging areas.

Technical specifications shall be prepared using Company's standard format. Should the City request that technical specifications be prepared in another format, we may be able to accommodate that request without budget increase if the alternate format is provided early in the design process.

The technical specifications shall be prepared in a manner to be incorporated into a standard bid package provided by the City, which is anticipated to include the City's Standard Agreement, Contract Terms (including bonding requirements, payment provisions, and insurance requirements), and General Conditions. As with the previous dredging project, Company can assist City engineers with preparation of the Notice to Bidders and other front-end documents.

We would submit a draft final (95%) set of design drawings and technical specifications to the City for review and discussion, followed by a final (100%) set for bid solicitation. We assume that both deliverables shall be submitted to the City in electronic format only.

Assumptions for Task 4 are as follows:

- The City shall provide upland and shoreline topographic survey information,

including location and geometry of adjacent structures, and overwater structures such as docks and piles, in an AutoCAD-compatible format.

- The City shall provide sufficient information regarding site conditions, access routes, the presence and location of utilities, and timing and nature of facility operations that may affect, or be affected by, the dredging. If sufficient information is not available regarding the above points, then additional data gathering may be required to adequately identify site conditions, which may require additional effort by Company and additional cost.
- The proposed dredging depths shall not exceed the original design depths alongside structures and guide piles at the site. We have therefore assumed that it shall not be necessary to analyze the stability of existing offshore and nearshore structures.
- Dredged sediment shall be placed in-Bay at SF-9 or at Montezuma, which has an offloader in place. As such, design of a shoreside offloading or staging area is not included in the proposed design effort.
- Company shall attend up to two meetings (virtual or in person, as appropriate) with the City during the design process (one planning meeting and one review of the 95% design drawings and technical specifications).

Task 5: Dredging Design Documents Update – Basin 3 and Launch Ramp and Production of a Combined Bid Package Including the Residential Channel

Under this task, we shall update the 100% set of bid documents prepared for maintenance dredging Basin 3 and the Launch Ramp that was submitted in 2021, including the technical specifications, bid form, and drawings. The update shall be in preparation for a 2023 dredging event. The updating effort would include the following:

- Updating the bathymetric data and volume calculations for Basin 3 and the Launch Ramp with a more current hydrographic survey
- Modifying to show Basin 3 as a Base Bid Item and the Launch Ramp to be an Optional Additive Item
- Adding dredging of the Residential Channel as an Optional Additive Item, which shall include additional drawings and potentially new specification sections or topics

Task 5 Assumptions

Assumptions for Task 5 are as follows:

- No additional elements shall be added to the project beyond updating

Basin 3 and the Launch Ramp and adding the Residential Channel.

- No geotechnical analysis is included for dredging design adjacent to existing structures.
- All dredging design shall be within the previously dredged areas (horizontal and vertical) and classified as maintenance dredging.
- The City shall provide all front-end bid documents, including invitation to bidders, general conditions, special provisions, and an example owner-contractor agreement.

Task 6: Construction Support

Task 6.1: Bid Support

Under this task, Company shall support the City with management of a competitive bid process. This process would include assistance with transmitting the bid request to invited contractors, managing a site visit and pre-bid meeting for prospective bidders, collaborating with City engineers to respond to bidders' questions, preparing an addendum or addenda (if needed), reviewing and evaluating the bids, and making a recommendation of the best qualified dredger for award by the City. It is assumed that Basin 3 and the Launch Ramp shall be one bidding process.

Task 6.2: Pre-Dredge Coordination

Company shall oversee the dredger's mobilization to the site, review and comment on required pre-dredge submittals, and coordinate obtaining the Notice to Proceed with Dredging from the U.S.-Army Corp of Engineers (USACE) on behalf of the City. This task would primarily involve working with the selected contractor to provide information to develop the required dredging operations plan and submit it for USACE review and approval. Other specific tasks would include the following:

- Review and approve the contractor's official pre-dredge survey.
- Review pre-construction submittals.
- Assist the City with coordinating vessel movements and with public notices to affected tenants.
- Act as a liaison between the City and the contractor during mobilization.
- Monitor contractor compliance with requirements of the permits and design documents.

Task 6.3: Construction Oversight Support

Once dredging activities have started, Company shall act as the City's representative for oversight of the dredging contractor. This process would include the following efforts:

- Participate in a pre-construction meeting with the contractor to review construction requirements, expectations, lines of communication, construction logistics, permit compliance, and other issues relevant to the construction process.
- Plan and participate in weekly meetings to discuss project progress; review contractor schedule and coordination needs; review any project issues and create a resolution plan; and review minutes prepared by the contractor.
- Site visits shall be performed by Company staff no less than once per week. During that time, observations shall be made of the contractor's overall work quality and compliance with design documents, approved submittals, and regulatory conditions.
- Review the contractor's progress surveys to review compliance with construction schedule and requirements and to develop recommendations for progress payment. Respond to contractor's questions and formal Requests for Information, including in-the-field resolution of minor issues to circumvent change orders due to obstructions or other unanticipated conditions.
- Assist with negotiations should unanticipated conditions warrant a change order.
- Confirm independent third-party surveyor's final payment quantities from the post-dredge survey, as outlined in the technical specifications.
- Coordinate with the resource and regulatory agencies on behalf of the City for all construction submittals, including scow logs (if placement is in-Bay), Notice to Mariners, pre- and post-dredge surveys and volume reports to agencies as required by the permits, and any construction incident reports should incidents occur.
- Assist the City with preparing ongoing updates of dredging status for tenants, as requested.

Task 6.4: Post-Dredge Coordination and Closeout

Following the conclusion of dredging, Company shall assist the City with overseeing contractor demobilization from the site and reviewing and approving completion of any noted deficiencies prior to final pay request approval. The primary task shall be developing and filing the required Dredging Operations Report with USACE on behalf of the City.

Additional specific tasks would include the following:

- Review and approve the contractor's final post-dredge surveys and final payment request.
- Assist the City with final fee payments (volume-based) to the regulatory agencies, as required.
- Assist the City with inspection of the contractor's demobilization and final

cleanup of the worksite.

- Act as a liaison between the City and the contractor during demobilization.
- Verify that all requirements of the permits and design documents were met by the contractor.
- Oversee post-construction submittals, including post-dredge surveys and volume reports to regulatory agencies, as required by the permits.
- Observe equipment demobilization and final cleanup for compliance with the construction documents and permits.

Limitations for Task 6 Construction Support

Company cannot assume responsibility for proper construction techniques and worksite safety; these are the responsibility of the contractor. The presence of Company personnel at the construction site is for the purpose of observation of the work to provide the City a greater degree of confidence that the work shall conform to the contract documents and that the integrity of the design concept, as reflected in the contract documents, has been implemented and preserved by the contractor.

Company shall endeavor to protect all parties against defects and deficiencies in the work of the contractor (or their subconsultants) but cannot guarantee the contractor's (or their subconsultants') performance and shall not be responsible for construction means, methods, techniques, sequences of procedures, or safety precautions and programs in connection with the work performed by the contractor or their subcontractors.

Task 6 Assumptions

Assumptions for Task 6 are as follows:

- Based on production rates from 2019 dredging, we anticipate that complete dredging of Basin 3 East, Basin 3 West, and the Launch Ramp and Residential Channel could require two full dredging seasons due to work-window limitations. Therefore, we have assumed a maximum of 15 visits in 2023 and 15 visits in 2024, both assuming up to 6 hours on site for inspections and meetings.
- Company shall perform approximately one site visit per week to perform construction observation during construction.
- Company shall participate in a weekly team meeting (assumed in person) with the City and contractor during construction. During dredging of the Residential Channel, representatives from the Homeowner Association are expected to attend as well.
- The contractor shall be responsible for performing all pre-dredge, progress, and post-dredge surveys either by self-performance or by hiring an

independent third-party surveyor, as shall be indicated in the technical specifications. Company has included the review of multiple post-dredge surveys under the assumption that Basin 3 and the Residential Channels may be partitioned into multiple approval areas as well as the review of the separate survey of the Launch Ramp.

- Additional budget for this task may be required if unforeseen events occur, such as significant and unanticipated modifications to the regulatory approvals, or there are unanticipated field conditions, such as excessive debris or highly consolidated materials.

Task	Description	Cost
1	Project Management	\$ 15,000
2	Sediment Characterization and Dredged Material Management Office Coordination for Residential Channel	
2.1	Sampling and Analysis Plan	\$ 16,000
2.2	Sample Collection and Laboratory Analysis	\$ 81,000
2.3	Sampling and Analysis Report	\$ 17,000
3	Tier 1 Exclusion Request – Launch Ramp and Basin 3	\$ 7,000
4	Dredging Design Documents – Residential Channel	\$ 35,000
5	Create Updated and Merged Bid Set	\$ 15,000
6	Construction Support	
6.1	Bid Support	\$ 7,500
6.2	Pre-Dredge Coordination	\$ 15,000
6.3	Construction Oversight Support	\$ 75,000
6.4	Post-Dredge Coordination and Closeout	\$ 20,000
Total		\$ 303,500

2022 Project Billing Rates

Professional Level Hourly Rates

Principal.....	\$297
Senior Manager.....	\$265
Manager.....	\$248
Senior Staff.....	\$219
Staff 3	\$193
Staff 2	\$173
Staff 1	\$146
Senior CAD Designer.....	\$152
CAD Designer.....	\$129
Technician	\$129
Senior Technical Editor.....	\$155
Technical Editor.....	\$129
Senior Project Coordinator	\$148
Project Coordinator.....	\$122

Special Hourly Rates

National expert consultant	\$492
All work by a testifying expert.....	1.5 times professional level rate

Expert Advisor..... \$364

Expense Billing Rates

Computer Modeling (per hour).....\$10.00

Graphic Plots (varies with plot size).....\$3-6/sf

Mileage (per mile)..... Current Federal Standard

Fee on Labor and Expense Charges

Subcontractors/subconsultants.....10%

Travel and other direct costs 10%

Field equipment and supplies 10%

ATTACHMENT 4

Waterway Map

