

CITY MANAGER'S/STAFF'S REPORT
CITY COUNCIL MEETING:

May 2, 2022

ITEM NO: 1.a.

SUBJECT: Consideration of a Resolution Authorizing the City to Continue with Teleconferenced Public Meetings Pursuant to Assembly Bill 361

BACKGROUND: On September 16, 2021, the California legislature passed Assembly Bill ("AB") 361, which amends Government Code Section 54953 and permits a local agency to use teleconferencing to conduct its meetings in any of the following circumstances: (A) the legislative body holds a state of emergency, and meeting during a proclaimed state or local officials have imposed or recommended measures to promote social distancing; (B) the legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or (C) the legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

DISCUSSION: In order for the City Council to use teleconferencing as allowed by AB 361 after October 1, 2021, it must first adopt findings in a resolution, allowing the City Council to conduct teleconferenced meetings for a period of thirty (30) days. In addition, AB 361 requires the City to make specified findings every 30 days thereafter. City Council initially approved Resolution No. 2021-57R on September 27, 2021 and subsequently Resolution No. 2021-60R on October 18, 2021, Resolution No. 2021-67R on November 15, 2021, Resolution No. 2021-70R on December 6, 2021, Resolution No. 2021-72R on December 21, 2021, Resolution No. 2022-1R on January 18, 2022, Resolution No. 2022-6R on February 7, 2022, Resolution No. 2022-15R on March 7, 2022, and Resolution No. 2022-28R on April 4, 2022.

RECOMMENDATION: If the City Council wishes to Continue with Remote Teleconference Meetings, the Council should adopt the attached Resolution Authorizing Remote Teleconference Public Meetings by the City Council and Commissions of the City in Accordance with Assembly Bill 361.

Fernando Santillan, City Manager

RESOLUTION NO. 2022 – ___R

**A RESOLUTION OF THE CITY OF SELMA, CALIFORNIA AUTHORIZING
CONTINUED USE OF REMOTE TELECONFERENCING PROVISIONS (AB 361)**

WHEREAS, the City Council of the City of Selma (“City Council”) is committed to open and transparent government, and full compliance with the Ralph M. Brown Act (“Brown Act”); and

WHEREAS, the Brown Act generally requires that a public agency take certain actions in order to use teleconferencing to attend a public meeting virtually; and

WHEREAS, the City Council recognizes that a local emergency persists due to the worldwide COVID-19 pandemic; and

WHEREAS, the California Legislature has recognized the ongoing state of emergency due to the COVID-19 pandemic and has responded by creating an additional means for public meetings to be held via teleconference (inclusive of internet-based virtual meetings); and

WHEREAS, on September 16, 2021, the California legislature passed Assembly Bill (“AB”) 361, which amends Government Code, section 54953 and permits a local agency to use teleconferencing to conduct its meetings in any of the following circumstances: (A) the legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; (B) the legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or (C) the legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; and

WHEREAS, in order for the City Council to use teleconferencing as allowed by AB 361 after October 1, 2021, it must first adopt findings in a resolution, allowing the City Council to conduct teleconferenced meetings for a period of thirty (30) days; and

WHEREAS, the City Council initially approved Resolution No. 2021-57R on September 27, 2021; and

WHEREAS, on October 18, 2021, the City Council approved Resolution No. 2021-60R; and

WHEREAS, on November 15, 2021, the City Council approved Resolution No. 2021-67R; and

WHEREAS, on December 6, 2021, the City Council approved Resolution No. 2021-70R; and

WHEREAS, on December 21, 2021, the City Council approved Resolution No. 2021-72R; and

WHEREAS, on January 18, 2022, the City Council approved Resolution No. 2022-1R; and
WHEREAS, on February 7, 2022, the City Council approved Resolution No. 2022-6R; and
WHEREAS, on March 7, 2022, the City Council approved Resolution No. 2022-15R; and
WHEREAS, on April 4, 2022, the City Council approved Resolution No. 2022-28R; and

WHEREAS, Governor Gavin Newsom declared a state of emergency for the State of California due to the COVID-19 pandemic in his order entitled “Proclamation of a State of Emergency,” signed March 4, 2020; and

WHEREAS, the California Occupational and Safety Health Administration (OSHA) continues to recommend certain social distancing requirements, as described in detail in California Code of Regulations Title 8, section 3205 Covid Prevention; and

WHEREAS, the Fresno County Department of Public Health supports the well-being of its communities and County residents and recommends ways to slow the spread of COVID-19 including through social distancing (i.e., “staying at least 6 feet (about 2 arm lengths) from others who don’t live with you” and by avoiding crowds. The Fresno County Department of Public Health states “[t]he more people you are in contact with, the more likely you are to be exposed to COVID-19.”

WHEREAS, the City Council hereby finds that the state and local emergencies have caused and will continue to cause imminent risks to the health or safety of attendees; and

WHEREAS, the City Council is conducting its meetings through the use of telephonic and internet-based services so that members of the public may observe and participate in meetings and offer public comment.

NOW THEREFORE, BE IT RESOLVED, that the recitals set forth above are true and correct and fully incorporated into this Resolution by reference.

BE IT FURTHER RESOLVED, that the City Council is conducting meetings during a state of emergency and OSHA recommends measures to promote social distancing; and/or

BE IT FURTHER RESOLVED, that the City Council has determined that given the state of emergency, holding in-person only meetings would present imminent risks to the health or safety of attendees.

BE IT FURTHER RESOLVED, that the actions taken by the City Council through this resolution shall be applied to all City committees governed by the Brown Act unless otherwise desired by that committee.

BE IT FURTHER RESOLVED, the City Council authorizes the City Manager or their designee(s) to take all actions necessary to conduct City Council meetings in accordance with Government Code section 54953(e) and all other applicable provisions of the Brown Act, using teleconferencing for a period of thirty (30) days from the adoption of this Resolution after which the City Council will again reconsider the circumstances of the state of emergency.

PASSED AND ADOPTED by the Selma City Council on this 2nd day of May 2022, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

ATTEST:

Scott Robertson, Mayor

Reyna Rivera, City Clerk

**CITY MANAGER'S/STAFF'S REPORT
CITY COUNCIL SPECIAL MEETING:**

May 2, 2022

ITEM NO: 1.b.

SUBJECT: Consideration of a Resolution Approving and Authorizing City Manager to Execute a Memorandum of Understanding between the City of Selma and the Selma Youth Legacy Center Regarding Financial Support

BACKGROUND: With the approval of the Fiscal Year 2021-2022 Budget, funding was authorized for several Community Based Organizations (CBO). However, Council directed that an appropriate Memoranda of Understanding (MOU) be executed with CBOs setting forth various terms and conditions relative to the allocation of City funds in support of these organizations.

DISCUSSION: The Selma Youth Legacy Center, a CBO, is approved to receive financial assistance from the City during Fiscal Year 2021-2022. Consistent with you Council's direction, staff is requesting your Council's approval of the MOU attached to the Resolution as Exhibit A and authorization for the City Manager to execute the agreement on behalf of the City. As directed, the MOU includes various provisions surrounding the receipt of City funding, including a requirement for quarterly and year-end reporting of activities associated with the use of City funding.

Although the City Council has approved funding for the Selma Youth Legacy Center in an amount not to exceed \$44,471, it did so pending execution of a MOU. As a result, no funding has been distributed to this organization. Once the MOU has been approved and executed, the City Manager will release funds accordingly.

The Selma Youth Center is an initiative of the Antioquia Ministries and will operate under the tax-exempt status of Antioquia Ministries, Inc., a federally registered non-profit organization and exempt from the State Registry of Charitable Trusts as a religious organization.

<i>COST: (Enter cost of item to be purchased in box below)</i>		<i>BUDGET IMPACT: (Enter amount this non-budgeted item will impact this years' budget in box below – if budgeted, enter NONE).</i>
N/A		N/A
<i>FUNDING: (Enter the funding source for this item in box below – if fund exists, enter the balance in the fund).</i>		<i>ON-GOING COST: (Enter the amount that will need to be budgeted each year in box below – if one-time cost, enter NONE).</i>
General Fund. 2021-22 Fiscal Year Budgeted Item.		None.

RECOMMENDATION: Adopt Resolution Approving and Authorizing City Manager to Execute a Memorandum of Understanding between the City of Selma and the Selma Youth Legacy Center Regarding City Funding

Mikal Kirchner, Director of Recreation

Fernando Santillan, City Manager

RESOLUTION NO. 2022 –

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SELMA, CALIFORNIA, APPROVING AND
AUTHORIZING THE CITY MANAGER TO EXECUTE A
MEMORANDUM OF UNDERSTANDING BETWEEN THE
CITY OF SELMA AND THE SELMA YOUTH LEGACY
CENTER REGARDING FUNDING**

WHEREAS, the City Council has appropriated funds from the general fund to assist Community Based Organizations fund programs deemed important to the City of Selma, including but not limited to physical and mental health, social services and interaction, and youth development; and

WHEREAS, the City allocated \$44,471.00 to the Selma Youth Legacy Center with the approval of Fiscal Year 2021-2022 Budget to assist this organization maintain and improve essential programs, conditioned on execution of a Memorandum of Understanding; and

WHEREAS, the Selma Youth Legacy Center will pursue additional funding to maintain and improve essential services, including, but not limited to, a variety of programs and services for all residents, youth development services and programs, health awareness, educational and development programs; and

WHEREAS, the City and the Selma Youth Legacy Center desire to enter into an agreement which sets forth each party's rights and responsibilities regarding the expenditure of General Fund dollars allocated to the Selma Youth Legacy Center; and

WHEREAS, the Selma Youth Legacy Center agrees to provide quarterly and year-end program and financial reports to the City to ensure that funding is being used as intended.

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

SECTION 1. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. The City Council hereby approves the MOU attached as Exhibit A and incorporated herein by reference.

SECTION 3. The City Manager is hereby authorized to execute the MOU and all necessary documents and make all necessary expenditures related to the same on behalf of the City.

SECTION 4. **Severability.** The provisions of this Resolution are severable and if any provision, clause, sentence, word, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words, or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 6. **Effective Date.** That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Selma on the 2nd of May 2022, by the following roll call vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

Scott Robertson, Mayor

ATTEST:

Reyna Rivera, City Clerk

MEMORANDUM OF UNDERSTANDING

Selma Youth Legacy Center

This Memorandum of Understanding (“MOU”) is made and entered into this _____ day of May, 2022, (“Effective Date”) by and between the City of Selma, a municipal corporation (the “City”) and Selma Youth Legacy Center are collectively referred to herein as the “Parties” and individually as “Party.”

RECITALS

WHEREAS, the City Council has appropriated funds from the general fund to assist with financing programs deemed to be necessary to meet the social needs of the population of the city, including, but not limited to, the areas of health, social interaction and youth development; and

WHEREAS, the City allocated \$ 44,471.00 to Selma Youth Legacy Center to maintain and improve essential services; and

WHEREAS, Selma Youth Legacy Center has additional funding to maintain and improve essential services, including, but not limited to, a variety of programs and services for all residents, youth development services and programs; health and awareness; educational and development programs; and

WHEREAS, on July 6, 2021 the City Council approved this funding request submitted by Selma Youth Legacy Center in the amount of \$44,471.00 through June 30, 2022; and

WHEREAS, City and Selma Youth Legacy Center desire to enter into an agreement which set forth each party’s rights responsibilities regarding the expenditure of General Fund dollars allocated to Selma Youth Legacy Center; and

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the City and the Selma Youth Legacy Center agree as follows:

1. City Obligations:

CITY will provide Selma Youth Legacy Center with an amount not to exceed \$44,471.00 for the purpose of paying operating costs and expenses associated with the Selma Youth Legacy Center services, programs and community resources for the community.

2. Selma Youth Legacy Center Obligations:

- A. General Requirements. Selma Youth Legacy Center will provide programs and services in order to better serve the community and expand on.
- B. Quarterly and Final Reports. Selma Youth Legacy Center will provide quarterly and final reports to CITY as set forth in Exhibit A.
- C. General Obligation. Selma Youth Legacy Center agrees to continually seek additional funds, grants, donations, etc. to reduce or offset the need for CITY General Fund assistance.

3. Term:

This MOU shall begin on July 1, 2021 and shall remain in full force and effect until June 30, 2022, unless sooner terminated as provided herein:

4. Termination:

- A. Breach of Contract. If, in the opinion of CITY, Selma Youth Legacy Center fails to adequately fulfill its obligations hereunder, with the time limits specified herein, or otherwise fails to comply with the terms of the MOU, or violates any ordinances, regulation or other law applicable to its performance herein or otherwise, CITY may terminate the MOU immediately, upon 10-days' notice.
- B. Without Cause. CITY may terminate the MOU without cause upon thirty (30) days advance written notice to Selma Youth Legacy Center. Such notice shall state the effective date of the termination.
- C. Compensation Upon Termination. In the event this MOU is terminated, Selma Youth Legacy Center shall be entitled to compensation for uncompensated expenses (not to exceed the contract amount set forth in this MOU) incurred pursuant to the terms and conditions of this MOU through and including the effective day of such termination. However, this provision shall not limit or reduce any damages owed to CITY due to a breach of this MOU by Selma Youth Legacy Center.

5. Payment and Notice.

If to Selma Youth Legacy Center:

Selma Youth Legacy Center:
Joe Alvarez
Selma Youth Legacy Center
1426 Grove Street
Selma, CA 93662

If to City:

City of Selma
1710 Tucker Street
Selma, California 93662
Attention: City Manager

With a Copy To:

City Attorney
Lozano Smith
7404 North Spalding Avenue
Fresno, CA 93720-3370

6. Indemnification:

- A. Indemnification Under this MOU.** Selma Youth Legacy Center shall indemnify, hold harmless, and defend the City, its officers, officials, agents, employees and volunteers from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, this MOU and/or related to the funds provided by City to Selma Youth Legacy Center. In the event the City, its officers, employees, agents and/or volunteers are made a party to any action, claim, lawsuit, or other adversarial proceeding arising from this MOU or the funds as set forth above, and upon demand by City, Selma Youth Legacy Center shall have an immediate duty to defend the City, its officers, employees, agents and/or volunteers at Selma Youth Legacy Center cost or at City's option, to reimburse the City for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters.
- B.** The Parties understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this MOU and also govern the interpretation of this MOU. Any litigation concerning this MOU shall take place in the municipal, superior, or federal district court in Fresno

County, California. If any action at law or suit in equity is brought to enforce or interpret the provisions of this MOU, or arising out of or relating to this MOU, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled.

- C.** This MOU contains the entire understanding between the Parties relating to the obligations of the Parties described in this MOU. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this MOU or with respect to the terms and conditions of this MOU, are merged into this MOU and shall be of no further force or effect. Each Party is entering into this MOU based solely upon the representations set forth herein and upon each Party's own independent investigation of any and all facts, such Party deems material.
- D.** If any term or provision of this MOU or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this MOU, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this MOU shall be valid and be enforced to the fullest extent permitted by law.
- E.** This MOU may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- F.** The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and shall have no significance in the interpretation of this MOU.

The waiver by City or Selma Youth Legacy Center of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this MOU shall be deemed to have been waived by City or Selma Youth Legacy Center unless in writing and agreed to by both parties.

- G.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any Party of any one or more of such rights, powers or remedies shall not preclude the

simultaneous or later exercise by such Party of any of all of such other rights, powers or remedies.

- H.** The person or persons executing this MOU on behalf of each Party represents and warrants that he/she has the authority to execute this MOU on behalf of that Party and has the authority to bind that Party to the performance of its obligations hereunder.

7. Insurance Requirements:

This MOU shall not be executed by CITY, and Selma Youth Legacy Center is not entitled to any rights hereunder, unless certificates of insurance and letter of endorsement that the following provisions have been complied with, are filed with CITY.

a. Selma Legacy Youth Center shall obtain and maintain General Liability insurance, including Sexual Abuse and Molestation coverage, with limits no less than Two Million Dollars (\$2,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate

b. The certificate of insurance shall be accompanied by an Additional Insured Endorsement, including the City of Selma, its officers, officials, agents, employees and volunteers as additional insureds.

8. Relationship of Parties:

It is understood that this MOU is by and between two (2) independent entities and is not limited to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture, or any other similar association. Both parties further agree that Selma Youth Legacy Center shall not be entitled to any benefits to which CITY employees are entitled, including, but not limited to, overtime, retirement benefits, leave benefits or worker's compensation. Selma Youth Legacy Center shall be solely responsible for the acts or omissions of its agents, officers, employees, assignees and subcontractors.

9. Compliance with Applicable Laws and Licensure Requirements:

Selma Youth Legacy Center agrees to comply with all local, state and federal laws and regulations applicable to Selma Youth Legacy Center hereunder. Selma Youth Legacy Center further agrees to comply with all applicable local, state and federal licensure and certification requirements, including, but not limited to employees and adults working directly with you and fingerprints on file, etc.

IN WITNESS WHEREOF, the City Selma Youth Legacy Center have caused this Memorandum of Understanding to be executed as of the Effective Date.

“CITY”
CITY OF SELMA

“Organization Name”
Selma Youth Legacy Center

By: _____
Scott Robertson, Mayor

By: _____
Joe Alvarez, Selma Youth Legacy Center
(Antioquia Ministries)

ATTEST:

Reyna Rivera, City Clerk

Approved as to Form:

Mary Lerner, City Attorney

LEGACY YOUTH CENTER

BUDGET REQUEST 2021-2022

Equipment

Computers- 2 @713	1426
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Supplies

Paper 10 boxes @24.50	245
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Art supplies 100 students @50	500
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Student job training/classes/tutorials	2300
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Parking Lot

Parking Lot Modification	
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Trash enclosure	40,000
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Total	44, 471
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Exhibit A.



City of Selma's MOU Application for Funding

Agency Name: Selma Legacy Youth Center

Mailing Address: 1426 Grove St Selma Ca

Contact Person: Char Tucker Title: Pres. Board of Directors

Amount of Funding Request for Funding: \$ 44,471 Fiscal Year: 2021/2022

Please provide a description of proposal for which you are seeking funding. _____

Per our attached budget we are asking
for start-up money to purchase needed
supplies/equipment to equip our youth
center. The line item for parking lot
and trash enclosure is needed so we
can obtain our permit to open. Since
we have not been open we have not been
able to have fundraisers to raise money
for our organization.

How are you developing a plan for sustainability, including diversification of funding sources, in order you're your proposal to on without reliance on future City funds.

When we open we plan to solicit sponsorship from local businesses. We will also have a major fundraising event to help fund our programs and create awareness of our youth center.

If your organization is awarded funds, how will you use them to leverage additional grants, contributions or community support? .

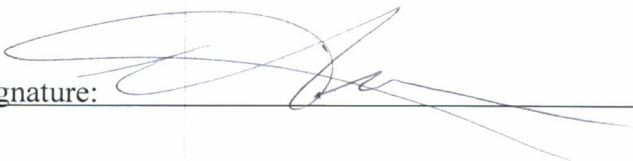
Once we are open we hope to gain the support of our community & churches by supporting our youth. The programs we will offer will help us obtain grants for other programs to better serve all areas in our city. We plan to have job shadowing, drug intervention, family participation. We believe our community will help support our efforts.

Comments:

We believe our facility will give our youth a safe place to come without the fear of gangs, bullying, drugs. We plan to make a difference in the lives of our local youth by providing an alternative to gangs through job training, tutoring and teaching life skills.

I declare under penalty of perjury under the laws of the State of California that the above statements and all attachments are true and correct.

Printed Name: Char Tucker

Signature: 

Date: 4-8-22

Submit the Application To:

City of Selma

City Hall

CHECK REGISTER REPORT

CHECK NUMBER	CHECK DATE	STATUS	VENDOR NAME	CHECK DESCRIPTION	CATEGORY	AMOUNT
79366	04/21/22	Printed	ACTIVE911, INC.	ALERTING SUBSCRIPTION -FD		520.00
79367	04/21/22	Printed	ANTHEM BLUE CROSS	AMBULANCE OVERPAYMENT REIMB		1,178.24
79368	04/21/22	Printed	ANTHEM BLUE CROSS	AMBULANCE OVERPAYMENT REIMB		1,100.00
79369	04/21/22	Printed	AT&T	INTERNET SERVICE -CVTC 4/6/22-5/5/22	R	90.25
79370	04/21/22	Printed	AT&T	INTERNET SERVICE -WEED & SEED 4/11/22-5/10/22		64.20
79371	04/21/22	Printed	AT&T	SERVICE CALL/LABOR CHARGE -PD		390.00
79372	04/21/22	Printed	AT&T	TELEPHONE 3/4/22-4/3/22		1,529.04
79373	04/21/22	Printed	AT&T	TELEPHONE 3/4/22-4/3/22		154.40
79374	04/21/22	Printed	AT&T	TELEPHONE 3/4/22-4/3/22		119.22
79375	04/21/22	Printed	AT&T	TELEPHONE 3/12/22-4/11/22		5.46
79376	04/21/22	Printed	AT&T	TELEPHONE 3/12/22-4/11/22		92.50
79377	04/21/22	Printed	AT&T MOBILITY	TELEPHONE -MDT'S 3/1-3/31/22		389.07
79378	04/21/22	Printed	BANNER PEST CONTROL INC	PEST CONTROL -CVTC	R	536.00
79379	04/21/22	Printed	LIANA J. BRIGHAM / PICTURE THIS APPAREAL	SUMMER CAPS -PW		103.04
79380	04/21/22	Printed	CENTRAL SANITARY SUPPLY	JANITORIAL SUPPLIES		573.37
79381	04/21/22	Printed	CITY OF SANGER FIRE DEPARTMENT	CONSULTING FOR IGT -MARCH 2022		413.00
79382	04/21/22	Printed	COMCAST	INTERNET SERVICE -APRIL 2022		821.45
79383	04/21/22	Printed	COMCAST	PD TO FCSO -APRIL 2022		659.12
79384	04/21/22	Printed	COMCAST	INTERNET SERVICE -AMBULANCE 1231 ROSE AVE 4/11/22-5/10/22		345.59
79385	04/21/22	Printed	DEPARTMENT OF JUSTICE	FINGERPRINTS -MARCH 2022		230.00
79386	04/21/22	Printed	THAMARA DOUGHERTY	PROPERTY MAINTENANCE CITATION REIMBURSEMENT CITE#10193-2020		100.00
79387	04/21/22	Printed	EUGENE DUNCAN	PROPERTY MAINTENANCE CITATION REIMBURSEMENT CITE#13088-2020		300.00
79388	04/21/22	Printed	FAREWELL SELMA PAGE FUNERAL	BUSINESS LICENSE OVERPAYMENT REIMB. -DOUBLE PAYMENT		734.00
79389	04/21/22	Printed	JOEL A FEDOR / FEDOR PLUMBING	SERVICE SUMP PUMP -ART CENTER		110.00
79390	04/21/22	Printed	FRESNO OXYGEN	OXYGEN RENTALS		163.67
79391	04/21/22	Printed	FRESNO ROOFING CO.	SHAFFER PARK FIELD CHALK		409.10
79392	04/21/22	Printed	GAR BENNETT LLC	PVC -BRENTLINGER		33.11
79393	04/21/22	Printed	GEIL ENTERPRISES INC	JANITORIAL SERVICE -APRIL 2022 1935 HIGH ST		3,804.00
79394	04/21/22	Printed	HEALTHEDGE ADMINISTRATORS INC.	DENTAL CLAIMS 4/6/22		1,852.00
79395	04/21/22	Printed	HEALTHWISE SERVICES, LLC.	MEDICAL WASTE SERVICE -PD		173.75
79396	04/21/22	Printed	HENRY SCHEIN INC.	MEDICAL SUPPLIES		488.40
79397	04/21/22	Printed	RAMIRO HERNANDEZ	AMBULANCE OVERPAYMENT REIMB		75.00
79398	04/21/22	Printed	JAN TYSON JOHNSON	GYM MEMBERSHIP REIMBURSEMENT		447.00
79399	04/21/22	Printed	CHERYL KAIN	FLOWERS -FOWLER MAYOR		120.48
79400	04/21/22	Printed	KOEFRAN INDUSTRIES, INC.	EMPTY ANIMAL CONTROL FREEZER		163.86
79401	04/21/22	Printed	LIBERTY CHEVROLET	2022 CHEVY SILVERADO		59,500.00
79402	04/21/22	Printed	LIBERTY CHEVROLET	2022 CHEVY SILVERADO		45,890.33
79403	04/21/22	Printed	LIBERTY CHEVROLET	2022 CHEVY SILVERADO		54,247.31
79404	04/21/22	Printed	LIFE-ASSIST INC.	MEDICAL SUPPLIES		334.97
79405	04/21/22	Printed	MEDLINE INDUSTRIES, INC.	MEDICAL SUPPLIES		2,026.95
79406	04/21/22	Printed	METRO UNIFORM	PD REVOLVING ACCT	R	518.67
79407	04/21/22	Printed	MID VALLEY PUBLISHING, INC.	EMPLOYMENT ADS		116.00
79408	04/21/22	Printed	MODIVCARE-LOGISTICARE	AMBULANCE OVERPAYMENT REIMB		347.80
79409	04/21/22	Printed	PABLO MOGUEL / PABLO'S CLEAN UP	CLEAN UP 2800 BLOCK OF D ST		350.00
79410	04/21/22	Printed	MOMENTIVE INC.	SUBSCRIPTION 2/21/22-2/20/23		384.00
79411	04/21/22	Printed	JACOB MOON	CHOREOGRAPHER FOR LITTLE SHOP OF HORRORS		300.00
79412	04/21/22	Printed	NIPPON LIFE INSURANCE COMPANY	AMBULANCE OVERPAYMENT REIMB RUN		1,550.00
79413	04/21/22	Printed	OFFICE DEPOT, INC.	OFFICE SUPPLIES		769.92
79414	04/21/22	Printed	PG&E	UTILITIES -APRIL 2022		66.14
79415	04/21/22	Printed	PG&E	UTILITIES -APRIL 2022		138.29
79416	04/21/22	Printed	PG&E	UTILITIES -APRIL 2022		13.50
79417	04/21/22	Printed	PITNEY BOWES INC.	RED INK CARTRIDGE -CH		396.43
79418	04/21/22	Printed	PLANET SOLAR INC	BUSINESS LICENSE OVERPAYMENT REIMB.		20.00
79419	04/21/22	Printed	RINCON CONSULTANTS, INC.	ZONING ORDINANCE UPDATE		17,294.75
79420	04/21/22	Printed	RRM DESIGN GROUP	ROCKWELL PARK PROJECT	G	9,981.25
79421	04/21/22	Printed	SACRAMENTO METROPOLITAN FIRE	GEMT COST PER TRANSPORT ADMINISTRATIVE REIMB.		2,445.50
79422	04/21/22	Printed	SANTA MARIA CALIFORNIA NEWS	EMPLOYMENT ADS		962.77
79423	04/21/22	Printed	LYNETTE SASAKI	SENIOR TRIP CANCELLATION REIMB.		230.00
79424	04/21/22	Printed	SCHNEIDER ELECTRIC IT	UPS BATTERY BACK UP		2,182.00
79425	04/21/22	Printed	SCOTT'S PPE RECON, INC.	TURNOUT MAINTENANCE		89.00
79426	04/21/22	Printed	SECOND CHANCE ANIMAL SHELTER	MONTHLY SUPPORT -MAY 2022		8,163.57
79427	04/21/22	Printed	SELMA DISTRICT CHAMBER OF	4TH QUARTER DUES 2021/2022		7,500.00
79428	04/21/22	Printed	SELMA UNIFIED SCHOOL DISTRICT	FUEL -MARCH 2022		33,462.35
79429	04/21/22	Printed	SPARKLETTS	WATER SERVICE -PD		202.20
79430	04/21/22	Printed	SPARKLETTS	WATER SERVICE -CVTC	R	39.99
79431	04/21/22	Printed	SU CASA VALLEY INSURANCE	BUSINESS LIC OVERPAYMENT REIMB		34.00
79432	04/21/22	Printed	SURVEILLANCE INTEGRATION INC.	VIDEO SECURITY CAMERA SYSTEM REFRESH/SERVICE OF EQUIPMENT		36,244.65
79433	04/21/22	Printed	THE CRISCOM COMPANY	SEWER INFRASTRUCTURE -APR 22		4,500.00
79434	04/21/22	Printed	TOWNSEND PUBLIC AFFAIRS, INC.	CONSULTING FEES -APRIL 2022		3,500.00
79435	04/21/22	Printed	MONIKA TREJO	REFUND FOR SPONGEBOB TICKETS		111.97
79436	04/21/22	Printed	UNITY IT	COMPUTER PROGRAMMING		4,198.86
79437	04/21/22	Printed	VALLEY SHREDDING LLC	DOCUMENT DESTRUCTION -CH		60.00
79438	04/21/22	Printed	VANIR CONSTRUCTION	PROFESSIONAL SERVICES -MAR 22 ROCKWELL PARK	G	1,583.84
79439	04/21/22	Printed	JESSE GAITAN VILLAREAL	PROPERTY MAINTENANCE CITATION REIMBURSEMENT CITE#13079-2020		100.00

CHECK REGISTER REPORT

CHECK NUMBER	CHECK DATE	STATUS	VENDOR NAME	CHECK DESCRIPTION	CATEGORY	AMOUNT
79440	04/21/22	Printed	EARL EUGENE WELLS	PROPERTY MAINTENANCE CITATION REIMBURSEMENT CITE#10394-2020		300.00
79441	04/21/22	Printed	KARINA ZENDEJAS	T-BALL REGISTRATION REIMB.		50.00
TOTAL						318,495.33

Grant: G PD State Appropriation: PDSA (457) Reimbursement: R

ITEM NO: 2.

SUBJECT: Adopting an Ordinance Approving a Military Equipment Use Policy
Pursuant to Assembly Bill 481

BACKGROUND: Assembly Bill 481 ("AB 481"), codified at Government Code sections 7070 through 7075 requires a law enforcement agency (LEA) to obtain approval from the applicable governing body via adoption of an "military equipment" use policy prior to the LEA funding, acquiring or using military equipment.

The Selma Police Department (Department) seeks City Council adoption of the attached Military Equipment Use Policy, Policy 705, by attached Ordinance, in order to allow the Department to continue the use of necessary equipment specified therein.

Items deemed to be "military equipment" by AB 481 are used as a component of overall best practices for LEAs throughout the country. These tools have been tested in the field, and are used by LEAs to enhance community member safety as well as officer safety. Loss of these items would jeopardize the welfare of community members and peace officers within the department.

The term "military equipment," as used in AB 481, does not necessarily indicate that the equipment is used by the military. Pursuant to AB 481, items deemed to be "military equipment" include, but are not limited to, unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, pepper balls, less lethal shotguns, less lethal 40mm projectile launchers, long-range acoustic devices, flashbangs, and foundational equipment such as rifles. Many of these items deemed to be "military equipment" by AB 481 are, in fact, owned and deployed by the department and LEAs across the country to specifically reduce risk to community members. These items provide peace officers with the ability to safely resolve volatile situations which otherwise might rise to the level of a lethal force encounter. To that end, the items listed in the accompanying Military Equipment Use Policy also provide the Department's peace officers with necessary tools that facilitate compliance with its stringent use of force policy.

During the April 18, 2022 Council meeting, Acting Chief Rene Garza provided a power point presentation on the Department's Military Equipment Use Policy.

DISCUSSION: There is significant interest in ensuring that the Department continues to have access to equipment that will provide peace officers as many options as possible to safeguard lives, ensure safety, and protect civil liberties. The use of the tools identified are vital to the Department's mission and will continue to be strictly regulated through internal processes and oversight.

The purpose of Policy 705 safeguards the public's welfare, safety, civil rights, and civil liberties. Policy 705 ensures that transparency, oversight, and accountability measures are in place. All items which result in a use of force will be investigated.

Policy 705 outlines each item identified in Government Code section 7070 that is currently owned by the City. Policy 705 also includes the current use and cost of each item. These particular items, and their stated uses, have been in place prior to the implementation of AB 481. There are no reasonable alternatives to the items listed in Policy 705. The Department has not discovered alternative items that can achieve the same objectives of officer and civilian safety.

AB 481 requires the Department to annually submit a military equipment report for each approved type of military equipment to City Council for as long as the military equipment is available for use. In addition, the Department must make each annual report publicly available on its website for as long as the equipment is available for use. City Council must annually review the military equipment report submitted by the Department to determine whether each type of military equipment identified in the report continues to comply with the standard of approval, and whether to renew the ordinance at a regular meeting.

Future acquisition of any item deemed to be "military equipment" will require a further public meeting, policy update, and City Council approval.

Along with seeking authorization to use preexisting equipment, the Department also seeks City Council authorization to collaborate with other LEAs and their deployment or use of other military equipment within the jurisdiction of this Department, as the Department has utilized LEAs within Fresno County to respond and assist with field equipment that meet the definition of "military equipment."

RECOMMENDATION: 1. Hold Public Hearing and receive public testimony; and 2. Waive the Second Reading and adopt the Ordinance approving Policy 705.

Rene Garza, Police Commander

Fernando Santillan, City Manager

Military Equipment

705.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code §§ 7070, 7071, and 7072).

705.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees Selma Police Department (“Department”).

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached, excluding unarmored all-terrain vehicles and motorized dirt bikes.
- Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld ram designed to be operated by one person.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard Department-issued shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons pursuant to Penal Code sections 30510 and 30515, except standard Department-issued handguns.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools, including, but not limited to, grenades.
- Munitions containing tear gas or oleoresin capicum (“OC”), excluding standard Department-issued handheld pepper spray.

- TASER® Shockwave, microwave weapons, water cannons, and Long Range Acoustic Devices (“LRADs”).
- Kinetic energy weapons and munitions, including, but not limited to, projectile launchers, bean bag rounds, and rubber bullet.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

705.2 POLICY

It is the policy of the Department that Department members comply with the provisions of Government Code section 7071.

705.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police or his authorized designee should designate a Department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying Department equipment that qualifies as military equipment in the Department’s current possession, or the equipment that the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of the Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 1. Publicizing the details of the meeting.
 2. Preparing for public questions regarding the Department’s funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

705.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Department:

See Exhibit A.

705.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting this military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on Department's website at least thirty (30) days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to Title 10 of the United States Code section 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant; soliciting or accepting private, local, state, or federal funds; in-kind donations; or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of the governing body.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

705.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment used by any member of this Department shall be approved for use and in accordance with this Department policy. Military equipment used by other jurisdictions while providing mutual aid to this Department, or otherwise engaged in law enforcement operations within this jurisdiction, shall comply with their respective military equipment use policies in rendering mutual aid.

705.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for Department use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on Department's website for as long as the military equipment is available for Department use. The report shall include all information required by Government Code section 7072 for the preceding calendar year for each type of military equipment in Department's inventory.

705.8 COMMUNITY ENGAGEMENT

Within thirty (30) days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the Department funding, acquisition, or use of military equipment.

In accordance with Section 705.3(g) of this Policy and Government Code section 7070, subdivision (d)(7), members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment in this policy. The Department will monitor all complaints, concerns, and questions to ensure timely responses are completed. Complaints, concerns, or questions may be submitted by any of the following means:

- (a) Via email to: reneg@cityofselma.com
- (b) Via phone call to: (559) 896-2525
- (c) Via USPS mail to:
 - Selma Police Department
 - Attn: Military Equipment Use Coordinator
 - 2055 Third Street
 - Selma, CA 93662

EXHIBIT A

[Military Equipment Inventory]

2- 40 MM Foam Tip Launcher

**5- Less than Lethal Shotgun (Bean Bag
munition)**

3-Taser (X26)

40- Taser (X26P)

1-Phantom 4 (Unmanned Aerial Vehicle)

1-DJI Tello (Unmanned Aerial Vehicle)

1-Mavic Enterprise (Unmanned Aerial Vehicle)

1-Multipurpose Utility Mobile Trailer

Type	40mm Launcher used with Kinetic Impact Projectiles
Description	40mm, foam-tipped kinetic energy fired from an agency-authorized 40mm launcher.
Quantity	2
Capabilities	Operational range 3-50 yards
Expected lifespan	10 years
Manufacturer's description	40mm foam-tipped projectile capable of travelling 290 fps to a maximum effective range of 50 yards.
Purpose and authorized uses	To compel an individual to cease his/her actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application. Supervisor authorization required.
Fiscal impact	\$500 initial cost each/ Annual Munition Cost \$425
Legal and procedural rules	Refer to policies 302-302.11
Required training	Initial orientation course including qualification; annual recertification including qualification.
Compliance mechanisms	Operational use under the review of authorized Supervisor

Type	Less Lethal Shotguns used with Kinetic Impact Projectiles
Description	12 Gauge shotgun, which deploys a Bean Bag munition from an agency-authorized Less than Lethal shotgun.
Quantity	5
Capabilities	Operational range 10-75ft.
Expected lifespan	Shotgun (10 years) / Munitions (5 years)
Manufacturer's description	The Drag Stabilized 12-Gauge Round is a translucent 12-Gauge shell loaded with a 40-Gram tear shaped bag made from a cotton and ballistic material blend and filled with #9 shot. This design utilizes four stabilizing tails and utilizes smokeless powder as the propellant. The round velocity is 270fps
Purpose and authorized uses	To compel an individual to cease his/her actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	Initial Cost: \$400 each / Munitions Annual Cost: \$750
Legal and procedural rules	Refer to policies 302-302.11
Required training	Initial orientation course including qualification; annual recertification including qualification.
Compliance mechanisms	Operational use under the review of qualified and authorized users, per Department Policy
Compliance mechanisms	Operational use under the review of qualified and authorized CEW (Conducted Energy Weapon) users

Type	Tasers (X26)
Description	The X26 is a self-defense energy weapon manufactured by Axon Enterprise, Inc. TASER-brand energy weapons are designed to use propelled wires or direct contact to conduct energy to affect the sensory and/or motor functions of the nervous system
Quantity	3
Capabilities	Operation Range: Probes (7ft-25ft; for preferred probe spread); during the use of a Drive-stun-direct contact needed without cartridge inserted (preferred targeted areas); however with a cartridge inserted 3-point contact can be conducted to complete a circuit
Expected lifespan	X26 (10 years); Cartridges (5 years shelf-life)
Manufacturer's description	The X26P CEW is a firmware-upgradable weapon manufactured by Axon Enterprise, Inc. The X26P CEW uses a replaceable cartridge containing compressed nitrogen to deploy two small probes that are attached to the X26P CEW cartridge by insulated conductive wires. The cartridges are available with various wire lengths from 15 to 25 feet (4.6 to 7.6 meters).
Purpose and authorized uses	To compel an individual to cease his/her actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	Initial cost \$1,113 each / Cartridges \$28.20 (15ft), \$30.30(21ft), and \$34.45(25ft) / \$76.00 (XPPM-Battery each)
Legal and procedural rules	Refer to policies 303-303.9
Required training	Initial orientation course including qualification; annual recertification including qualification.
Compliance mechanisms	Operational use under the review of qualified and authorized CEW (Conducted Energy Weapon) users
Type	Tasers (X26P)
Description	The X26P is a self-defense energy weapon manufactured by Axon Enterprise Incorporated. TASER-brand energy weapons are designed to use propelled wires or direct contact to conduct energy to affect the sensory and or motor functions of the nervous system.
Quantity	40
Capabilities	Operation Range: Probes (7ft-25ft; for preferred probe spread); during the use of a Drive-stun-direct contact needed without cartridge inserted (preferred targeted areas); however with a cartridge inserted 3-point contact can be conducted to complete a circuit.
Expected lifespan	X26P (10 years); Cartridges (5 years shelf-life)

Manufacturer's description	The X26P CEW is a firmware-upgradable weapon manufactured by Axon Enterprise, Inc. The X26P CEW uses a replaceable cartridge containing compressed nitrogen to deploy two small probes that are attached to the X26P CEW cartridge by insulated conductive wires. The cartridges are available with various wire lengths from 15 to 25 feet (4.6 to 7.6 meters).
Purpose and authorized uses	To compel an individual to cease his/her actions when such munitions present a reasonable option. A verbal warning of the intended use of the device should precede its application.
Fiscal impact	Initial cost \$1,113 each / Cartridges \$28.20 (15ft), \$30.30(21ft), and \$34.45(25ft) / \$76.00 (XPPM-Battery each); Annual\$ 1200.00.
Legal and procedural rules	Refer to policies 303-303.9
Required training	Initial orientation course including qualification; annual recertification including qualification.
Compliance mechanisms	Operational use under the review of qualified and authorized CEW (Conducted Energy Weapon) users.
Type	Unmanned Aerial Vehicle (DJI Mavic 2 Enterprise Dual)
Description	Remote control aircraft with 3-axis gimbal camera with a FLIR longwave infrared thermal camera and a visual camera.
Quantity	1
Capabilities	Operational altitude of 0 to 400 feet AGL. Operational distance (horizontal range) of 0 to 1000 feet. Visual and infrared radiation camera with onboard recording capabilities.
Expected lifespan	5 years
Manufacturer's description	A portable commercial UAS. It is equipped with powerful, gimbal mounted, side-by-side visual and thermal cameras that will provide commercial pilots with a reliable tool to operate better, safer, and quicker in challenging environments. The take-off weight is approximately 1.9 pounds without accessories. The UAS measures 12.6"X 9.5" X 4.5". The system is powered by a removable battery and is outfitted with a 1/2.3" CMOS; Effective pixels: 12M, 4K Ultra HD camera that is gimbal mounted to the UAS. The system utilizes barometric pressure and satellite location to identify positioning and altitude. The UAS is controlled by a single remote device and telemetry. Altitude, speed, battery level, and signal strength are displayed on a video feed. The system allows for saving of launch position and will return to that position if link is lost, battery power is diminished to a critical level, or manually instructed.
Purpose and authorized uses	Public safety and inspection operations. Allow officers to quickly search large areas and provides officers with the ability to examine active scenes from a safe distance.
Fiscal impact	Initial cost of \$5,000. Annual maintenance cost of less than \$50.00

Legal and procedural rules	Refer to Selma PD Policy and Procedure Manual 606
Required training	Agency Authored initial training
Compliance mechanisms	Operation and deployment in accordance with provisions outlined in the FAA Certificate of Authorization.
Type	Unmanned Aerial Vehicle (DJI Phantom 4)
Description	Remote control aircraft gimbal mounted visual camera capable of shooting 4K video.
Quantity	1
Capabilities	Operational altitude of 20 to 400 feet AGL. Operational distance (horizontal range) of 0 to 1000 feet. Visual camera with onboard recording capabilities.
Expected lifespan	5 years
Manufacturer's description	A portable commercial UAS. It is equipped with a gimbal mounted fixed camera. The take-off weight is approximately 3 pounds without accessories. The UAS measures 19.3"X11.8"X 19.3". The system is powered by a removable battery and is outfitted with a 1" CMOS; Effective pixels: 20M, 4K Ultra HD camera that is gimbal mounted to the UAS. The system utilize barometric pressure and satellite location to identify positioning and altitude. The UAS is controlled by a single remote device and telemetry. Altitude, speed, battery level, and signal strength are displayed on a video feed.
Purpose and authorized uses	Public safety and inspection operations. Allow officers to quickly search large areas and provides officers with the ability to examine active scenes from a safe distance.
Fiscal impact	Initial cost of \$900. Annual maintenance cost of less than \$50.00
Legal and procedural rules	Refer to Selma PD Policy and Procedure Manual 606
Required training	Agency Authored initial training
Compliance mechanisms	Operation and deployment in accordance with provisions outlined in the FAA Certificate of Authorization.
Type	Unmanned Aerial Vehicle (DJI Tello)
Description	Remote control aircraft with equipped with a fixed HD camera.
Quantity	1
Capabilities	Operational altitude of 0 to 100 feet AGL. Operational distance (horizontal range) of 0 to 100 feet. Visual camera with live feed only.
Expected lifespan	3 years

Manufacturer's description	A commercial UAS. The take-off weight is approximately 80 grams. The UAS measures 3.58"X1.61"X3.64". The system is powered by a removable battery and is outfitted with a five-megapixel HD (720P30) camera with electronic image stabilization integration. The system uses vision-positioning cameras to help maintain its position while hovering and is controlled by a single remote device.
Purpose and authorized uses	Public safety and inspection operations. Allow officers to quickly search large areas and provides officers with the ability to examine active scenes from a safe distance.
Fiscal impact	Initial combine cost of \$140.00 Annual maintenance cost of less than \$50.00
Legal and procedural rules	Refer to Selma PD Policy and Procedure Manual 606
Required training	Agency Authored initial training
Compliance mechanisms	Operation and deployment in accordance with provisions outlined in the FAA Certificate of Authorization.

Type	Multi-Purpose Utility Trailer manufactured in 2005
Description	Towed enclosed cargo utility trailer.
Quantity	1
Capabilities	2 Axle trailer with a maximum gross weight of 7,000 pounds.
Expected lifespan	N/A
Manufacturer's description	Aluminum tube frame integrated sidewall commercial trailer.
Purpose and authorized uses	Utilized as an Incident Command Post in addition to other miscellaneous uses (e.g. DUI checkpoints, emergency operations, etc.) including the transportation of equipment.
Fiscal impact	Initial cost: Grant Annual cost: \$500
Legal and procedural rules	California Vehicle Code and Department of Motor Vehicles
Required training	N/A
Compliance mechanisms	N/A

ORDINANCE NO. 2022 – __

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SELMA
ADOPTING A MILITARY EQUIPMENT USE POLICY**

THE CITY COUNCIL FOR THE CITY OF SELMA HEREBY DOES ORDAIN:

SECTION 1. FINDINGS.

The City Council finds:

- A. On September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481, which codified procedures of funding, acquisition and use of military equipment by law enforcement agencies under Government Code sections 7070 through 7075.
- B. Assembly Bill 481 requires law enforcement agencies to obtain approval from the applicable governing body by ordinance adopting a military equipment use policy prior to taking certain actions relating to funding, acquisition, or use of military equipment.
- C. Assembly Bill 481 allows a city council of a city to approve the funding, acquisition, or use of military equipment within its jurisdiction only if it makes specified determinations pursuant to Government Code section 7071.
- D. Assembly Bill 481 requires law enforcement agencies to annually submit to the applicable governing body a military equipment report for each approved type of military equipment for as long as the military equipment is available for use, and to make each annual report publicly available on its website for as long as the equipment is available for use.
- E. Assembly Bill 481 requires a city council that has adopted an ordinance approving a military equipment use policy to annually review the military equipment report submitted by the law enforcement agency to determine whether each type of military equipment identified in the report continues to comply with the standard of approval.
- F. Assembly Bill 481 requires a city council that has adopted an ordinance approving a military equipment use policy to annually review the ordinance and vote on whether to renew the ordinance at a regular meeting.
- G. Policy 705 of the Selma Police Department Policy Manual has been prepared by the Selma Police Department as its proposed military equipment use policy, and it has been published on the Selma Police Department's internet website since _____, 2022.
- H. A duly noticed public hearing was conducted by the City Council at its regular meeting on April ___, 2022, to consider Policy 705.

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SECTION 2. DETERMINATIONS.

A. Based on the above-findings and the information provided to the City Council at the public meeting, the City Council determines that Policy 705 of the Selma Police Department Policy Manual complies with standards for approval under Government Code section 7071:

1. The identified military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

2. Policy 705 of the Selma Police Department Policy Manual will safeguard the public's welfare, safety, civil rights, and civil liberties.

3. The purchase and use of the identified military equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

4. All military equipment uses prior to the adoption of Policy 705 of the Selma Police Department Policy Manual complied with applicable Department policy in effect at that time, and will continue to conform with future compliance.

B. Policy 705 of the Selma Police Department Policy Manual is approved and adopted.

SECTION 3. This Ordinance shall take effect thirty (30) days after its adoption and will not be codified in the City's Municipal Code.

SECTION 4. The City Clerk is hereby directed to cause a summary of this Ordinance to be published by one insertion in a newspaper of general circulation in the community at least five (5) days prior to adoption and again fifteen (15) days after its adoption. If a summary of the ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed ordinance to be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which the ordinance is adopted, and again after the meeting at which the ordinance is adopted. The summary shall be approved by the City Attorney.

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The foregoing Ordinance No. 2022- 3 was introduced at a regular meeting of the City Council of the City of Selma held on April 18, 2022, and was thereafter duly adopted at a regular meeting of said City Council held on May 2, 2022, by the following vote, to wit:

AYES:

NOES:

ABSTAINING:

ABSENT:

ATTEST:

APPROVED:

Reyna Rivera, City Clerk

Scott Robertson, Mayor

**CITY MANAGER'S/STAFF'S REPORT
CITY COUNCIL MEETING:**

May 2, 2022

ITEM NO: 3.

SUBJECT: Banners and Flags on Public Rights of Way and Streetlight Poles

BACKGROUND: At the April 18, 2022 City Council meeting, Council considered staff's proposed revisions to the Selma Municipal Code regarding flags and banners on streetlights and voted to introduce the proposed ordinance amendment with a modification which would allow for the placement of temporary flags and banners on a single streetlight pole in front of the Selma Arts Center building for a period not to exceed 10 days. Appeals for temporary non-commercial signs would be heard by the Council, as originally proposed.

DISCUSSION: In addition to the revisions to the Municipal Code proposed at the April 18th meeting, staff has revised the ordinance amendment, based on the Council's direction, to include the following language:

11-28-7: Temporary Signs

(C) Banners, Pennants, Nongovernmental Flags, Balloons And Similar Temporary Signs: The above listed temporary signs are permitted for grand opening and other special events and commemorative purposes, provided the following conditions, and all other applicable conditions of this Chapter, are met:

3. Temporary noncommercial signs of a religious, charitable, civic, educational, or cultural nature, provided that such sign is not posted, flown, or hung for any period longer than 10 consecutive days per calendar year and shall be limited to being posted, flown, or hung only on the streetlight pole nearest to the Selma Arts Center building. Only one such flag per calendar month shall be permitted. Approved signs shall not display a message, graphic presentation, or other image that is obscene as defined by section 311 of the California Penal Code. Approved signs shall be subject to the standard sign permit fee unless waived at the discretion of the City Council. If more than one organization requests a permit for the same calendar month, the permit will be issued to the organization which submits the permit application first.

RECOMMENDATION: 1. Conduct the duly noticed Public Hearing; and 2. Waive the Second Reading and Adopt the Proposed Ordinance Amendment, which amends Title XI, Chapters 1 (Zoning) and 28 (Sign Regulations) which addresses flags and banners on City property, provides for an appeal process to the City Council for non-commercial signs, and allows for temporary non-commercial signs on specific City property and right-of-way.

Fernando Santillan, City Manager

ORDINANCE NO. 2022-

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SELMA AMENDING SECTIONS 11-1-1 OF CHAPTER 1 AND SECTION 11-28-2 OF CHAPTER 28, BOTH OF TITLE XI OF THE CITY OF SELMA MUNICIPAL CODE PERTAINING TO PUBLIC DISPLAY OF FLAGS

THE CITY COUNCIL FOR THE CITY OF SELMA HEREBY DOES ORDAIN:

SECTION 1. The following amendments shall be made to the City of Selma Municipal Code:

11-1-1: Zoning Definitions.

Whenever the following words and terms are used in this title, they shall have the meanings herein ascribed to them unless the content makes such meaning repugnant thereto:

SIGN: Any visual device or representation designed and used for the purpose of identifying or attracting attention to a premises, product, service, person or event. The term “sign” includes, but is not limited to, flags, banners, pennants, streamers, unusual paint, color, nonstructural displays, architectural projections, displays of goods or services when located outside a building and other similar devices or ploys.

11-28-2: Permit Requirements and Inspections.

(G) Referral to Planning Commission or City Council: The Community Development Director, at their discretion, may refer any application for a commercial sign to the Planning Commission, which may approve, conditionally approve, or deny the sign application in accordance with the criteria listed above. Non-commercial signs may be referred, at the Community Development Director’s discretion, to the City Council for approval, conditional approval, or denial of the sign application in accordance with the criteria listed above.

(H) Action on Application: If a sign application is denied, the Community Development Department shall provide written notice of the denial to the applicant after the decision is rendered. The applicant may appeal any decision of the Community Development Director to the Planning Commission or City Council, as appropriate, pursuant to Section (G) and the provisions of the appeals portion of the Chapter (subsection 11-28-2 (I).)

If a sign is approved, the applicant shall obtain any required permits from the Building Division prior to installing, altering or relocating any sign.

(I) Appeals:

1. The applicant or any aggrieved person may appeal a decision, on an item pertaining to this Chapter made by the Community Development Director to the Planning Commission for commercial signs, or to the City Council for non-commercial signs. Such an appeal shall be filed in writing, in the format prescribed by the Community

Development Director, not later than ten (10) calendar days after a decision has been rendered. The appeal shall be accompanied by the fee required for an “Appeal of a Staff Decision, Minor” and any pertinent data the appellant wishes to submit. The appeal shall be scheduled for the next regular Planning Commission or City Council meeting, respectively, provided the meeting is at least fourteen (14) days from the date of the appeal. If the next meeting is sooner than fourteen (14) days, the appeal shall be scheduled for the meeting following the next scheduled meeting.

11-28-7: Temporary Signs

(C) Banners, Pennants, Nongovernmental Flags, Balloons And Similar Temporary Signs: The above listed temporary signs are permitted for grand opening and other special events and commemorative purposes, provided the following conditions, and all other applicable conditions of this Chapter, are met:

3. Temporary noncommercial signs of a religious, charitable, civic, educational, or cultural nature, provided that such sign is not posted, flown, or hung for any period longer than 10 consecutive days per calendar year and shall be limited to being posted, flown, or hung only on the streetlight pole nearest to the Selma Arts Center building. Only one such flag per calendar month shall be permitted. Approved signs shall not display a message, graphic presentation, or other image that is obscene as defined by section 311 of the California Penal Code. Approved signs shall be subject to the standard sign permit fee unless waived at the discretion of the City Council. If more than one organization requests a permit for the same calendar month, the permit will be issued to the organization which submits the permit application first.

SECTION 2. Only the revisions explicitly stated in Section 1 shall be made. All other language and requirements in Title XI of the City of Selma Municipal Code shall remain the same.

The foregoing Ordinance No. 2022-[NUMBER] was introduced at a regular meeting of the City Council of the City of Selma held on April 18, 2022, and was thereafter duly adopted at a regular meeting of said City Council held on May 2, 2022, by the following vote, to wit:

AYES:

NOES:

ABSTAINING:

ABSENT:

ATTEST:

APPROVED:

Reyna Rivera, City Clerk

Scott Robertson, Mayor

CITY MANAGER'S/STAFF'S REPORT
COUNCIL MEETING DATE:

May 2, 2022

ITEM NO: 4.

SUBJECT: Request to Continue Public Hearing to Consider Zone Text Amendment (ZTA) 2021-0010, and Associated Actions.

DISCUSSION: The City Council held a public hearing on November 15, 2021 to consider ZTA 2021-0010. A motion was made to approve the item as presented, but failed (vote) and Council requested that Staff conduct interviews and meet with other sign stakeholders (Sign Companies) in order to gain consensus, and to reduce the need for future changes to the Zoning Ordinance.

In accordance with this directive, Staff has conducted additional research, interviewed stakeholders (billboard advertising companies), and has worked with the applicant to provide an alternative amendment to the ordinance that incorporates portions of information from each interview, with the intent of presenting the findings and recommendations to Council at a public hearing on May 2, 2022 meeting. Therefore, a public hearing for ZTA 2021-0010 was duly noticed for the May 2, 2022 Council meeting in the Selma Enterprise (Attachment 1). However, following the posting of public hearing notices, staff received additional feedback from stakeholders that needs to be considered and potentially incorporated into the draft documents for Council's consideration. As such, Staff is requesting that the City Council continue the public hearing date to May 16, 2022 at 6:00 p.m., or as soon thereafter as the matter may be heard by the City Council at their regularly scheduled meeting in the Council Chambers of the City Hall, 1710 Tucker Street, Selma, California.

RECOMMENDATION: Continue Public Hearing to Date of May 16, 2022 for Zone Text Amendment 2021-0010, and Associated Actions.

Rob Terry, Deputy City Manager

Attachments

1. May 2, 2022 Public Hearing Notice for ZTA 2021-0010

**CITY OF SELMA
CITY COUNCIL
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN that the City Council of the City of Selma will hold a public hearing on Monday, May 2, 2022 at 6:00 p.m., or as soon thereafter as the matter may be heard in the Council Chambers of the City Hall, 1710 Tucker Street, Selma, California, to consider the following matters:

AMENDMENT TO SECTION 11-28-8, OF CHAPTER 28, OF TITLE XI, OF THE SELMA MUNICIPAL CODE – Consider introduction of an ordinance amendment to Selma Municipal Code Section 11-28-8 Billboards (Off Premises Advertising Sign Structure). The ordinance is being proposed by applicant West Coast Billboards under application number ZTA 2021-0007.

A copy of all relevant materials regarding the proposed actions is on file in the Development Services Department at Selma City Hall, 1710 Tucker Street, Selma, California. Specific questions can be directed to the City's Planning Division at (559) 891-2208. *Si necesita información en Español, comuníquese con Lupe Macias al teléfono (559) 891-2208 o por correo electrónico lmacias@cityofselma.com.*

Due to the COVID-19 pandemic public health orders, members of the public may attend in person or access the meeting by using Teleconference Phone Number +1 301 715 8592 Webinar ID: 813 9813 4201 as specified in the May 2, 2022 meeting agenda. Written comments may be sent via U.S. Mail or by hand delivery to the City of Selma, at City Hall, at the address listed above.

If you challenge the nature of the proposed items in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Selma at, or prior to, the public hearing.

Reyna Rivera, City Clerk

**CITY MANAGER'S/STAFF'S REPORT
CITY COUNCIL MEETING:**

May 2, 2022

ITEM NO: 5.

SUBJECT: Consideration of a Memorandum of Understanding with Yanez Construction
Regarding the Donation of a 10 Acre Park Site

BACKGROUND:

Yanez Construction is currently going through the property acquisition and site planning phases of development for a single-family subdivision southwest of Blaine Avenue and Thompson Avenue. Fronting Thompson Avenue, at the south end of the proposed development site, the owner desires to donate a ten (10) acre portion of the land area (APN 393-170-03) for development of a community park. The graphic attached shows the basic location of the site. Funding for the future development of the site will be partially provided by the Prop 68 Park Grant the City was previously awarded.

The Memorandum of Understanding (MOU) attached for Council's consideration establishes and details the timing, roles, contributions and responsibilities of the Owner/Contractor and the City concerning donation and ultimate development of the park site. Specifics such as park design, subdivision improvement agreement(s) for the adjacent housing development(s), and any agreements required by partner agencies, such as Consolidated Irrigation District (CID), etc., will be delivered to the City Council for separate discussion and approval action, as appropriate.

<u>COST:</u>		<u>BUDGET IMPACT:</u>
None associated with the donation of land. Partial funding for construction is anticipated to be through the Prop 68 Park Grant previously awarded to the City.		<i>N/A</i>
<u>FUNDING:</u>		<u>ON-GOING COST:</u>
Funding Source: Prop 68 Park Grant (pending approval for site modification) Fund Balance:		<i>None.</i>

RECOMMENDATION: Approve and Authorize the City Manager to Sign a Memorandum of Understanding with Yanez Construction Regarding the Donation of a 10-Acre Park Site.

Rob Terry, Deputy City Manager

Fernando Santillan, City Manager

**Memorandum of Understanding
Between the City of Selma and Yanez Construction, Inc. for
Donation of Land for a Park Site**

This Memorandum of Understanding (Agreement) is entered into this ____ day of ____, 20__, by and between the City of Selma, a municipal corporation, ("City"), and Efrain Yanez Construction, Inc., a California Corporation ("Owner").

WITNESS

WHEREAS, Efrain Yanez Construction, Inc. (Owner) owns a 10 acre +/- parcel of land, identified as APN 393-170-03; and

WHEREAS, the Owner intends to develop the area surrounding the parcel to be donated with single-family homes, in accordance with the standards and specifications of development within the City of Selma; and

WHEREAS, the Owner wishes to donate the identified parcel to the City for the construction of a community park; and

WHEREAS, the parcel to be donated exceeds the minimum size required for common open space to be provided, per Selma Municipal Code; and

WHEREAS, the City intends to enter into a subdivision improvement agreement for offsite improvements with Owner, following the appropriate approval of entitlements for the proposed adjacent development; and

WHEREAS, the City desires to utilize Proposition 68 State Parks Program funding previously awarded to the City for construction of a community park on the donated site; and

WHEREAS, on February 9, 2022, the City Council of the City of Selma authorized the City Manager to take actions to accept the proposed donation of land, including the drafting, execution and/or amending of the needed agreements, as required.

NOW, THEREFORE, in consideration of the above recitals, the parties agree as follows:

1. PARTICIPATING AGENCIES AND DESIGNATED CONTACT PERSONS

City Representative: Fernando Santillan, City Manager
City of Selma
1710 Tucker Street
Selma, CA 93662
Tel: (559) 891-2200

Owner Representative: Efrain Yanez, Owner
Efrain Yanez Construction, Inc.
42992 Rd 52
Reedley, CA 93654
Tel: (559) 638-6644

2. ROLES, CONTRIBUTIONS AND RESPONSIBILITIES

A. Owner will:

- Close escrow and donate the 10 +/- acre park site to the City, free and clear by December 31, 2022.
- Enter into a subdivision improvement agreement with the City, following appropriate approval of any associated entitlements required for the adjacent proposed subdivision(s); which shall include details of public improvements to be placed fronting, surrounding and/or including the donated property. Said agreement may include allowance of fee credits or reimbursement for improvements placed beyond those required to service the adjacent project, or as mutually agreed upon between the two parties. The amount of fee credits will not exceed the appraised value of the property being donated, net of the amount which would have been required by the owner to construct a neighborhood park as a condition of approval for the proposed residential development.

B. City will:

- Complete all park improvements located on the donated parcel, and outside of the public right-of-way.
- City will complete off-site improvements required for adequate access to the park by residents and visitors.
- City will complete public right-of-way improvements on Thompson Avenue directly adjacent to and fronting the park site to center-line of road. Such improvements shall include roadway, curb, gutter, sidewalk, and undergrounding of the irrigation ditch which is currently owned by the Consolidated Irrigation District (CID) and is currently located on the subject property.
- City will complete public right-of-way improvements to the center-line of future roadways on the north and west sides of the donated park site, as applicable. Such improvements shall include roadway, curb, gutter and sidewalk.
- Maintain oversight and reporting of the Proposition 68 grant, as per grant guidelines and regulations entered into.
- Maintain full and complete control and all discretion in relation to the processing, approval/denial and determination of entitlements associated with the park project.

C. The Parties May Collectively:

- Amend any of the terms within this Agreement, or any Exhibits or Attachments, which do not fall under the specifics of the Grant Agreement held with the State with the approval of both the City and Owner.
- Agree through a reimbursement or similar agreement, to placement of improvements in a manner that improves delivery timing of the park site.

3. PERFORMANCE STANDARDS

The City and Owner agree agrees that they will, at all times, faithfully, industriously, and to the best of their ability, perform the duties and functions that are required under this Agreement.

4. EFFECTIVENESS, DURATION AND TERMINATION

This Agreement shall be effective as of the date first written above, and shall remain in effect for an initial term running through three (3) years from the date first written above. Should any of the obligations set forth under section 2A of this Agreement be unfulfilled by Owner during this time, City shall have the right to renegotiate or terminate its obligations under this Agreement.

5. INDEMNIFICATION

Owner shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by Owner, City or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly from the negligent or intentional acts or omissions, or willful misconduct of Owner or any of its officers, officials, employees, agents or volunteers in the performance of this Agreement.

Owner further understands that the land donated to the City will remain city property regardless of the whether or not the development of a park site is realized.

This section shall survive termination or expiration of this Agreement.

6. ATTORNEY'S FEES

If a party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its/their reasonable attorney's fees and legal expenses.

7. BINDING

Once this Agreement is signed by all the parties, it shall be binding upon, and shall inure to the benefit of, the parties, and each party's respective heirs, successors, assigns, transferees, agents, servants, employees and representatives. The terms and conditions of this Agreement, express or implied, exist only for the benefit of the parties to this Agreement and their respective successors and assigns. No other person or entity will be deemed to be a third party beneficiary of this Agreement.

8. ASSIGNMENT

There shall be no assignment by any party of its rights or obligations under this Agreement without the prior written approval of the other party. Any attempted assignment by a party, its successors or assigns, shall be null and void unless approved in writing by the other party.

9. WAIVER

The waiver by any party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

No provisions of this Agreement may be waived unless in writing and approved by and signed by all parties to this Agreement. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.

No action or omission by either party shall constitute a breach of this Agreement unless the injured party first notifies the other party of the purported breach in writing setting forth the alleged breach or default and said party does not cure the same within a reasonable period of time. The payment of any fee or compensation or performance of any obligation hereunder by either party shall not constitute a waiver of any breach by the other party or of any of the rights and remedies which either party may have as a result of such breach. No waiver by either party of breach of the Agreement shall be implied from any failure by the other party to take action on account of such breach if such breach persists or is repeated. Waivers by either party of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

10. GOVERNING LAW AND VENUE

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Fresno, California.

11. HEADINGS

The section headings in this Agreement are for convenience and reference only and shall not be construed or held in any way to explain, modify or add to the interpretation or meaning of the provisions of this Agreement.

12. SEVERABILITY

The provisions of this Agreement are severable. The invalidity or unenforceability of any one provision in this Agreement shall not affect the other provisions.

13. INTERPRETATION

The parties acknowledge that this Agreement in its final form is the result of the combined efforts of the parties and that, should any provision of this Agreement be found to be ambiguous in any way, such ambiguity shall not be resolved by construing this Agreement in favor or against any party, but rather by construing the terms in accordance with their generally accepted meaning.

14. REPRESENTATIONS AND WARRANTIES

Each party hereby represents and warrants to the other party, and agrees that it has the full power and authority to enter into this Agreement and perform each of its obligations hereunder, and it is legally authorized and has obtained all necessary regulatory approvals for the execution, delivery, and performance of this Agreement. This Agreement does not obligate the City to approve any entitlements related to the donated parcel/site. City retains complete discretion to exercise its police powers in deciding upon any future entitlements related to the donated parcel/site.

15. ENTIRE AGREEMENT

It is mutually understood and agreed that the foregoing constitutes the entire Agreement between the parties. Any modifications or amendments to this Agreement must be in writing signed by an authorized agent of each party, in accordance with Section 2C of this Agreement.

IN WITNESS THEREOF, the parties have caused their authorized agents to execute this Agreement as of the date first set forth above:

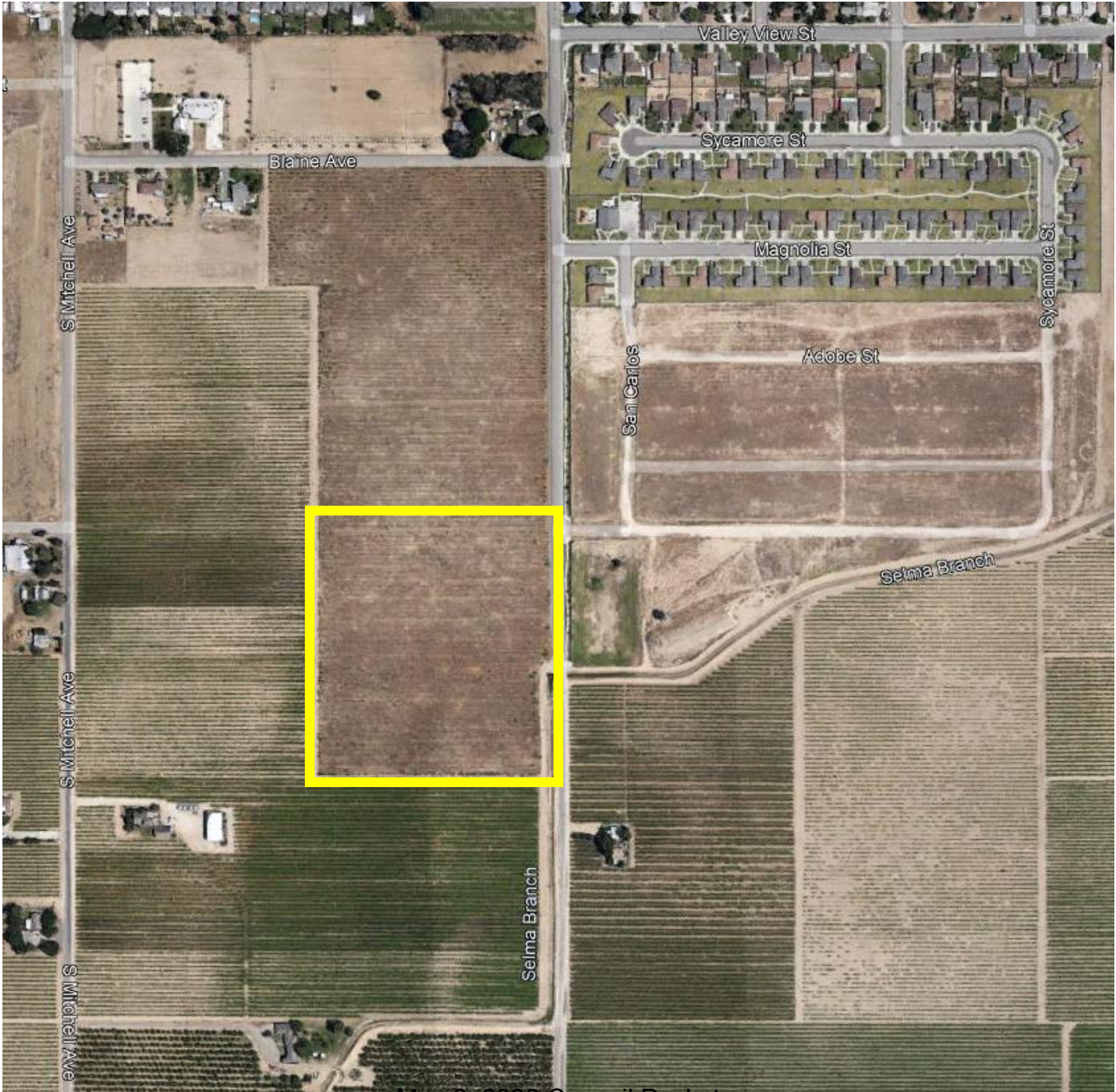
CITY OF SELMA,
a municipal corporation

By: _____
Fernando Santillan, City Manager

EFRAIN YANEZ CONSTRUCTION, INC.
a California Corporation

By: _____
Efrain Yanez, Owner

Parcel Location



**CITY MANAGER'S/STAFF'S REPORT
CITY COUNCIL MEETING:**

May 2, 2022

ITEM NO: 6.

SUBJECT: Consideration of an Agreement Addendum with Rincon Consultants, Inc. for the Continuation of On-call Professional Services for the Community Development Department

BACKGROUND:

The Planning Division is a key component for City Hall; assisting with economic development, implementing state and local regulations, processing land use entitlement applications for Planning Commission and City Council consideration, and much more. For the past several years, the City of Selma has not maintained a full-time planning staff, but has utilized consulting firms to provide the coverage needed for the community. On May 6, 2019, the Selma City Council approved entering into a limited on-call consulting agreement with Rincon Consultants, Inc. to provide assistance with special projects, as needed, to ensure the highest levels of customer service could be maintained at all times. The process to utilize the consultant entails the City providing Rincon with a description of the special project, and Rincon then preparing a scope and cost for City consideration and approval. In most cases, costs for specific projects will be paid for by the collection of user fees from the developers, resulting in minimal costs to the City, overall.

Due to the impacts of COVID on the development community, Rincon's services have not been utilized within this existing contract. However, with development picking up considerably, it is critical that the City has the planning consultant-related agreements in place to ensure the staffing resources are available as needed, in an on-call setting. The current agreement is set to expire on May 6, 2022. At this time, staff is recommending that the City Council extend the on-call agreement for an additional 13.5 months, to that of June 30, 2023. Prior to amending, extending or entering into any new on-call agreement beyond this time frame, staff will go through a Request for Proposal (RFP) process.

Attached for Council's consideration is Amendment No. 1 to the Professional Services Agreement with Rincon Consultant's, Inc., which updates the Term, Exhibit A (Scope of Services), and Exhibit B (Rate Schedule) sections of the original agreement. All other sections of the original agreement shall remain as originally approved. A copy of the original agreement is also attached for Council's reference.

<u>COST:</u>		<u>BUDGET IMPACT:</u>
A complete rate schedule, broken down by activity/staffer, is attached. The contract shall not exceed \$25,000.		<i>N/A: This is a previously budgeted item</i>
<u>FUNDING:</u>		<u>ON-GOING COST:</u>
Funding Source: General Fund Fund Balance:		<i>None.</i>

RECOMMENDATION: Approve and Authorize the City Manager to Sign an Agreement Addendum with Rincon Consultants, Inc. for the Continuation of On-call Professional Services for the Community Development Department

Rob Terry, Deputy City Manager

**ADDENDUM NO. 1
TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF SELMA
AND RINCON CONSULTANTS, INC.**

This Addendum No. 1 to the Professional Services Agreement between the City of Selma and Rincon Consultants, Inc. (Agreement) is made and entered into effective on _____, 2022 (“Effective Date”), by and between the City of Selma, a municipal corporation, hereinafter referred to as “City” and Rincon Consultants, Inc., a California Corporation, hereinafter referred to as “Consultant”.

RECITALS

WHEREAS, on May 6, 2019, City and Consultant entered into a professional services agreement (Agreement) for staff support, as approved by the City Council on May 6, 2019; and

WHEREAS, the City and Consultant mutually desire to extend the sunset date of the agreement; and

WHEREAS, the City desires to adjust the payment details within Section 4(a); and

WHEREAS, Consultant has also requested to update their rate schedule and scope of services.

NOW, THEREFORE, in consideration of the foregoing recitals, Consultant and the City do hereby mutually agree as follows:

1. The End Date notated in Section 1 of the Agreement dated May 6, 2019 is amended to be that of June 30, 2023.
2. The not to exceed amount and period notated within the Agreement dated May 6, 2019 is amended to be that of twenty-five thousand dollars (\$25,000) for the amended duration of the agreement period.
3. Exhibit A (Scope of Services), as notated within the Agreement dated May 6, 2019, is replaced in full with the Exhibit A attached to this Addendum, and dated May 2, 2022.
4. Exhibit B (Rate Schedule), as notated within the Agreement dated May 6, 2019, is replaced in full with the Exhibit B attached to this Addendum and dated May 2, 2022.
5. In all other regards, the Agreement dated May 6, 2019 shall remain in full force and effect.

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

/

/SIGNATURES ON NEXT PAGE

CITY OF SELMA, a municipal corporation

RINCON CONSULTANTS, INC.
a California Corporation

BY: _____
Fernando Santillan, City Manager
(Notary Acknowledgement to be Attached)

BY: _____
Richard Daulton, Vice President
Rincon Consultants, Inc.
(Notary Acknowledgement to be Attached)

ATTEST:

BY: _____
Reyna Rivera, City Clerk

APPROVED AS TO FORM:

BY: _____
Mary F. Lerner, City Attorney

RECOMMEND APPROVAL:

BY: _____
Rob Terry, Deputy City Manager

Attachments: Exhibit A (Scope of Services) – dated May 2, 2022
Exhibit B (Rate Schedule) – dated May 2, 2022

EXHIBIT A

SCOPE OF SERVICES

Dated May 2, 2022

Consultant shall provide the City with the following Services:

- Analyze projects for compliance with the City's General Plan, Zoning Ordinance, Subdivision Ordinance, and other applicable plans and policies.
- Provide CEQA and NEPA analyses on development projects and City initiated projects.
- Review projects and provide comments within timeframes specified by the City.
- Meet with developers/applicants, engineers, property owners, contractors and other individuals to discuss, provide advice, explain procedures, and suggest improvements regarding projects, preapplications, development applications, feasibility analyses, conceptual development plans and code interpretations.
- Coordinate implementation of development applications during the construction phase to ensure compliance with approval conditions and mitigation measures.
- Develop and maintain good working relationships with Development Review Committee staff, other City departments and divisions, other jurisdictions, and the public.
- When requested, be present at City Hall to meet with staff, applicants, etc. regarding project status and updates.
- Prepare written staff reports to the Planning Commission and City Council, including accompanying resolutions, ordinances, conditions of approval, preparing PowerPoint presentations and giving oral presentations.
- Attend public hearings and community meetings as necessary.
- Manage multiple projects and competing priorities while maintaining quality, meeting schedules and staying within budget.
- Answer telephone or email inquiries regarding development applications.
- Facilitate special projects or assist staff with long-range planning initiatives.
- Provide GIS services that could include but not restricted to developing mapping for the City and development projects, spatial analysis, developing an online GIS portal, preparing and updating zoning maps and GIS data for consistency with the zoning code.

EXHIBIT B
RATE SCHEDULE
Dated May 2, 2022

Standard Fee Schedule for Environmental Sciences and Planning Services

Professional, Technical and Support Personnel*	Hourly Rate
Principal II	\$295
Director II	\$295
Principal I	\$280
Director I	\$280
Senior Supervisor II	\$245
Supervisor I	\$228
Senior Professional II	\$212
Senior Professional I	\$197
Professional IV	\$174
Professional III	\$161
Professional II	\$145
Professional I	\$128
Associate III	\$117
Associate II	\$102
Associate I	\$95
Senior GIS Specialist	\$160
GIS/CADD Specialist II	\$140
GIS/CADD Specialist I	\$125
Technical Editor	\$130
Project Accountant	\$110
Billing Specialist	\$95
Production Specialist	\$105
Clerical	\$95

*Professional classifications include environmental scientists, urban planners, biologists, geologists, marine scientists, GHG verifiers, sustainability experts, cultural resources experts, and other professionals. Expert witness services consisting of depositions or in-court testimony are charged at the hourly rate of \$375.

Reimbursable Expenses

Direct Cost	Rates
Photocopies – Black and White	\$0.20 (single-sided) & \$0.40 (double-sided)
Photocopies – Color	\$1.50 (single-sided) & \$3.00 (double-sided)
Photocopies – 11 x 17	\$0.50 (B&W) & \$3.30 (color)
Oversized Maps	\$8.00/square foot
Digital Production	\$15/disc and \$20/flash drive
Light-Duty and Passenger Vehicles*	\$88/day
4WD and Off-Road Vehicles*	\$140/day

* \$0.65/mile for mileage over 50 and for all miles incurred in employee-owned vehicles.

Other direct costs associated with the execution of a project, that are not included in the hourly rates above, are billed at cost plus 15%. These may include, but are not limited to, laboratory and drilling services, subcontractor services, authorized travel expenses, permit charges and filing fees, mailings and postage, performance bonds, sample handling and shipment, rental equipment, and vehicles other than covered by the above charges.

Annual Escalation. Standard rates subject to annual escalation. **Payment Terms.** All fees will be billed to Client monthly and shall be due and payable upon receipt or as indicated in the contract provisions for the assignment. Invoices are delinquent if not paid within ten (10) days from receipt or per the contractually required payment terms.

Equipment	Day Rate
Environmental Site Assessment	
Soil Vapor Extraction Monitoring Equipment	\$155
Four Gas Monitor	\$133
Flame Ionization Detector	\$107
Photo Ionization Detector	\$80
Hand Auger Sampler	\$60
Water Level Indicator, DC Purge Pump	\$45
Natural Resources Field Equipment	
UAS Drone	\$268
Spotting or Fiberoptic Scope	\$165
Pettersson Bat Ultrasound Detector/Recording Equipment	\$165
Sound Level Metering Field Package (Anemometer, Tripod and Digital Camera)	\$110
GPS (Sub-meter Accuracy)	\$65
Infrared Sensor Digital Camera or Computer Field Equipment	\$55
Scent Station	\$22
Laser Rangefinder/Altitude	\$11
Pit-fall Traps, Spotlights, Anemometer, GPS Units, Sterilized Sample Jar	\$9
Mammal Trap, Large/Small	\$1.50/\$0.50
Water and Marine Resources Equipment	
Boat (26 ft. Radon or Similar)	\$600
Boat (20 ft. Boston Whaler or Similar)	\$335
Multi Parameter Sonde (Temp, Cond, Turbidity, DO, pH) with GPS	\$165
Water Quality Equipment (DO, pH, Turbidity, Refractometer, Temperature)	\$60
Refractometer (Salinity) or Turbidity Meter	\$37
Large Block Nets	\$110
Minnow Trap	\$95
Net, Hand/Large Seine	\$13/\$55
Field Equipment Packages	
Standard Field Package (Digital Camera, GPS, Thermometer, Binoculars, Tablet, Safety Equipment, and Botanic Collecting Equipment)	\$110
Remote Field Package (Digital Camera, GPS, Thermometer, Binoculars, Tablet and Mifi, Delorme Satellite Beacon, 24-Hour Safety Phone)	\$140
Amphibian/Vernal Pool Field Package (Digital Camera, GPS, Thermometer, Decon Chlorine, Waders, Float Tube, Hand Net, Field Microscope)	\$165
Fisheries Equipment Package (Waders, Wetsuits, Dip Nets, Seine Nets, Bubblers, Buckets)	\$55
Underwater and Marine Sampling Gear (U/W Photo/Video Camera, Scuba Equipment (Tanks, BCD, Regulators, Wetsuits, etc.))	\$55/diver
Marine Field Package (PFDs – Personal Flotation Devices, 100-foot Reel Tapes with Stainless Carabiners, Pelican Floats, Underwater Slates, Thermometer, Refractometer, Anemometer, Various Field Guides)	\$55
Insurance, Hazard and Safety Fees	
L&H Dive Insurance	\$55/diver
Level C Health and Safety	\$65 person

CITY OF SELMA

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("Agreement"), is made and effective as of May 6, 2019 ("Effective Date"), between the City of Selma, a municipal corporation ("City") and RINCON CONSULTANTS, INC. ("Consultant"). The City and Consultant are hereinafter collectively referred to as the "Parties".

RECITALS

WHEREAS, City desires to engage Consultant to perform the services described herein, and Consultant desires to perform such services in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

1. TERM

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until tasks described herein are completed, but in no event later than May 6, 2022 unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

(a) Consultant shall perform the tasks ("Services") described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. ("Scope of Services"). Tasks other than those specifically described in the Scope of Services shall not be performed without prior written approval of the City. The Services shall be performed by Consultant, unless prior written approval is first obtained from the City. In the event of conflict or inconsistency between the terms of this Agreement and Exhibit A, the terms of this Agreement shall prevail.

(b) City shall have the right to request, in writing, changes to the Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.

(c) Consultant shall perform all Services in a manner reasonably satisfactory to the City and in a first-class manner in conformance with the standards of quality normally observed by an entity providing planning services, serving a municipal agency.

(d) Consultant shall comply with all applicable federal, state, and local laws, regulations and ordinances in the performance of this Agreement, including but not limited to, the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*). During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom

Consultant was not working on the Effective Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute or law; and (ii) City has not consented in writing to Consultant's performance of such work. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.* Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et. seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for Services performed pursuant to this Agreement, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

(e) Consultant represents that it has, or will secure at its own expense, all licensed personnel required to perform the Services. All Services shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified and licensed to perform such services.

3. MANAGEMENT

City's City Manager shall represent the City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but shall have no authority to modify the Services or the compensation due to Consultant.

4. PAYMENT

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B ("Rate Schedule"), attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed Seventy Five Thousand Dollars (\$75,000.00) per year, unless additional payment is approved by the City Manager.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

(c) Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as

practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this Agreement shall be made within 45 days of receipt of an invoice therefore.

5. SUSPENSION OR TERMINATION OF AGREEMENT

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant shall submit an invoice to the City pursuant to Section 4 of this Agreement.

6. OWNERSHIP OF DOCUMENTS

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to review such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts or copies therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office, and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Consultant hereby grants to City all right, title, and interest, including any copyright, in and to the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by Consultant in the course

of providing the services under this Agreement. All reports, documents, or other written material developed by Consultant in the performance of the Services pursuant to this Agreement, shall be and remain the property of the City.

7. INDEMNIFICATION

(a) Indemnity for professional liability

When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless the City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or Subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnity for other than professional liability

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

(c) **DUTY TO DEFEND.** In the event the City, its officers, employees, agents and/or volunteers are made a party to any action, claim, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this Agreement, and upon demand by City, Consultant shall have an immediate duty to defend the City at Consultant's cost or at City's option, to reimburse the City for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters.

Payment by City is not a condition precedent to enforcement of this indemnity. In the event of any dispute between Consultant and City, as to whether liability arises from the sole negligence of the City or its officers, employees, or agents, Consultant will be obligated to pay for City's defense until such time as a final judgment has been entered adjudicating the City as solely negligent. Consultant will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

8. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit C attached hereto and incorporated herein by reference.

9. INDEPENDENT CONSULTANT

(a) Consultant is and shall at all times remain as to the City a wholly independent consultant and/or independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultants exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against the City, or bind the City in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

10. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

11. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City has or will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

12. NO BENEFIT TO ARISE TO LOCAL OFFICERS AND EMPLOYEES

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any

agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

13. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City, unless otherwise required by law or court order. (b) Consultant shall promptly notify City should Consultant, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this Agreement and the work performed there under or with respect to any project or property located within the City, unless Consultant is prohibited by law from informing the City of such Discovery, court order or subpoena. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless City is a party to the lawsuit, arbitration, or administrative proceeding and is adverse to Consultant in such proceeding, Consultant agrees to cooperate fully with the City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

14. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: City of Selma
1710 Tucker Street
Selma, CA 93662
Attention: City Manager

With a Copy To: Bianca Sparks Rojas, City Attorney
Casso & Sparks, LLP
13200 Crossroads Parkway North, Suite 345
City of Industry, CA 91746

To Consultant:

Rincon Consultants, Inc.
Attn: Richard Daulton
7080 North Whitney Avenue
Suite 101
Fresno, CA 93720

15. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

Before retaining or contracting with any subconsultant for any services under this Agreement, Consultant shall provide City with the identity of the proposed subconsultant, a copy of the proposed written contract between Consultant and such subconsultant which shall include an indemnity provision similar to the one provided herein and identifying City as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed subconsultant carries insurance at least equal to that required by this Agreement or obtain a written waiver from the City for such insurance.

Notwithstanding Consultant's use of any subconsultant, Consultant shall be responsible to the City for the performance of its subconsultant as it would be if Consultant had performed the Services itself. Nothing in this Agreement shall be deemed or construed to create a contractual relationship between the City and any subconsultant employed by Consultant. Consultant shall be solely responsible for payments to any subconsultants. Consultant shall indemnify, defend and hold harmless the Indemnified Parties for any claims arising from, or related to, the services performed by a subconsultant under this Agreement.

16. GOVERNING LAW/ATTORNEYS' FEES

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court in Los Angeles County, California. If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, or arising out of or relating to the Services provided by Consultant under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled.

17. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the Parties relating to the obligations of the Parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this Agreement or with respect to the terms and conditions of this Agreement, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein

and upon each party's own independent investigation of any and all facts such party deems material.

18. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

19. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

20. CAPTIONS

The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and shall have no significance in the interpretation of this Agreement.

21. WAIVER

The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing.

22. REMEDIES

Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

23. AUTHORITY TO EXECUTE THIS AGREEMENT


The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

"CITY"
City of Selma

By: 
Teresa Gallavan, City Manager

"CONSULTANT"
Rincon Consultants, Inc.

By: 
Richard Daulton, Vice President

Attest:

By: 
Reyna Rivera, City Clerk

Approved as to form:

By: 
Blanca Sparks Rojas, City Attorney

Attachments:	Exhibit A	Scope of Services
	Exhibit B	Rate Schedule
	Exhibit C	Insurance Requirements

EXHIBIT A

SCOPE OF SERVICES

Consultant shall provide the City with the following Services:

- Analyze projects for compliance with the City's General Plan, Zoning Ordinance, Subdivision Ordinance, and other applicable plans and policies.
- Review projects and provide comments within timeframes specified by the City.
- Meet with developers/applicants, engineers, property owners, contractors and other individuals to discuss, provide advice, explain procedures and suggest improvements regarding projects, pre-applications, development applications, feasibility analyses, conceptual development plans and code interpretations.
- Coordinate implementation of development applications during the construction phase to ensure compliance with approval conditions and mitigation measures.
- Develop and maintain good working relationships with Development Review Committee staff, other City departments and divisions, other jurisdictions, and the public.
- When requested, be present at City Hall to meet with staff, applicants, etc. regarding project status and updates.
- Prepare written staff reports to the Planning Commission and City Council, including accompanying resolutions, ordinances, conditions of approval, preparing PowerPoint presentations and giving oral presentations.
- Attend public hearings and community meetings as necessary.
- Manage multiple projects and competing priorities while maintaining quality, meeting schedules and staying within budget.
- Answer telephone or email inquiries regarding development applications.
- Facilitate special projects or assist staff with long-range planning initiatives.

EXHIBIT B
RATE SCHEDULE

Consultant shall perform the Services at the following rates:

Professional, Technical & Support Personnel*	Hourly Rate
Principal II / Director II	\$235
Principal / Director I	\$215
Senior Supervisor II	\$200
Supervisor I	\$190
Senior Professional II	\$170
Senior Professional I	\$156
Professional IV	\$140
Professional III	\$125
Professional II	\$112
Professional I	\$100
Associate III	\$92
Associate II	\$86
Associate I	\$80
Project Assistant	\$75
Senior GIS Specialist	\$136
GIS/CADD Specialist II	\$120
GIS/CADD Specialist I	\$108
Technical Editor	\$110
Production Specialist	\$86
Clerical	\$75

**Professional classification includes: environmental scientists, urban planners, biologists, geologists, marine scientists, GHG verifiers, sustainability experts, cultural resources experts and other professionals. Expert witness services consisting of depositions or in-court testimony are charged at the hourly rate of \$350.*

Mileage incurred by employee for travel will be reimbursed at the IRS standard rate.

For purposes of this Rate Schedule, Eric VonBerg, Project Manager is a Senior Professional 1.

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of City, and prior to commencement of the Services, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to the City.

General liability insurance. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000.00 combined single limit for each accident.

Professional liability (errors & omissions) insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

Workers' compensation insurance. Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000.00).

Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees and volunteers.

Proof of insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may

arise from or in connection with the performance of the Services hereunder by Consultant, his agents, representatives, employees or subconsultants.

Primary/noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

City's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant, or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass Through Clause. Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

City's right to revise specifications. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City.

Timely notice of claims. Consultant shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

**CITY MANAGER'S/STAFF'S REPORT
CITY COUNCIL MEETING:**

May 2, 2022

ITEM NO: 7.

SUBJECT: Consideration of Agreement Addendum No. 3 with QK for the Continuation of On-call Professional Services for the Community Development Department

BACKGROUND:

For the past several years, the City of Selma has not maintained a full-time planning staff, but has utilized consulting firms to provide the coverage needed for the community. On May 6, 2019, the Selma City Council approved entering into an on-call consulting agreement with QK to provide assistance with day-to-day planning department staffing; assisting with economic development, implementing state and local regulations, processing land use entitlement applications for Planning Commission and City Council consideration, and much more. QK has provided the needed assistance with high levels of customer service and professionalism, and remains a valued partner as City Hall works to address the planning needs of the community; typically providing a minimum of 3 days of full-time in-office coverage, off-site document support services, and attendance at meetings and events outside of these hours, as needed. The original agreement has been amended twice previously, to extend the agreement timeline and incorporate scope of services and fee schedule changes. The current addendum addresses similar adjustments to ensure continual service delivery.

With development picking up considerably, it is critical that the City maintains the planning consultant agreement in-place to ensure the staffing resources are present, as needed. The current agreement is set to expire on May 6, 2022. While staff's goal remains securing full-time planning staff for the City within the coming budget year; at this time, staff is recommending that the City Council extend the on-call agreement for an additional 13.5 months, to that of June 30, 2023. This continuation ensures that needed coverages can be maintained and accommodated in the appropriate degree. Prior to amending, extending or entering into any new on-call agreement beyond this time frame, staff will go through a Request for Proposal (RFP) process.

Attached for Council's consideration is Addendum No. 3 to the Professional Services Agreement with QK, which updates the Term and Exhibit B (Rate Schedule) sections of the original agreement. All other sections of the original agreement shall remain as originally approved. A copy of the original agreement is also attached for Council's reference. It is worth noting that the City recovers the full cost of planning services provided by QK which are tied to a formal project application.

<u>COST:</u>		<u>BUDGET IMPACT:</u>
A complete rate schedule, broken down by activity/staffer, is attached. The contract amount for the period between May 7, 2022 and June 30, 2023 shall not exceed \$180,000.		<i>N/A</i>
<u>FUNDING:</u>		<u>ON-GOING COST:</u>
Funding Source: General Fund Fund Balance:		<i>None.</i>

RECOMMENDATION: Approve and Authorize the City Manager to Sign an Agreement Addendum with QK for the Continuation of On-call Professional Services for the Community Development Department

Rob Terry, Deputy City Manager

**ADDENDUM NO. 3
TO PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF SELMA
AND QK, INC.**

This Addendum No. 3 to the Professional Services Agreement between the City of Selma and QK, Inc. (Agreement) is made and entered into effective on _____, 2022 (“Effective Date”), by and between the City of Selma, a municipal corporation, hereinafter referred to as “City” and QK, Inc., a California Corporation, hereinafter referred to as “Consultant”.

RECITALS

WHEREAS, on May 6, 2019, City and Consultant entered into a professional services agreement (Agreement) for staff support, as approved by the City Council on May 6, 2019; and

WHEREAS, the City and Consultant mutually desire to extend the sunset date of the agreement and the contract amount; and

WHEREAS, Consultant has also requested to update their rate schedule.

NOW, THEREFORE, in consideration of the foregoing recitals, Consultant and the City do hereby mutually agree as follows:

1. The End Date notated in Section 1 of the Agreement dated May 6, 2019 is amended to be that of June 30, 2023.
2. The not to exceed amount and period notated within Section 4(a) of the Agreement dated May 6, 2019 is amended to be that of one-hundred and eighty thousand dollars (\$180,000) for the amended duration of the agreement period.
3. Exhibit B (Rate Schedule), as notated within the Agreement dated May 6, 2019, is replaced in full with the Exhibit B attached to this Addendum and dated May 2, 2022.
4. In all other regards, the Agreement dated May 6, 2019 shall remain in full force and effect.

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

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/SIGNATURES ON NEXT PAGE

CITY OF SELMA, a municipal corporation

QK, Inc.
a California Corporation

BY: _____
Fernando Santillan, City Manager
(Notary Acknowledgement to be Attached)

BY: _____
Amber Aguayo, CFO/COO
QK, Inc.
(Notary Acknowledgement to be Attached)

ATTEST:

BY: _____
Reyna Rivera, City Clerk

APPROVED AS TO FORM:

BY: _____
Mary F. Lerner, City Attorney

RECOMMEND APPROVAL:

BY: _____
Rob Terry, Deputy City Manager

Attachments: Exhibit B (Rate Schedule) – dated May 2, 2022

EXHIBIT B**RATE SCHEDULE**

Dated May 2, 2022

**2022 CHARGE RATE SCHEDULE****Current**

TECHNICAL SERVICES	
Project Assistant	\$69 / hour
Project Administrator	\$92 / hour
Assistant CADD Technician / Assistant CADD Designer / GIS Technician	\$87 / hour
Associate CADD Technician / Associate CADD Designer / Associate GIS Analyst	\$102 / hour
Senior Associate CADD Technician/ Senior Associate CADD Designer / Senior Associate GIS Analyst	\$118 / hour
Senior CADD Technician / Senior CADD Designer / Senior GIS Analyst	\$133 / hour
Landscape Architect Technician	\$102 / hour
PROFESSIONAL SERVICES	
Engineering	
Assistant Engineer	\$115 / hour
Associate Engineer	\$140 / hour
Senior Associate Engineer	\$160 / hour
Project Engineer	\$180 / hour
Senior Engineer / City Engineer / District Engineer	\$210 / hour
Principal Engineer	\$250 / hour
Planning / Environmental / Landscape Architecture	
Assistant Environmental Scientist	\$85 / hour
Assistant Planner	\$95 / hour
Associate Planner / Associate Environmental Scientist	\$110 / hour
Senior Associate Environmental Scientist	\$135 / hour
Senior Associate Planner	\$135 / hour
Senior Environmental Scientist	\$160 / hour
Senior Planner / Senior Landscape Architect	\$160 / hour
Principal Planner / Principal Environmental Scientist	\$175 / hour
Senior Principal Planner / Senior Principal Environmental Scientist	\$195 / hour
Construction and Project Management	
Field Construction Observer	\$118 / hour
Senior Field Construction Observer	\$138 / hour
Assistant Construction Manager / Assistant Project Manager	\$110 / hour
Associate Construction Manager / Associate Project Manager	\$129 / hour
Project Manager	\$133 / hour
Senior Associate Construction Manager / Senior Associate Project Manager	\$148 / hour
Senior Construction Manager / Senior Project Manager	\$170 / hour
Principal Construction Manager / Principal Project Manager	\$185 / hour
Surveying	
Assistant Surveyor	\$110 / hour
Associate Surveyor	\$125 / hour
Senior Associate Surveyor	\$150 / hour
Project Surveyor	\$165 / hour
Senior Surveyor	\$180 / hour
One-Person Survey Crew	\$140 / hour
Two-Person Survey Crew	\$225 / hour
Three-Person Survey Crew	\$275 / hour
UAV Pilot	\$165 / hour
UAV Flight Observer	\$125 / hour

Fees are based on the median hourly pay rate for employees in each classification, plus indirect costs, overhead, and profit.

RATE SCHEDULE (CONTINUED)

EXPENSES	
Plotting, Printing and Reproduction, Equipment Rental, Postage and Shipping	1.15 x Cost
Transportation and per diem (QK will provide documented evidence of business travel, travel outside of work areas shall be pre-approved by Client)	1.15 x Cost
Mileage	\$0.67 / mile
Other Expenses – Including Subconsultants & Purchased Services through Subcontracts	1.15 x Cost

Rates are effective through December 31, 2022. If contract assignment extends beyond that date, a new rate schedule may be added to the contract.
Expert Witness/ Litigation support will be billed as quoted.

Rates based on "Prevailing Wage" (PW) for Construction Surveying will be determined by project and County per California law.

12/28/2021

CITY OF SELMA

PROFESSIONAL SERVICES AGREEMENT

This PROFESSIONAL SERVICES AGREEMENT ("Agreement"), is made and effective as of May 6, 2019 ("Effective Date"), between the City of Selma, a municipal corporation ("City") and Quad Knopf, Inc., a California corporation ("Consultant"). The City and Consultant are hereinafter collectively referred to as the "Parties".

RECITALS

WHEREAS, City desires to engage Consultant to perform the services described herein, and Consultant desires to perform such services in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

1. TERM

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until tasks described herein are completed, but in no event later than May 6, 2022 unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

(a) Consultant shall perform the tasks ("Services") described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. ("Scope of Services"). Tasks other than those specifically described in the Scope of Services shall not be performed without prior written approval of the City. The Services shall be performed by Consultant, unless prior written approval is first obtained from the City. In the event of conflict or inconsistency between the terms of this Agreement and Exhibit A, the terms of this Agreement shall prevail.

(b) City shall have the right to request, in writing, changes to the Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.

(c) Consultant shall perform all Services in a manner reasonably satisfactory to the City and in a first-class manner in conformance with the standards of quality normally observed by an entity providing planning services, serving a municipal agency.

(d) Consultant shall comply with all applicable federal, state, and local laws, regulations and ordinances in the performance of this Agreement, including but not limited to, the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*). During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom

Consultant was not working on the Effective Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute or law; and (ii) City has not consented in writing to Consultant's performance of such work. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.* Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et. seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for Services performed pursuant to this Agreement, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

(e) Consultant represents that it has, or will secure at its own expense, all licensed personnel required to perform the Services. All Services shall be performed by Consultant or under its supervision, and all personnel engaged in the Services shall be qualified and licensed to perform such services.

3. MANAGEMENT

City's City Manager shall represent the City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but shall have no authority to modify the Services or the compensation due to Consultant.

4. PAYMENT

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B ("Rate Schedule"), attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed One Hundred Fifty Thousand Dollars (\$150,000.00) per year, unless additional payment is approved by the City Manager.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

(c) Consultant shall submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as

practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this Agreement shall be made within 45 days of receipt of an invoice therefore.

5. SUSPENSION OR TERMINATION OF AGREEMENT

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant shall submit an invoice to the City pursuant to Section 4 of this Agreement.

6. OWNERSHIP OF DOCUMENTS

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to review such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts or copies therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office, and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Consultant hereby grants to City all right, title, and interest, including any copyright, in and to the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by Consultant in the course

of providing the services under this Agreement. All reports, documents, or other written material developed by Consultant in the performance of the Services pursuant to this Agreement, shall be and remain the property of the City.

7. INDEMNIFICATION

(a) Indemnity for professional liability

When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless the City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or Subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnity for other than professional liability

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

(c) DUTY TO DEFEND. In the event the City, its officers, employees, agents and/or volunteers are made a party to any action, claim, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this Agreement, and upon demand by City, Consultant shall have an immediate duty to defend the City at Consultant's cost or at City's option, to reimburse the City for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters.

Payment by City is not a condition precedent to enforcement of this indemnity. In the event of any dispute between Consultant and City, as to whether liability arises from the sole negligence of the City or its officers, employees, or agents, Consultant will be obligated to pay for City's defense until such time as a final judgment has been entered adjudicating the City as solely negligent. Consultant will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

8. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit C attached hereto and incorporated herein by reference.

9. INDEPENDENT CONSULTANT

(a) Consultant is and shall at all times remain as to the City a wholly independent consultant and/or independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultants exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against the City, or bind the City in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

10. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

11. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City has or will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

12. NO BENEFIT TO ARISE TO LOCAL OFFICERS AND EMPLOYEES

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during

his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

13. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City, unless otherwise required by law or court order. (b) Consultant shall promptly notify City should Consultant, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this Agreement and the work performed there under or with respect to any project or property located within the City, unless Consultant is prohibited by law from informing the City of such Discovery, court order or subpoena. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless City is a party to the lawsuit, arbitration, or administrative proceeding and is adverse to Consultant in such proceeding, Consultant agrees to cooperate fully with the City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

14. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City:	City of Selma 1710 Tucker Street Selma, CA 93662 Attention: City Manager
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With a Copy To:	Bianca Sparks Rojas, City Attorney Casso & Sparks, LLP 13200 Crossroads Parkway North, Suite 345 City of Industry, CA 91746
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To Consultant:

QK, Inc.
Attn: Janel Freeman
901 East Main Street
Visalia, CA 93292

15. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

Before retaining or contracting with any subconsultant for any services under this Agreement, Consultant shall provide City with the identity of the proposed subconsultant, a copy of the proposed written contract between Consultant and such subconsultant which shall include an indemnity provision similar to the one provided herein and identifying City as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed subconsultant carries insurance at least equal to that required by this Agreement or obtain a written waiver from the City for such insurance.

Notwithstanding Consultant's use of any subconsultant, Consultant shall be responsible to the City for the performance of its subconsultant as it would be if Consultant had performed the Services itself. Nothing in this Agreement shall be deemed or construed to create a contractual relationship between the City and any subconsultant employed by Consultant. Consultant shall be solely responsible for payments to any subconsultants. Consultant shall indemnify, defend and hold harmless the Indemnified Parties for any claims arising from, or related to, the services performed by a subconsultant under this Agreement.

16. GOVERNING LAW/ATTORNEYS' FEES

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court in Los Angeles County, California. If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, or arising out of or relating to the Services provided by Consultant under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled.

17. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the Parties relating to the obligations of the Parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this Agreement or with respect to the terms and conditions of this Agreement, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein

and upon each party's own independent investigation of any and all facts such party deems material.

18. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

19. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

20. CAPTIONS

The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and shall have no significance in the interpretation of this Agreement.

21. WAIVER

The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing.

22 REMEDIES

Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

23. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

"CITY"
City of Selma

"CONSULTANT"
Quad Knopf, Inc

By: 
Teresa Gallavan, City Manager

By: _____
Janel Freeman, CFO

Attest:

By: 
Reyna Rivera, City Clerk

Approved as to form:

By: 
Bianca Sparks Rojas, City Attorney

Attachments:	Exhibit A	Scope of Services
	Exhibit B	Rate Schedule
	Exhibit C	Insurance Requirements

23. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

“CITY”
City of Selma

By: _____
Teresa Gallavan, City Manager

“CONSULTANT”
Quad Knopf, Inc

By: _____
Janel Freeman, CFO

Attest:

By: _____
Reyna Rivera, City Clerk

Approved as to form:

By: _____
Bianca Sparks Rojas, City Attorney

Attachments:	Exhibit A	Scope of Services
	Exhibit B	Rate Schedule
	Exhibit C	Insurance Requirements

EXHIBIT A

SCOPE OF SERVICES

Consultant shall provide the City with the following Services:

- Analyze projects for compliance with the City's General Plan, Zoning Ordinance, Subdivision Ordinance, and other applicable plans and policies.
- Review projects and provide comments within timeframes specified by the City.
- Meet with developers/applicants, engineers, property owners, contractors and other individuals to discuss, provide advice, explain procedures and suggest improvements regarding projects, pre-applications, development applications, feasibility analyses, conceptual development plans and code interpretations.
- Coordinate implementation of development applications during the construction phase to ensure compliance with approval conditions and mitigation measures.
- Develop and maintain good working relationships with Development Review Committee staff, other City departments and divisions, other jurisdictions, and the public.
- When requested, be present at City Hall to meet with staff, applicants, etc. regarding project status and updates.
- Prepare written staff reports to the Planning Commission and City Council, including accompanying resolutions, ordinances, conditions of approval, preparing PowerPoint presentations and giving oral presentations.
- Attend public hearings and community meetings as necessary.
- Manage multiple projects and competing priorities while maintaining quality, meeting schedules and staying within budget.
- Answer telephone or email inquiries regarding development applications.
- Facilitate special projects or assist staff with long-range planning initiatives.
- Consultant shall provide the Services a minimum of 15 hours per week, unless otherwise directed by the City.
- Prior to commencing work on a specific development project/application, Consultant shall obtain approval from the City Manager.

EXHIBIT B

RATE SCHEDULE

Consultant shall perform the Services at the following rates:

Key Team Member	Title	Tasks	Hourly Billing Rate
Steve Brandt, AICP	Principal Planner	Client Relations	\$157
Kira Noguera	Senior Planner	Higher Level Planning Projects	\$142
Annalisa Perea, AICP, LEED, AP-ND	Senior Associate Planner	Mid-Level Planning Projects	\$121
Jessica Bispels	Assistant Planner	Standard Planning Projects	\$77
Additional Available Team Members			
Jerome Keene, AICP	Senior Planner	LAFCO-Related Projects	\$142
Jaymie Brauer	Principal Planner	CEQA/NEPA Compliance	\$157
Christopher Mynk, AICP	Principal Planner	CEQA/NEPA Compliance	\$157
Mike Ratajski	Senior Planner	Urban Design/Public Outreach	\$142
Philip Slater	Senior Associate GIS Analyst	GIS	\$112
Dan Garver, LLA	Senior Landscape Architect	Landscape Plans Review	\$142

Mileage will be reimbursed at the IRS standard rate when consultants are requested to travel to locations other than City Hall.

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of City, and prior to commencement of the Services, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to the City.

General liability insurance. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000.00 per occurrence, \$2,000,000.00 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000.00 combined single limit for each accident.

Professional liability (errors & omissions) insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

Workers' compensation insurance. Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000.00).

Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees and volunteers.

Proof of insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this contract. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may

arise from or in connection with the performance of the Services hereunder by Consultant, his agents, representatives, employees or subconsultants.

Primary/noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

City's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant, or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass Through Clause. Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

City's right to revise specifications. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City.

Timely notice of claims. Consultant shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

CITY MANAGER'S/STAFF'S REPORT
CITY COUNCIL MEETING DATE:

May 2, 2022

ITEM NO: 8.

SUBJECT: Drawing for one (1) fireworks permit

DISCUSSION: As per the Selma Municipal Code Chapter 3 of Title 7, when an incumbent seller of 4th of July fireworks fails to reapply for a permit, an opening occurs and the vacancy is to be filled by a drawing conducted by the City Clerk.

Eligible non-profit organizations had until 5:00 p.m. on Friday, April 28th to submit interest cards in order to be considered for the drawing.

Four (4) organizations have submitted interest cards and have been placed into the drawing:

Selma Firefighters Association
Antioquia Ministries
Selma High School Football
Valley Life Community Church

Currently, the following nine (9) groups are approved by the City:

1. Faith Tabernacle Church of Selma
2. Selma Youth Basketball Assoc.
3. Selma Nazarene Church
4. Grace Free Will Baptist Youth Church
5. Selma FFA Ag Boosters
6. Selma Takedown Boosters
7. Selma Victory Outreach
8. Selma High ASB
9. Team Selma Wrestling

RECOMMENDATION: Allow the City Clerk to Conduct drawing for one (1) fireworks sales permit.

Reyna Rivera, City Clerk