



Posted: Friday, February 03, 2017

NOTICE AND CALL OF A REGULAR MEETING OF THE TRINIDAD CITY COUNCIL

The Trinidad City Council will hold a regular meeting on
WEDNESDAY, FEBRUARY 08, 2017 at 6:00 PM
In the Trinidad Town Hall, 409 Trinity Street, Trinidad, CA

CLOSED SESSION BEGINS AT 5:00PM

- I. **CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ADJOURN TO CLOSED SESSION**
 1. *Conference with legal counsel regarding active litigation. Tsurai Ancestral Society vs. City of Trinidad. Pursuant to California Government Code section 54956.9 (a)*
 2. *Public Employee Performance Evaluation for City Manager Pursuant to Government Code Section 54957*
- IV. **RECONVENE TO OPEN SESSION**
- V. **APPROVAL OF AGENDA**
- VI. **APPROVAL OF MINUTES** – January 25, 2017 cc2
- VII. **COUNCIL MEMBER REPORTS**
- VIII. **STAFF REPORTS**
- IX. **ITEMS FROM THE FLOOR**
(Three (3) minute limit per Speaker unless Council approves request for extended time.)
- X. **CONSENT AGENDA**
 1. Financial Status Reports for December 2016.
 2. Law Enforcement Report – January 2017
 3. Proclamation in Recognition of Engineer's Week, February 19-25, 2017.
 4. Resolution 2017-02; Updating Authorized Signatures for LAIF Investment Fund
 5. Authorize Service Agreement with Precision Intermedia to Upgrade City Website.
 6. Update/Renew Lease Agreement for City Office Building at 463 Trinity Street
 7. Accept Report on Emergency Water Filter Repair Project.
- XI. **DISCUSSION/ACTION AGENDA ITEMS**
 1. Discussion/Decision regarding Acceptance of 2015-2016 Financial Report and Annual Audit, and Authorize the City Manager to Execute the 2016-2017 Engagement Letter.
 2. Discussion and Possible First Reading of Noise Ordinance 2017-01
 3. Assign Councilmember(s) to assist in creating Trinidad Trails Committee
 4. Consider Claim by Jim Baker for Expenses Related to Retaining Wall Construction, and Request for Assistance Resolving Property Boundaries.
- XII. **FUTURE AGENDA ITEMS**
- XIII. **ADJOURNMENT**

APPROVAL OF MINUTES FOR:

JANUARY 25, 2017, CC2

Supporting Documentation follows with: 7 PAGES

MINUTES OF THE SECOND MONTHLY MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, JANUARY 25, 2017

I. CALL TO ORDER

- Mayor Miller called the meeting to order at 6:00pm. Council members in attendance: West, Miller, Baker, Rotwein. *Ladwig was absent.*
- City Staff in attendance: City Manager Dan Berman, City Clerk Gabriel Adams.

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION – No closed session

IV. RECONVENE TO OPEN SESSION

V. APPROVAL OF AGENDA

- Move consent #3 and combine with Agenda #6.
 - Consider discussion time limits on agenda items at a future meeting.
- Motion (West/Baker) to approve the agenda as amended. **Passed 4-0.**

VI. APPROVAL OF MINUTES – December 14, 2016 cc, December 14, 2016 scc.

Motion (West/Baker) to approve the minutes as written. **Passed 4-0.**

VII. COUNCIL MEMBER REPORTS

Miller: CCNM – Obama recently designated 13 acres on Trinidad Head a National Monument. RCEA – Continued discussion regarding Community Choice Aggregate program that allows people to select their energy sources. Formally launching the program in May 2017. Local control.

Baker: Deferred to agenda item 2 wishing Deputy Pam Wilcox goodbye and welcoming new Deputy Mathieson. Ongoing discussion with City Manager regarding Measure Z funding options.

Rotwein: Happy New Year. New Councilmember doing homework and getting bearings. Read aloud the Code of Ethics for Public Officials.

West: Nothing to report.

VIII. STAFF REPORTS – City Manager Berman highlighted various accomplishments and project status for the month, including; Installation of replacement water filters underway, revised proposal for Van Wycke Trail was submitted to CalTrans, VDU Ordinance amendment is under review by the Coastal Commission, Tsurai Settlement is being reviewed by the Coastal Conservancy. Met with HSU Marine Lab to discuss a large tree in front of their property that they would like removed. Waiting for arborist recommendations and will report back to the Council. Councilmember **Baker** objected to the removal unless survey issues at his property at 311 Trinity and elsewhere in town are also dealt with. Suggested that the City should determine who planted the tree.

IX. ITEMS FROM THE FLOOR:

Alan Grau – Trinidad

Read a letter aloud that was submitted prior to the meeting regarding the Van Wycke Trail repair project. He alleged that the information was misleading, understating the trail width. Also read a second letter accusing the Council of making an unfair and biased decision regarding the most recent Council appointment and requested a policy be drafted to guide future appointment processes.

Kathleen Lake – Trinidad

Echoed Grau's comments. Also accused the Council of violating the Government Code regarding appointment of Councilmember with conflict of interest.

Leslie Farrar – Trinidad

I made a public comment at the last meeting that was not in the minutes. Councilmembers should have .gov addresses. Quoted Martin Luther King Jr.

John Hedrick – Trinidad

Asked Council what has been done in last 30 days about dangerous safety concerns he mentioned at the last meeting about Scenic Drive? Claimed he would hold the City personally accountable for any incidents that occur.

Shirley Laos – Trinidad Rancheria

The Trinidad Rancheria discussed Mr. Hedrick's comments, but nothing official has been done yet. Shared chocolates as a welcome to the new Councilmembers and as a token of friendship and gratitude to everyone participating in the public process.

Jim Cuthbertson – Trinidad

The City and County share responsibility of Scenic Drive.

Mareva Russo – Trinidad

Asked Council for a future agenda item regarding cellular facility on Trinidad Head. Reminded Council that the lease agreement will expire in April 2017, and supports removal of the site. The Head is a national Treasure.

X. CONSENT AGENDA

1. Financial Status Reports for November 2016.
2. English Ivy Petition
3. General Plan Status Update Memo from City Planner

Motion (West/Rotwein) to moved item 3 to include with Discussion #6, and approve consent as amended. Passed 4-0.

XI. DISCUSSION/ACTION AGENDA

1. Discussion/Decision regarding selection of Mayor and Mayor Pro-Tem.
Mayor Miller explained he was appointed mid-term as a result of Councilmember Fulkerson passing the gavel before her second term as Mayor concluded.

Motion (West/Baker) to appoint Miller as Mayor. Passed 4-0.

Motion (Baker/West) to appoint Rotwein as Mayor Pro-Tem. Passed 4-0.

There was no public comment.

2. Recognition of Service for HSCO Trinidad Deputy Pam Wilcox and Introduction of new Trinidad Deputy Luke Mathieson.

Mayor Miller read the Resolution aloud and added a few personal notes to thank Wilcox for her years of excellent service to the community. Introduced and welcomed incoming Deputy Luke Mathieson.

Motion Rotwein/Baker to approve Resolution 2017-01; Recognition of Service of Deputy Wilcox. Passed 4-0.

3. Discussion and Possible First Reading of Draft Noise Ordinance.

City Manager Berman explained that the Council directed staff to develop a Noise Ordinance for consideration. An initial discussion was held in November, and a draft ordinance has been developed based on that discussion. The first reading of the Ordinance could be conducted at this meeting. If further changes are desired, the Council can provide direction and staff will revise accordingly for a future meeting.

Berman explained that Excessive noise can disturb the peace, enjoyment, and rest of residents as well as visitors to Trinidad, and at extreme levels can be painful and even damaging to one's hearing. Noise can be a problem at any time of day, but is especially significant at night, as anyone who has been either kept from sleep or awoken by noise can attest.

The Draft Noise Ordinance sets quiet hours of 10 pm to 8 am. It relies on a largely qualitative approach to assessing noise disturbances. In general, noise should not be audible to neighboring properties during quiet hours. As currently drafted, this Ordinance would require a change to our Town Hall use policies, which currently allow amplified music past 10 pm.

Exemptions are provided for emergency response and emergency repair work, and construction, remodel, or grading work during daytime hours that has been permitted by the City. Commercial fishing activity is not exempted completely, but is called out as a traditional use that requires special consideration when evaluating noise complaints.

Council questions included:

Baker: It ultimately comes down to enforcement, and this is completely subjective. Will complaints be dragged on? If it's a hot night and my window is open to get some air but my neighbor can hear my TV then technically I could be held responsible for a noise violation, right? **Berman** agreed, stating the other option would be to set a clear decibel level, purchase an expensive measurement tool, and let law enforcement to do the work.

Rotwein: Would Town Hall events apply? Recreational fishing should also be excluded.

Public comments included:

John Hedrick – Trinidad

What about a dinner party on New Year's Eve? Can we make permissible situations?

Jim Cuthbertson – Trinidad

Recreational fishing should be excluded.

Council comments included:

West: What about animal noises? Yelling, screaming, barking? Should they all be included in the ordinance, or should the nuisance ordinance be referenced? Exemptions D & F are relatively the same.

Miller: We should have a subcommittee of the Council work with the City Manager to refine, wordsmith, and include policy additions made tonight, develop a new draft, and return to the next meeting for review. I'll volunteer. West also volunteered.

Baker: Make it as simple as possible since law enforcement will likely have to use their discretion.

Deputy Mathieson: There's a CA Penal code for disturbing the peace. Many people don't want to go to court over a single noise complaint. They just want the nuisance to go away. Noise abatement is the other alternative. If a repeat offender reaches the nuisance level, the County notifies them and starts billing for service calls.

Rotwein: Town Hall should be exempt, along with recreational fishing. There should be other special exceptions, and penalties/fines should be defined for violations.

By consensus, the Council agreed to appoint West and Miller to a subcommittee to revise the ordinance with input from tonight and return to the next meeting with a second draft.

4. Discussion regarding ADA Improvement Priorities

City Manager Berman explained that the City had ADA Access Surveys conducted in 2013 for Town Hall, the Memorial Lighthouse, and curb ramps and sidewalks throughout the City. All three Surveys identified many items that are not compliant with the ADA. Summary findings from the Town Hall survey were drafted into a report by Scott Baker.

Since those assessments, the City has focused ADA efforts on improvements to Town Hall. New railings have been added to the front steps and the side entrance. New signage has been installed at multiple locations. New wider double doors have been added at the exterior side entrance, and the interior entrance to the Main Hall.

However a number of ADA compliance issues remain, and many are quite challenging due to the underlying age and design of Town Hall. The ADA parking space in front of the Hall, while improved, is still not fully compliant. The two front doors – to the Clerk's Office and the Civic Club Room, are not compliant, although access is possible to both through the side entrance.

We received a request in December that we install 'push-button' operation for a number of the exterior and interior Town Hall doors. The new doors are compatible with these mechanisms. Staff confirmed that this push-button feature is not required by ADA, as long as the doors open easily by the lever handles. Our City Attorney, who has been involved in defending against ADA lawsuits, advises that while not absolutely required, he recommends the City go ahead, both to assist the public, and because there is some risk of litigation without them.

Staff requested estimates for what it would cost to add that feature, and hope to have the answer by our meeting date. Staff is also aware that in addition to this particular item, there are a number of compliance issues identified in the Surveys that have not yet been addressed. Having these ADA Surveys and being able to show steady progress towards addressing the issues identified is a key step in defending ourselves against ADA lawsuits.

Public comment included:

Jim Cuthbertson – Trinidad

My biggest concern is being disabled and not being able to go places. I should be able to access the Clerk's Office by scooter.

Council comments included:

Rotwein: This is an excellent topic for the upcoming budget year discussion. It's a good idea to start at City Hall and work outward to the City for improvement efforts.

By Consensus, Council received the report and will solicit bids for new push-button entry at the Town Hall foyer entry, and consider improvements during the upcoming fiscal year budget discussion.

DRAFT

5. Discussion/Decision regarding Council Commissionership assignments.

Trinidad City Councilmembers serve as representatives to various boards, advisory committees, and agencies within the county. The attached chart identifies the Committees and Boards that the city participates in by designating representatives to. At any time the Council may choose to renegotiate the positions, but it is customary to assign them as soon as possible after each election or new member appointment. The Council agreed to the following assignments:

COMMITTEE	REP	ALT
Humboldt Waste Management Authority HWMA	Miller	West
Humboldt County Association of Governments HCAOG	West	Rotwein
Tsurai Management Plan Implementation Committee	West/Baker	No Alt.
Redwood Regional Economic Development Corp. RREDC	Baker	Ladwig
HTA Humboldt Transit Authority HTA	Ladwig	West
Redwood Coast Energy Authority RCEA	Miller	West
CCNM Trinidad Gateway Committee	Ladwig	Rotwein
Humboldt County Convention & Visitors Bureau HCCVB.	Rotwein	Miller
Library, Museum, Park Committee	Baker	West
Office of Emergency Services OES	Rotwein	Ladwig
Hazardous Materials Response Authority HMRA	Rotwein	West
Indian Gaming Benefit Committee	Miller	West
Humboldt Mayors Committee	Miller	
Local Law Enforcement Committee	Baker	
Tribal Government Liaison – (Trinidad/Rancheria/Yurok Tribe)	Rotwein	West
League of CA Cities	As Needed	
Future Agenda Discussion: Trinidad Trails Committee		

6. Mid Year Budget and Workplan Update

City Manager Berman explained that the new year represents an opportunity to review where we stand on our budget and work plan at the mid-way point through the year, and to consider whether adjustments are needed. This discussion will focus primarily on the General Fund and the Water Fund, but we can discuss the smaller pieces of the budget as well. The presentation is based in part of the financial statements as of the end of November.

General Fund Revenues are budgeted at \$600,000 for the year. As of November we are at \$200,000, but this is typical as some of our large revenue sources are not received in steady monthly installments – property tax comes as largely a lump sum late in the year, while TOT tax is seasonal and we’ve already received much of what we expect this year.

General Fund Expenses as of November are presented in summary fashion in the table below. The details are in the November Financials as part of the Consent Agenda.

General Fund Expenses as of Nov 2016:

	Year To Date	Annual Budget	% Remaining
Admin	<u>131,551.12</u>	<u>341,194.00</u>	<u>61%</u>
Public Works	<u>51,649.87</u>	<u>165,337.44</u>	<u>69%</u>
Police	<u>15,232.00</u>	<u>72,540.00</u>	<u>79%</u>
(GF portion only - COPS Grant and Measure Z not included)			
Fire	<u>4,029.05</u>	<u>17,100.00</u>	<u>76%</u>
Firehouse construction project coming soon			
TOTAL	202,462.04	596,171.44	66%

The Police line is misleading, as we have spent substantially more than \$15,000, but have paid it with our annual COPS grant rather than General Fund.

Our Water Fund Revenues are right on track, and Water Fund Expenses are below budget (at 38%) although this should catch up by year's end.

Major Tasks and Projects for FY16-17

STR Ordinance

The City has completed, and submitted to Coastal Commission. We have responded to additional requests for information and hope to hear shortly that our submission is 'complete'.

Install Streamflow Monitoring on Luffenholtz Creek (Water Fund)

This is under contract and will be installed this summer when flows drop.

Tsurai Study Area projects (\$20,000) (General Fund – Public Works)

This is on hold pending the land transfer. Regardless, some may be used for geologic investigations of the active slide, and for removal of the falling ramp.

Asset Management System (75% Water Fund) This is being installed at the Water Plant this month, and is already populated with data about many key components of the Water Plant. It will help manage our maintenance and infrastructure.

Capital Improvement Program (75% Water Fund) this will follow from the Asset Management Software, and will help us see and prioritize our long term maintenance and replacement efforts.

Water Filter Replacements – (Water Fund) – This emergency action should be complete by the end of January.

Van Wycke Trail – (Grant Funded) – Request for Scope Change submitted to Caltrans – holding until we hear back.

General Plan/LCP Update - see attached memo from our City Planner

OWTS Replacement Grant – Underway –

Phase II Stormwater work– Grant application successful – contracts to follow.

Ocean Protection Council Stormwater and LID work –
Aiming for Construction this summer.

Council comments included:

Rotwein: We should be developing a capital improvement plan for both the water department and infrastructure by the end of the fiscal year. I'd also like to see the following information: 1) Audit on the next meeting agenda, 2) STR Ordinance revenues vs. expenses, 3) OWTS Revenues vs. Expenses, 4) Monthly "cost of doing business", 5) Planning Department budget.

Baker: We should also be considering hiring an STR Ordinance enforcement person.

Public comment included:

Shirley Laos – Trinidad Rancheria

There's a protocol for native consultation, and I have discussed with your planning staff this in relationship to the General Plan Cultural Element. I understand the timeline and will be encouraging formal and informal discussions with my Tribal Council to provide input to the City.

Report/Presentation item only. No decision was made, but notes taken by Staff to include future agenda items and work lists for the upcoming budget.

XII. ADJOURNMENT

Meeting ended 9:00pm.

Submitted by:

Approved by:

Gabriel Adams
City Clerk

Dwight Miller
Mayor

DRAFT



CONSENT AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 8 PAGES

1. Financial Status Reports for December 2016.

City of Trinidad
 Statement of Revenues and Expenditures - GF Revenue
 From 12/1/2016 Through 12/31/2016

	<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>	
Revenue					
41010	PROPERTY TAX - SECURED	0.00	0.00	91,500.00	100.00)%
41020	PROPERTY TAX - UNSECURED	0.00	0.00	3,300.00	100.00)%
41030	PROPERTY TAX - PRIOR SECURED	0.00	0.00	50.00	100.00)%
41050	PROPERTY TAX - CURRENT SUPPL	0.00	0.00	600.00	100.00)%
41060	PROPERTY TAX-PRIOR SUPPL	0.00	0.00	200.00	100.00)%
41071	MOTOR VEHICLES	0.00	0.00	1,000.00	100.00)%
41110	PROPERTY TAX EXEMPTION	0.00	0.00	1,300.00	100.00)%
41130	PUBLIC SAFETY 1/2 CENT	0.00	0.00	1,600.00	100.00)%
41140	PROPERTY TAX - DOCUMENTARY RE	0.00	0.00	2,000.00	100.00)%
41190	PROPERTY TAX ADMINISTRATION FE	0.00	0.00	(1,500.00)	100.00)%
41200	LAFCO Charge	0.00	0.00	(1,500.00)	100.00)%
41210	IN-LIEU SALES & USE TAX	0.00	0.00	12,000.00	100.00)%
41220	IN LIEU VLF	0.00	0.00	20,000.00	100.00)%
42000	SALES & USE TAX	26,911.39	90,235.59	220,000.00	(58.98)%
43000	TRANSIENT LODGING TAX	0.00	98,008.23	140,000.00	(29.99)%
43100	TRANSIENT LODGING TAX-TBID	0.00	0.00	(10,000.00)	100.00)%
46000	GRANT INCOME	0.00	0.00	100,000.00	100.00)%
46100	Measure Z Grant Income	0.00	0.00	75,000.00	100.00)%
53010	COPY MACHINE FEE	0.00	28.74	30.00	(4.20)%
53020	INTEREST INCOME	1,137.81	2,747.93	5,000.00	(45.04)%
53090	OTHER MISCELLANEOUS INCOME	39.00	5,024.99	1,000.00	402.50)%
54020	PLANNER- APPLICATION PROCESSIN	750.00	3,000.00	8,000.00	(62.50)%
54050	BLDG.INSP-APPLICATION PROCESSI	0.00	4,968.14	9,000.00	(44.80)%
54100	ANIMAL LICENSE FEES	30.00	60.00	200.00	(70.00)%
54150	BUSINESS LICENSE TAX	180.00	7,573.00	7,500.00	0.97%
54170	VDU License Fee (Vacation Dwelling Unit)	0.00	1,500.00	9,000.00	(83.33)%
54300	ENCROACHMENT PERMIT FEES	0.00	50.00	400.00	(87.50)%
56400	RENT - VERIZON	2,129.68	12,762.92	23,500.00	(45.69)%
56500	RENT - HARBOR LEASE	0.00	0.00	5,135.00	100.00)%
56550	RENT - PG& E	0.00	0.00	9,500.00	100.00)%
56650	RENT - SUDDENLINK	0.00	1,672.95	3,800.00	(55.98)%
56700	RENT - TOWN HALL	700.00	2,967.50	5,000.00	(40.65)%
59999	INTERDEPARTMENTAL TRANSFER INC	0.00	0.00	30,000.00	100.00)%
	Total Revenue	<u>31,877.88</u>	<u>230,599.99</u>	<u>772,615.00</u>	<u>(70.15)%</u>

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
201 - GFAdmin
From 12/1/2016 Through 12/31/2016

		<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>
Expense					
60900	HONORARIUMS	200.00	1,500.00	3,500.00	57.14%
61000	EMPLOYEE GROSS WAGE	8,461.48	53,105.30	115,022.00	53.83%
61470	FRINGE BENEFITS	46.16	300.04	600.00	49.99%
65100	DEFERRED RETIREMENT	399.91	2,752.42	12,342.00	77.70%
65200	MEDICAL INSURANCE AND EXPENSE	1,084.01	6,371.10	14,801.00	56.95%
65250	Health Savings Program	10.73	64.38	0.00	0.00%
65300	WORKMEN'S COMP INSURANCE	0.00	21.45	3,451.00	99.38%
65500	EMPLOYEE MILEAGE REIMBURSEMENT	33.00	133.22	750.00	82.24%
65600	PAYROLL TAX	679.81	4,283.23	9,743.00	56.04%
65800	Grant Payroll Allocation	(130.89)	(2,259.18)	(6,000.00)	62.35%
68090	CRIME BOND	0.00	455.00	455.00	0.00%
68200	INSURANCE - LIABILITY	0.00	10,160.80	10,400.00	2.30%
68300	PROPERTY & CASUALTY	0.00	3,807.05	4,680.00	18.65%
71110	ATTORNEY-ADMINISTRATIVE TASKS	0.00	4,530.00	10,000.00	54.70%
71130	ATTORNEY-LITIGATION	0.00	0.00	10,000.00	100.00%
71210	CITY ENGINEER-ADMIN. TASKS	0.00	0.00	2,000.00	100.00%
71310	CITY PLANNER-ADMIN. TASKS	2,514.32	32,094.97	45,000.00	28.68%
71410	BLDG INSPECTOR-ADMIN TASKS	308.63	3,975.22	4,500.00	11.66%
71420	BLDG INSPECTOR-PERMIT PROCESS	0.00	0.00	9,000.00	100.00%
71510	ACCOUNTANT-ADMIN TASKS	877.60	6,734.58	14,000.00	51.90%
71620	AUDITOR-FINANCIAL REPORTS	0.00	0.00	14,000.00	100.00%
72000	CHAMBER OF COMMERCE	0.00	689.52	16,200.00	95.74%
72100	BAD DEBTS	0.00	52.06	0.00	0.00%
75110	FINANCIAL ADVISOR/TECH SUPPORT	281.56	977.56	5,500.00	82.23%
75160	LIBRARY RENT & LOCAL CONTRIB.	0.00	86.29	500.00	82.74%
75170	RENT	650.00	3,900.00	8,200.00	52.44%
75180	UTILITIES	1,168.90	5,087.17	9,000.00	43.48%
75190	DUES & MEMBERSHIP	0.00	0.00	500.00	100.00%
75200	MUNICIPAL/UPDATE EXPENSE	0.00	4,444.35	4,500.00	1.24%
75220	OFFICE SUPPLIES & EXPENSE	988.29	3,959.23	5,500.00	28.01%
75240	BANK CHARGES	0.00	10.00	250.00	96.00%
75300	CONTRACTED SERVICES	0.00	0.00	2,500.00	100.00%
75990	MISCELLANEOUS EXPENSE	0.00	0.00	500.00	100.00%
76110	TELEPHONE	312.57	721.76	2,000.00	63.91%
76130	CABLE & INTERNET SERVICE	304.70	1,716.27	3,300.00	47.99%
76150	TRAVEL	0.00	0.00	1,500.00	100.00%
78160	BUILDING REPAIRS & MAINTENANCE	0.00	124.00	0.00	0.00%
78170	SECURITY SYSTEM	0.00	0.00	1,500.00	100.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	0.00	73.65	1,500.00	95.09%
Total Expense		<u>18,190.78</u>	<u>149,871.44</u>	<u>341,194.00</u>	<u>56.07%</u>

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
301 - Police
From 12/1/2016 Through 12/31/2016

		<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>
Expense					
61000	EMPLOYEE GROSS WAGE	552.22	3,455.68	5,330.00	35.17%
65100	DEFERRED RETIREMENT	0.00	0.00	222.00	100.00%
65300	WORKMEN'S COMP INSURANCE	0.00	0.00	160.00	100.00%
65600	PAYROLL TAX	42.40	265.38	425.00	37.56%
65800	Grant Payroll Allocation	17.13	0.00	0.00	0.00%
75170	RENT	650.00	3,900.00	8,200.00	52.44%
75180	UTILITIES	220.68	1,040.06	2,500.00	58.40%
75220	OFFICE SUPPLIES & EXPENSE	0.00	989.16	1,000.00	1.08%
75300	CONTRACTED SERVICES	0.00	5,200.00	226,500.00	97.70%
75350	ANIMAL CONTROL	113.00	678.00	1,500.00	54.80%
75990	MISCELLANEOUS EXPENSE	0.00	0.00	500.00	100.00%
76110	TELEPHONE	106.79	1,028.67	1,200.00	14.28%
78170	SECURITY SYSTEM	378.00	378.00	0.00	0.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	0.00	377.44	0.00	0.00%
Total Expense		<u>2,080.22</u>	<u>17,312.39</u>	<u>247,537.00</u>	<u>93.01%</u>

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
401 - Fire
From 12/1/2016 Through 12/31/2016

		<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>
Expense					
60900	HONORARIUMS	150.00	900.00	1,800.00	50.00%
75180	UTILITIES	73.42	203.26	1,150.00	82.33%
75190	DUES & MEMBERSHIP	0.00	0.00	100.00	100.00%
75280	TRAINING / EDUCATION	0.00	0.00	400.00	100.00%
75300	CONTRACTED SERVICES	1,500.00	3,144.00	5,000.00	37.12%
76110	TELEPHONE	61.52	364.56	1,000.00	63.54%
76140	RADIO & DISPATCH	0.00	0.00	900.00	100.00%
78140	VEHICLE FUEL & OIL	0.00	87.34	350.00	75.05%
78150	VEHICLE REPAIRS	0.00	312.50	2,500.00	87.50%
78160	BUILDING REPAIRS & MAINTENANCE	0.00	0.00	1,000.00	100.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	7.56	393.94	2,500.00	84.24%
78200	EQUIPMENT REPAIRS & MAINTENANC	0.00	415.95	400.00	(3.99)%
Total Expense		<u>1,792.50</u>	<u>5,821.55</u>	<u>17,100.00</u>	<u>65.96%</u>

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
501 - PW (Public Works)
From 12/1/2016 Through 12/31/2016

		<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>
Expense					
61000	EMPLOYEE GROSS WAGE	4,886.34	34,404.39	71,561.24	51.92%
61250	OVERTIME	0.00	0.00	500.00	100.00%
65100	DEFERRED RETIREMENT	537.46	3,907.33	8,891.13	56.05%
65200	MEDICAL INSURANCE AND EXPENSE	2,112.35	12,277.60	29,514.02	58.40%
65250	Health Savings Program	17.65	105.90	0.00	0.00%
65300	WORKMEN'S COMP INSURANCE	0.00	0.00	2,222.78	100.00%
65600	PAYROLL TAX	413.78	2,918.72	6,348.27	54.02%
65800	Grant Payroll Allocation	(1,726.09)	(12,536.96)	(22,500.00)	44.28%
71210	CITY ENGINEER-ADMIN. TASKS	476.00	4,708.00	6,000.00	21.53%
71250	CITY ENGINEER - PROJECT FEES	0.00	0.00	4,000.00	100.00%
75180	UTILITIES	0.00	22.47	0.00	0.00%
75200	MUNICIPAL/UPDATE EXPENSE	0.00	0.00	2,300.00	100.00%
75220	OFFICE SUPPLIES & EXPENSE	0.00	392.22	0.00	0.00%
75300	CONTRACTED SERVICES	0.00	75.00	24,000.00	99.69%
75370	UNIFORMS/PERSONAL EQUIP.	0.00	0.00	500.00	100.00%
76150	TRAVEL	0.00	55.00	0.00	0.00%
78100	STREET MAINT/REPAIR/SANITATION	0.00	145.25	7,500.00	98.06%
78120	STREET LIGHTING	378.67	2,317.94	4,500.00	48.49%
78130	TRAIL MAINTENANCE	100.73	149.57	3,500.00	95.73%
78140	VEHICLE FUEL & OIL	232.11	1,713.12	4,000.00	57.17%
78150	VEHICLE REPAIRS	108.51	1,754.66	2,500.00	29.81%
78160	BUILDING REPAIRS & MAINTENANCE	0.00	4,966.96	4,000.00	(24.17)%
78170	SECURITY SYSTEM	0.00	280.50	0.00	0.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	170.50	1,700.21	5,000.00	66.00%
78200	EQUIPMENT REPAIRS & MAINTENANC	0.00	0.00	1,000.00	100.00%
Total Expense		<u>7,708.01</u>	<u>59,357.88</u>	<u>165,337.44</u>	<u>64.10%</u>

City of Trinidad
Statement of Revenues and Expenditures - Monthly Reports
601 - Water
From 12/1/2016 Through 12/31/2016

	Current Period Actual	Current Year Actual	Total Budget - Original	% of Budget
Revenue				
53020	INTEREST INCOME	0.00	0.00	1,500.00 (100.00)%
53090	OTHER MISCELLANEOUS INCOME	782.61	782.61	2,500.00 (68.70)%
57100	WATER SALES	24,651.33	162,089.97	305,000.00 (46.86)%
57200	Water Sales - Wholesale	0.00	3,960.00	3,000.00 32.00%
57300	NEW WATER HOOK UPS	0.00	0.00	1,000.00 (100.00)%
57500	WATER A/R PENALTIES	400.67	(3,173.95)	1,000.00 (417.39)%
	Total Revenue	25,834.61	163,658.63	314,000.00 (47.88)%
Expense				
61000	EMPLOYEE GROSS WAGE	7,360.43	46,032.51	98,044.00 53.05%
61250	OVERTIME	0.00	0.00	500.00 100.00%
65100	DEFERRED RETIREMENT	806.05	5,064.79	11,766.00 56.95%
65200	MEDICAL INSURANCE AND EXPENSE	3,051.35	17,793.02	40,587.00 56.16%
65250	Health Savings Program	23.77	142.62	0.00 0.00%
65300	WORKMEN'S COMP INSURANCE	0.00	11.55	2,994.00 99.61%
65600	PAYROLL TAX	624.56	3,906.42	8,534.00 54.23%
65800	Grant Payroll Allocation	(17.13)	(1,932.17)	0.00 0.00%
68090	CRIME BOND	0.00	245.00	0.00 0.00%
68200	INSURANCE - LIABILITY	0.00	5,471.20	6,125.00 10.67%
68300	PROPERTY & CASUALTY	0.00	2,049.95	2,275.00 9.89%
71110	ATTORNEY-ADMINISTRATIVE TASKS	0.00	0.00	1,000.00 100.00%
71210	CITY ENGINEER-ADMIN. TASKS	0.00	0.00	4,000.00 100.00%
71510	ACCOUNTANT-ADMIN TASKS	472.55	3,626.32	6,500.00 44.21%
71620	AUDITOR-FINANCIAL REPORTS	0.00	0.00	7,000.00 100.00%
72100	BAD DEBTS	0.00	221.77	350.00 36.64%
75180	UTILITIES	855.51	6,919.24	11,000.00 37.10%
75190	DUES & MEMBERSHIP	0.00	188.44	1,000.00 81.16%
75220	OFFICE SUPPLIES & EXPENSE	94.00	1,925.22	3,000.00 35.83%
75240	BANK CHARGES	0.00	20.00	0.00 0.00%
75280	TRAINING / EDUCATION	0.00	0.00	500.00 100.00%
75300	CONTRACTED SERVICES	0.00	0.00	25,000.00 100.00%
76110	TELEPHONE	192.45	650.73	1,800.00 63.85%
76130	CABLE & INTERNET SERVICE	61.97	398.72	750.00 46.84%
76160	LICENSES & FEES	0.00	923.80	2,750.00 66.41%
78120	STREET LIGHTING	0.00	0.00	1,600.00 100.00%
78140	VEHICLE FUEL & OIL	79.63	680.37	1,500.00 54.64%
78150	VEHICLE REPAIRS	0.00	33.09	2,000.00 98.35%
78160	BUILDING REPAIRS & MAINTENANCE	0.00	0.00	1,000.00 100.00%
78170	SECURITY SYSTEM	0.00	858.59	500.00 (71.72)%
78190	MATERIALS, SUPPLIES & EQUIPMEN	18.65	146.60	14,000.00 98.95%
78200	EQUIPMENT REPAIRS & MAINTENANC	0.00	0.00	1,000.00 100.00%
79100	WATER LAB FEES	80.00	1,268.00	3,500.00 63.77%
79120	WATER PLANT CHEMICALS	310.86	3,604.77	7,500.00 51.94%
79130	WATER LINE HOOK-UPS	0.00	0.00	1,000.00 100.00%
79150	WATER LINE REPAIR	90.00	9,474.45	15,000.00 36.84%
79160	WATER PLANT REPAIR	0.00	2,398.04	8,000.00 70.02%
90000	Capital Reserves	0.00	0.00	15,000.00 100.00%
	Total Expense	14,104.65	112,123.04	307,075.00 63.49%
	Net Income	11,729.96	51,535.59	6,925.00 644.20%

City of Trinidad
Statement of Revenues and Expenditures - Monthly Reports
204 - IWM
From 12/1/2016 Through 12/31/2016

		Current Period Actual	Current Year Actual	Total Budget - Original	% of Budget
Revenue					
46000	GRANT INCOME	5,000.00	5,000.00	0.00	0.00%
47650	RECYCLING REVENUE	6,280.14	8,080.35	7,000.00	15.43%
56150	FRANCHISE FEES	0.00	0.00	6,000.00	(100.00)%
	Total Revenue	<u>11,280.14</u>	<u>13,080.35</u>	<u>13,000.00</u>	<u>0.62%</u>
Expense					
61000	EMPLOYEE GROSS WAGE	863.08	5,205.13	10,605.00	50.92%
65100	DEFERRED RETIREMENT	103.56	624.54	1,359.00	54.04%
65200	MEDICAL INSURANCE AND EXPENSE	408.16	2,372.74	5,825.00	59.27%
65250	Health Savings Program	3.50	21.00	0.00	0.00%
65300	WORKMEN'S COMP INSURANCE	0.00	0.00	340.00	100.00%
65600	PAYROLL TAX	73.94	445.92	971.00	54.08%
75120	WASTE RECYCLING PICKUP/DISPOSA	0.00	0.00	500.00	100.00%
75130	GARBAGE	0.00	11.60	0.00	0.00%
78100	STREET MAINT/REPAIR/SANITATION	0.00	16.80	0.00	0.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	0.00	0.00	1,200.00	100.00%
	Total Expense	<u>1,452.24</u>	<u>8,697.73</u>	<u>20,800.00</u>	<u>58.18%</u>
	Net Income	<u>9,827.90</u>	<u>4,382.62</u>	<u>(7,800.00)</u>	<u>(156.19)%</u>

City of Trinidad
Statement of Revenues and Expenditures - Monthly Reports
701 - Cemetery
From 12/1/2016 Through 12/31/2016

		Current Period Actual	Current Year Actual	Total Budget - Original	% of Budget
Revenue					
58100	CEMETERY PLOT SALES	500.00	3,745.00	9,500.00	(60.58)%
58150	Cemetery Plot Refunds	0.00	(1,410.00)	0.00	0.00%
	Total Revenue	<u>500.00</u>	<u>2,335.00</u>	<u>9,500.00</u>	<u>(75.42)%</u>
Expense					
61000	EMPLOYEE GROSS WAGE	1,091.54	6,580.15	13,291.00	50.49%
65100	DEFERRED RETIREMENT	130.96	789.51	1,718.00	54.04%
65200	MEDICAL INSURANCE AND EXPENSE	510.88	2,954.30	7,344.00	59.77%
65250	Health Savings Program	4.35	26.10	0.00	0.00%
65300	WORKMEN'S COMP INSURANCE	0.00	0.00	429.00	100.00%
65600	PAYROLL TAX	93.54	563.83	1,227.00	54.05%
75180	UTILITIES	44.13	264.78	750.00	64.70%
78190	MATERIALS, SUPPLIES & EQUIPMEN	0.00	0.00	500.00	100.00%
	Total Expense	<u>1,875.40</u>	<u>11,178.67</u>	<u>25,259.00</u>	<u>55.74%</u>
	Net Income	<u>(1,375.40)</u>	<u>(8,843.67)</u>	<u>(15,759.00)</u>	<u>(43.88)%</u>



CONSENT AGENDA ITEM 2

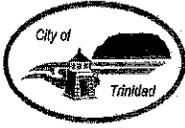
SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

2. Law Enforcement Report – January 2017

**ACTIVITY REPORT
TRINIDAD
BY DEPUTY LUKE MATHIESON**

01/18/2017-01/31/2017

- Numerous citizen contacts
- House fire on N Westhaven Drive, indoor marijuana grow located, investigation turned over to drug task force
- Traffic stop at Casino, recovered/returned stolen property, and a warrant arrest.
- Regular patrol at Hidden Creek.
- Conducted numerous vehicle investigations.
- Worked with casino closely locating wanted suspects and calls for service involving the casino.
- Responded to an intoxicated male passed out in front of Murphy's Market, Male transported to hospital by ambulance.
- Conducted regular foot patrols behind the library. Removed any subjects camping.
- Conducted regular patrol check on Scenic Drive, Patrick's Point, Westhaven Drive.
- Stolen vehicle report on West Street and recovered the vehicle on Westhaven Drive
- Report of burglary off Parker Creek, bicycle stolen
- Report of a family disturbance off Tah-Pah Lane
- Report of a disturbance at Trinidad Park and Ride, parties separated
- Visited Trinidad Elementary School, introduced myself to staff, and students.
- Conducted patrol of Trinidad Head, contact multiple citizens about dogs off leash
- Conducted foot patrol of the wooded area parallel to Hwy 101 for transient camps



CONSENT AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 2 PAGES

3. Proclamation in Recognition of Engineer's Week, February 19-25, 2017.

TRINIDAD CITY HALL

P.O. Box 390
409 Trinity Street
Trinidad, CA 95570
(707) 677-0223

Dwight Miller, Mayor
Gabriel Adams, City Clerk



PROCLAMATION OF ENGINEER'S WEEK
FEBRUARY 19st through 25th, 2017

WHEREAS, America's Engineers transform ideas into reality, solving problems using science and technology to produce services and systems to better serve the needs of society; and,

WHEREAS, Engineers serving the City of Trinidad, the County, the State and the Country, work to design and construct the following types of projects:

- | | |
|----------------|------------------------------|
| ▪ Airports | ▪ Bridges |
| ▪ Roads | ▪ Buildings |
| ▪ Railroads | ▪ Water Systems |
| ▪ Harbors | ▪ Flood Control Facilities |
| ▪ Parks | ▪ Wastewater Treatment |
| ▪ Subdivisions | ▪ Seismic Safety Projects |
| ▪ Surveys | ▪ Environmental Enhancements |

WHEREAS, Engineers strive for quality, economy and the betterment of life of our community; and,

WHEREAS, throughout the Nation the week of February 19th through the 25th 2017 is being recognized as National Engineer's Week, coinciding with George Washington's birthday, our nation's first engineer,

NOW, THEREFORE, BE IT RESOLVED that the City of Trinidad in recognition of the contribution of Engineers to society and in an effort to promote the interest of the youth in the community in math, science and engineering, does hereby declare the week of February 19th, 2017 as Engineer's Week in the City of Trinidad.

Attest:

Gabriel Adams
Trinidad City Clerk

Dwight Miller
Mayor, City of Trinidad

City of Trinidad

From: Jordan King [king@greenwaypartners.net]

Sent: Thursday, January 19, 2017 1:51 PM

To: City of Trinidad

Subject: Engineer's Week 2017

Attachments: Proclamation 2017 Engineers-Trinidad.doc

Hello Gabe,

Engineers week 2017 is coming up February 19-25th. I was hoping the City will be able to fit us in on the agenda and proclaim Engineer's week in Trinidad. Please let me know and I will be there.

Thank you very much!

Jordan

Jordan King, PE, MS

Civil Engineer

President, North Coast Branch ASCE

king@greenwaypartners.net

Office: (707) 822-0597

Cell: (707) 599-8623

1385 8th Street, Suite 201

Arcata, CA 95521

www.greenwaypartners.net



greenway
Solving community challenges



CONSENT AGENDA ITEM 4

SUPPORTING DOCUMENTATION FOLLOWS WITH: 2 PAGES

4. Resolution 2017-02: Updating Authorized Signatures for LAIF Investment Fund

CONSENT AGENDA ITEM

Wednesday, February 08, 2017

Item: Resolution 2017-02; Updating Authorized Signatures for LAIF Investment Fund

Background: The City of Trinidad participates in the Local Agency Investment Fund program that offers local governments the opportunity to participate in a major portfolio, which invests using the expertise of the State Treasurer's office investment staff at no additional cost.

The City is required to update LAIF with updated signatures of the authorized officials following every election or change in organization.

Recommended Action: Adopt Resolution 2017-02; Updated Resolution Authorizing Investment of Monies in the Local Agency Investment Fund

Attachments: Resolution 2017-02

TRINIDAD CITY HALL
P.O. Box 390
409 Trinity Street
Trinidad, CA 95570
(707) 677-0223

Dwight Miller, Mayor
Gabriel Adams, City Clerk



RESOLUTION 2017-02

**CITY OF TRINIDAD RESOLUTION AUTHORIZING INVESTMENT
OF MONIES IN THE LOCAL AGENCY INVESTMENT FUND**

WHEREAS, Pursuant to Chapter 730 of the statutes of 1976 Section 16429.1 was added to the California Government Code to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the state Treasurer, and

WHEREAS, the City Council does hereby find that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein is in the best interest of the City of Trinidad,

NOW THEREFORE, BE IT RESOLVED, that the City Council does hereby authorize the deposit and withdrawal of City of Trinidad monies in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein, and verification by the State Treasurer's Office of all banking information provided in that regard.

BE IT FURTHER RESOLVED, that the following City officers or their successors in office shall be authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund:

Dwight Miller
Mayor

Daniel Berman
City Manager

Gabriel Adams
City Clerk

PASSED AND ADOPTED BY THE TRINIDAD CITY COUNCIL of Humboldt County of the State of California on Wednesday, February 08, 2017.

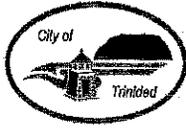
I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the Trinidad City Council by the following vote:

Ayes:
Noes:
Absent:
Abstain:

Attest:

Gabriel Adams
Trinidad City Clerk

Dwight Miller
Mayor



CONSENT AGENDA ITEM 5

SUPPORTING DOCUMENTATION FOLLOWS WITH: 4 PAGES

5. Authorize Service Agreement with Precision Intermedia to Upgrade City Website.

CONSENT AGENDA ITEM

Wednesday, February 08, 2017

Item: Authorize Service Agreement with Precision Intermedia to Upgrade City Website.

Background: The current City website was developed and published to the internet in 2009. It is a content management system designed to enable City staff with minimal expertise in website management to upload and archive content for public consumption.

The City has been advised by our web site host and designers at Fortuna-based Precision Intermedia that the underlying software program behind the website is now so old that it has security vulnerabilities that need to be addressed.

The City has an established work history with Precision Intermedia who has an intimate knowledge of the city's web-based tech needs. The current proposal will move us to a current, secure platform, and update the look of the site as well. They have recently updated the Humboldt Bay Harbor District and the McKinleyville Community Services District websites as examples. The proposal range is between \$2,280-3,040, depending on the complexity of the project. This website upgrade was not specifically included in the current year's budget, but can be absorbed within the current General Fund budget allocation for Tech Support (Account 75110) without any adjustments due to other expenses in that Account being less than anticipated.

Along with the updated platform and migration of all content from the old site to the new, the City will also add a few required touches to the site to meet State grant requirements, investigate the process to develop a more sophisticated Town Hall calendar, refine the City logo, and make the site mobile-friendly.

Recommended Action: Approve the service agreement with Precision Intermedia to update City Website.

Attachments: Service Agreement

City of Trinidad

From: Rod Allen [rod@precisionintermedia.com]
Sent: Tuesday, November 08, 2016 1:54 PM
To: cityclerk@trinidad.ca.gov
Cc: Peter Krueger
Subject: Precision Intermedia agreement
Attachments: City of Trinidad-pi-agreement.pdf, ATT00025.htm

Hello Gabe,

THANKS so much for your time on the phone with Peter. Per your conversation, I'm attaching our service agreement for recreating your logo and upgrading your website. The agreement has a blank on page two for you to fill in the desired target date for the project. We also generally request a deposit on a project and we can invoice you for the deposit if need be. Please let us know if you have any questions or request any changes in the agreement.

Also here are a few examples of other local government-type sites we've designed and developed:

<http://humboldtby.org/>

<http://mckinleyvillecsd.com/>
(my favorite)!

<http://humboldtcasd.org/>

Rod Allen

Precision Intermedia
1012 Main Street
Fortuna, CA 95540

Ph: 707.725.0804
Fx: 888.877.4316

www.precisionintermedia.com

web • print • social
Imagine no limits. . .

.....



precision intermedia
Service Agreement
 prepared for
 City of Trinidad

Project Description As Follows:

Graphic Design, Web Media, Web Hosting, Training & Consulting. This project is the upgrade and re-development of the logo and website for the City of Trinidad, CA. The website will serve as an attractive and valuable communications tool and resource for the staff, city council and citizens of Trinidad. It will be created with a content management system empowering city personnel to create and update content as needed including text, images, documents, calendar events and any number of pages. The site will be responsive (mobile friendly) to display properly on a full range of devices.

Logo:

The City of Trinidad logo will be re-created and supplied in a full range of file types for various digital and print purposes. Logo work is estimated at 1 to 2 hours (\$95 - \$190).

Website Design:

The current basic design will be retained. Responsive (mobile) layouts and graphics will be developed. Design updates to accommodate responsive functionality are estimated at 4 to 6 hours (\$380 - \$570).

Production & Programming:

The site will be built with open source content management software, customized for the City of Trinidad, whose personnel will be enabled to manage the content including text, images, documents and calendar events. Basic production is estimated at 12 to 15 hours (\$1140 - \$1425). Training city personnel on the content management system is estimated at 1 hour (\$95).

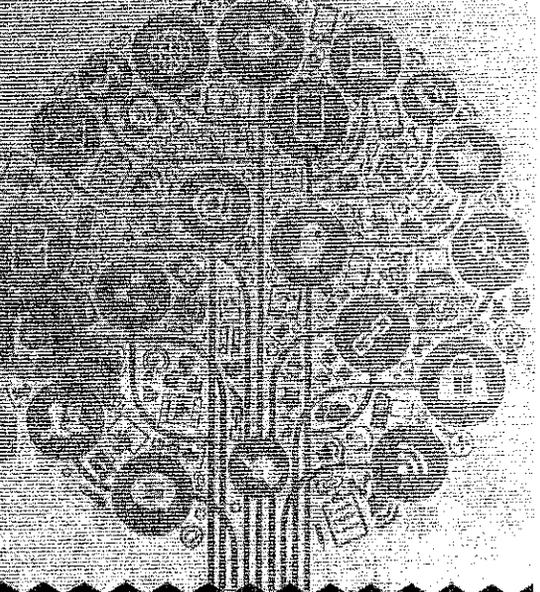
Content Loading: Loading content supplied by the City of Trinidad or migrated from the existing website is estimated at 6 to 8 hours (\$570 - \$760).

Not Included: Photography, videography, copywriting, e-commerce, internet marketing, social media management, and e-mail marketing are available but not included in this agreement. Precision Intermedia offers a full range of marketing projects and services.

Premium Hosting: \$30 per month.

Precision Intermedia's Hourly rate is \$95.00.

your initials _____



The estimates below are: based on our hourly rate of \$95

LOGO UPGRADE	\$95 - \$190
WEBSITE DESIGN	\$380 - \$570
PRODUCTION & PROGRAMMING	\$1140 - \$1425
TRAINING	\$95
CONTENT LOADING	\$570 - \$760

The estimated cost range for services NOT including options below **\$2,280 - \$3,040**

PLEASE CHECK THE OPTION DESIRED:

WEB HOSTING (By Precision Intermedia, recommended)..... **\$30 per month**
 *Web hosting includes daily automatic backups and security updates on our dedicated, secure servers, plus set-up and hosting of email accounts for the domain.

This cost range is based on Precision Intermedia's current understanding of the project's requirements. If costs appear to be exceeding this range you will be contacted for your approval. You will be billed for the balance due or refunded any overpayment made.

A deposit is requested. The deposit amount will be \$1,200 and must be paid in advance (or with terms). A portion of the deposit is the PROJECT ACTIVATION FEE (\$600). This fee is non-refundable.

Terms: Deposit due at start. Weekly invoices showing progress made and hours worked on the project will be provided. After the deposit has been exhausted any amount due and payable will be shown on the invoices. A monthly statement will be provided showing credits and amounts billed. Any amount outstanding will be due upon completion of the project or on agreed payment terms.

Precision Intermedia is to provide its services to in a timely manner.

The please indicate your target deadline, if any, for the project.

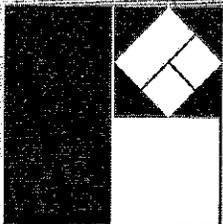
Precision Intermedia is to keep you informed of any developments that may effect the target deadline.

Every project undertaken by Precision Intermedia is to embody the philosophy, needs and concerns of each of its customers and culminate in the desired output and services. All business is to be conducted in the highest ethical manner with respect for customers, employees and the environment.

Your Signature _____

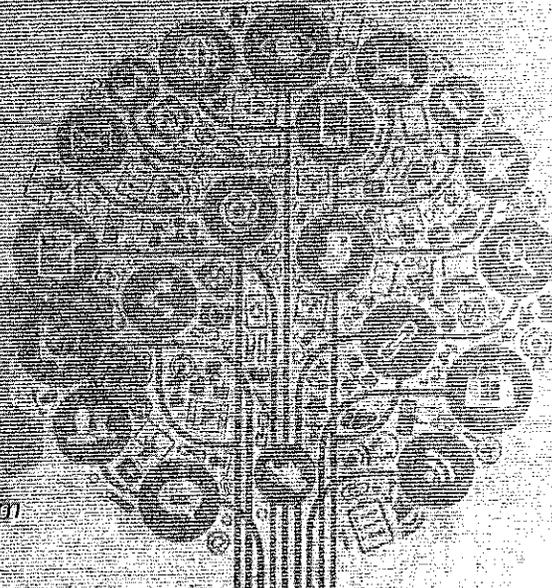
Your Name (Please Print) _____

Date _____



precision intermedia

A Multimedia Marketing Agency
 1012 Main Street • Fortuna, CA 95540
 Phone: 1.707.725.0804
 Email: agreements@precisionintermedia.com





CONSENT AGENDA ITEM 6

SUPPORTING DOCUMENTATION FOLLOWS WITH: 6 PAGES

6. Update/Renew Lease Agreement for City Office Building at 463 Trinity Street

CONSENT AGENDA ITEM

Wednesday, February 08, 2017

Item: Authorize extension of Lease Agreement for City Office Building at 463 Trinity Street.

Background: The City has leased 463 A Trinity Street since 2007. This building provides office space for three City staff and our Sheriff's Deputy. The original lease was for a five-year period through October 2012. The rental rate has not changed since 2008, and the lease itself has not been formally extended since it expired in 2012.

The City is better served by having a current agreement, and our landlord (Patti Fleschner) has provided a simple one page form that will serve this purpose. Patti has also requested an increase in the monthly rental rate from the current \$1300/month to \$1500/month. Staff sees this as a reasonable increase given that it is the first in 9 years.

The attached form extends the lease through June 2020, just over three years, at the new rate of \$1500/month.

Recommended Action: Authorize the City Manager to sign the attached Lease Extension.

Attachments: Lease Extension



CALIFORNIA
ASSOCIATION
OF REALTORS®

NOTICE OF CHANGE IN TERMS OF TENANCY
(C.A.R. Form, CTT, Revised 4/03)

To: City of Trinidad ("Tenant")
and any other occupant(s) in possession of the premises located at:
(Street Address) 463 A (Unit/Apartment #) A
(City) Trinidad (State) CA (Zip Code) 95570 ("Premises").

YOUR TENANCY IN THE PREMISES IS CHANGED AS FOLLOWS: Unless otherwise provided, the change shall take effect 30 days from service of this Notice or on March 1, 2017, whichever is later. All other terms and conditions of your tenancy shall remain unchanged.

1. Rent shall be \$ 1500 per month.

(NOTE: Pursuant to California Civil Code § 827, if the change increases the rent to an amount that exceeds any rental payment charged during the last 12 months by more than 10%, then the change shall take effect 60 days from service of this Notice or on _____, whichever is later.)

2. Security deposit shall be increased by \$ _____

3. Other: The term of the original 2007 lease shall be extended through ~~June 30~~ 1st 2020 at the new rental rate of \$1,500 per month.

If this Notice increases the rent charged, and is served by mailing, it was mailed on _____ (Date) at _____ (Location)

Landlord _____ Date _____
(Owner or Agent)

TENANT CONSENT TO EXTENSION OR RENEWAL OF LEASE

If this Notice extends or renews an existing lease term, by signing below, Tenant acknowledges and agrees to such extension or renewal.

Tenant _____ Date _____

Tenant _____ Date _____

By signing below, Landlord acknowledges Tenant's consent to extension or renewal of lease.

Landlord _____ Date _____
(Owner or Agent)

Landlord _____
(Print Name)

(Keep a copy for your records.)

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Reviewed by _____ Date _____



CTT REVISED 4/03 (PAGE 1 OF 1)

NOTICE OF CHANGE IN TERMS OF TENANCY (CTT PAGE 1 OF 1)

Agent: Patricia Michael-Fleschner, Box 1010 Phone: (707) 677-0333 x 3816 Fax: (707) 677-3366 Prepared using WINForms® software
Broker: Trinidad Realty PO Box 754, Trinidad, CA 95570

LEASE AGREEMENT

BETWEEN PATRICIA FLESCHNER AND THE CITY OF TRINIDAD FOR LEASE OF 463-A TRINITY STREET, TRINIDAD, CALIFORNIA - POLICE DEPARTMENT FACILITY

1. PARTIES

This lease agreement ("Lease") is entered into by Patricia Fleschner ("Landlord") and the City of Trinidad, California ("Tenant"). Landlord is the current owner of the premises, and is a licensed real estate broker in the State of California.

2. PREMISES

The subject premises of the Lease is the front building located at 463 Trinity Street, Trinidad, California, 95570, Assessor's Parcel Number 042-061-11.

The building covered by this lease is 463-A Trinity St.

463-B Trinity Street is a tenant-occupied residence at the rear of the property and is a separate building from 463-A. The terms of this Lease do not extend to 463-B.

Use of the rear yard of the property is for the occupant of 463-B, and is not covered by this lease except for maintenance of the on-site septic system and the separately-metered propane gas tank.

3. AGENTS

The Agent for the City is the City Manager, or the City Clerk if no City Manager exists; for the Landlord, the Agent is Patricia Fleschner.

4. TERM

A. Commencement/Termination

This Lease will begin on October 20, 2007 and continue until October 19, 2012, pending the approval by the Planning Commission any necessary permit.

The Lease terminates on the last day of the term without further notice.

B. Tenant Termination

Tenant may terminate this Lease giving 60 days written notice to Landlord during the lease period and 30 days written notice to Landlord if the lease will not be extended at the end of the lease period.

C. Holdover

If Tenant holds over, Tenant to be liable for rent at the daily rate of \$50.00.

D. Renewal/Extension

Landlord and Tenant may execute an Option to renew or extend this Lease as an attachment to this Lease.

5. RENT

Tenant to pay, in advance, rent of \$1200.00 per month for the first six months of the Lease. Thereafter, rent shall be \$1300.00 for the remainder of the five-year Lease.

- Rent shall be paid on the first day of each month at Landlord's address below.
- Rent to be tendered by mail or personal delivery.
- Tenant to pay a late charge of \$100.00 in the event rent is not received within four days of due date.
- Tenant to pay \$100.00 for each rent check returned for insufficient funds.

6. DEPOSIT

Landlord acknowledges receipt of \$1.00 as a security deposit. The deposit is security for the diligent performance of the Tenant's obligations, including payment of rent, repair of damages, and reasonable repair and cleaning of premises on termination.

7. ASSIGNMENT/SUBLETTING

Tenant may assign this Lease agreement or sublet portions of the building to no more than two other entities in its discretion for office space. Landlord shall be notified of the names of any sub-lessee(s) and of the portion(s) of the building they are occupying.

8. CONDITIONS

a. Operation of Premises

- No pets shall be allowed other than a police-trained dog.
- Tenant agrees the premises are in satisfactory and sanitary condition upon assuming occupancy.
- Tenant agrees to comply with all building rules and regulations and later amendments or modifications, as agreed to by the parties.
- Tenant agrees to keep the premises clean and sanitary and to properly dispose of all garbage and waste, yard waste included.
- Tenant agrees to properly operate all electrical, gas and plumbing and pipes and to keep them clean and sanitary. The lavatory shall be used by occupant(s) only and is not to be used nor made available as a public restroom.

b. Access to Premises

Tenant agrees to make the premises available on 24-hours notice for entry by Landlord to exhibit the premises to prospective purchasers, tenants, or contractors, except for police-occupied areas. In case of emergency or Tenant's abandonment of premises, Landlord may enter the premises at any time, except for police-occupied areas.

c. Improvements/Alterations

Tenant agrees to notify Landlord of any repairs, alterations or additions to the building. Any alterations or additions shall be entirely at Tenant's expense, including those made pursuant to any requirements of the Americans Disabilities Act or other requirements of municipalities.

Any improvements or alterations to the building remain the property of Tenant if Tenant so elects, provided that Tenant removes the same at its own expense upon vacating the premises. If Tenant elects to remove the same, it will do so leaving the premises substantially the same as they were prior to the changes, or obtain Landlord's permission otherwise.

d. Confidentiality and Nature of Municipal Business

Landlord recognizes that Tenant is a municipal corporation of the State of California (i.e., it is a "city," a.k.a. "municipality"), and that all business conducted by Tenant is of a governmental nature. Landlord further fully recognizes and acknowledges the sensitivity and confidentiality of police work, personnel matters, and other city business of a similar nature which is not open to public inspection and hence not available to Landlord for access or inspection. Landlord recognizes, and agrees to refrain from interfering with, all legitimate activities by Tenant to these ends.

e. Miscellaneous

Bronze Mermaid sculpture belonging to artist Connie Butler shall remain in place in front yard until Mrs. Butler elects to remove same. Mrs. Butler takes full responsibility for care and maintenance of the sculpture.

9. UTILITIES

Tenant agrees to pay for the following utilities and services as they pertain to 463-A: water, propane gas, electricity, telephone, cable or other internet service, trash collection, yard care, pumping of septic tank as needed.

→ nab

Landlord agrees to have septic system inspected, pumped, and repaired or brought to full operating condition as necessary prior to occupancy.

In the event building is sub-leased, Tenant shall be responsible for establishing mutually acceptable utility and insurance proration and Landlord shall not be concerned with these matters.

10. HOLD HARMLESS

A. Tenant

Tenant agrees to hold Landlord harmless from claims, demands, damages, or liability arising out of the premises caused by or permitted by Tenant, Tenant's guests, visitors, agents, employees and sub-lessees. Tenant is to obtain insurance for this purpose.

B. Landlord

Landlord agrees to hold Tenant harmless from claims, demands, damages, or liability arising out of the premises caused by or permitted by Landlord, Landlord's family, guests, visitors, agents, employees and other lessees. Landlord is to obtain insurance for this purpose.

11. CHOICE OF LAW

The laws of the State of California shall govern the interpretation and enforcement of this Lease.

12. GENERAL PROVISIONS

In the event of a dispute or irreconcilable differences, between Landlord and Tenant, all parties agree to mediate problems before engage in a lawsuit. Cost of mediation will be borne equally by both parties. It is understood that sub-lessee(s) will agree to this provision in a separate addendum prior to taking occupancy of a portion of the building.

In the event Landlord elects to sell property, Tenant shall be granted right of first refusal on property purchase, with 45 days to enter into a property purchase agreement following notification by Landlord that property will be sold. If a purchase contract cannot be agreed to between Landlord and Tenant, Tenant in no way shall interfere with sale of property to another party.

The terms of this Lease shall remain in effect for a future owner through the duration of the Lease period. Occupancy is for office space only and Tenant(s) shall have no boarders or lodgers.

13. ENTIRE AGREEMENT

This Lease embodies the sole and entire agreement between the parties. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this agreement or any representations inducing the execution and delivery thereof except such representations as are specifically set forth herein; and each party acknowledges that it has relied on its own judgment in entering into this agreement.

There are no oral agreements between the parties.

The language of this Lease governs as against any conflicting language or terms contained in other document.

This Lease supersedes any and all other agreements between the parties.

Landlord:



Patricia Fleschner
Mail to: P.O. Box 1010, Trinidad, CA 95570
Phone: 707-677-0213
Email:
Cell # 499-9729

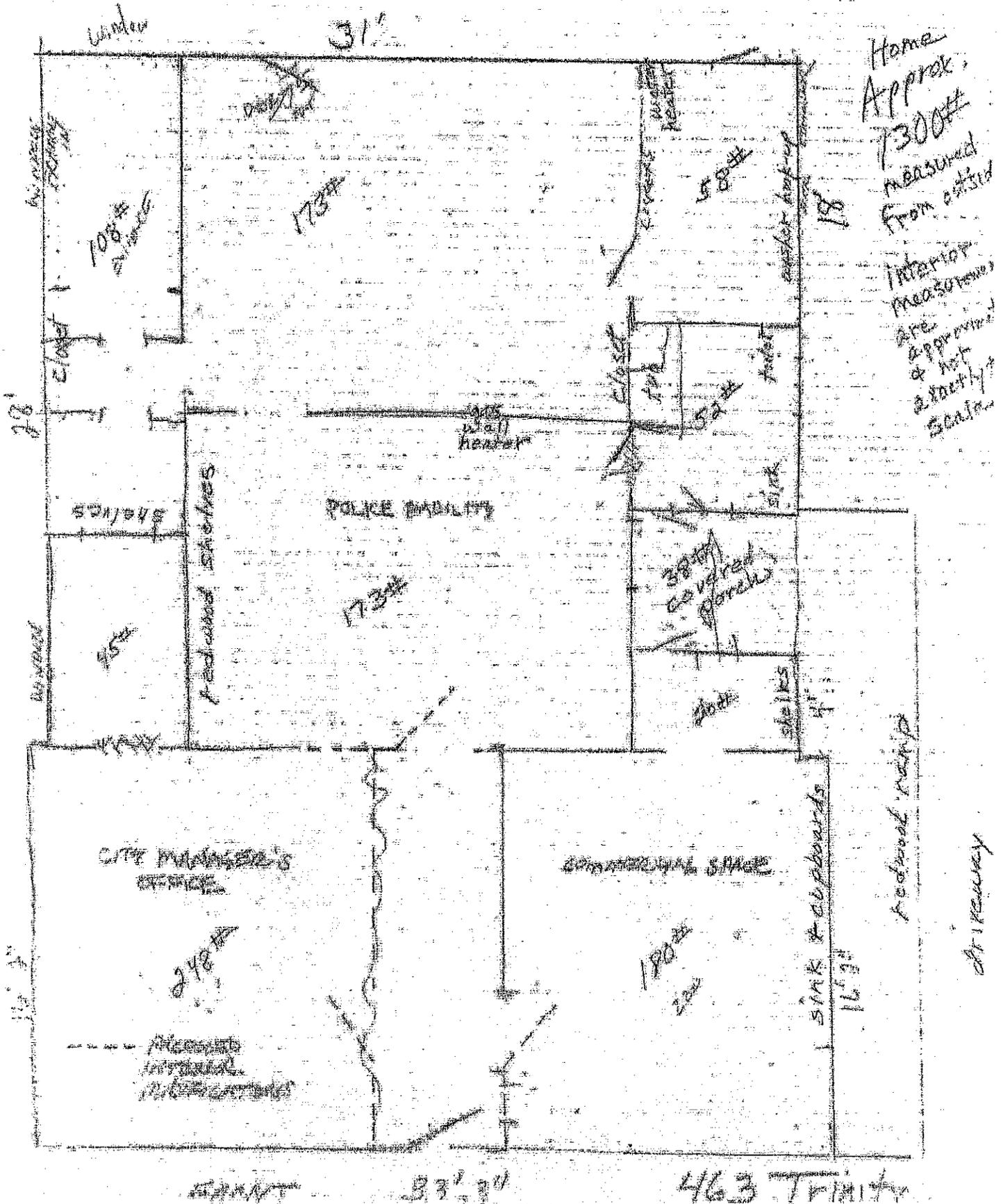
Tenant:



Chi-Wei Lin, Mayor
Mail To: P.O. Box 390, Trinidad, CA 95570
Phone: 707-677-0223
Email:

Carnie Butler
has use of back yard

Septic tank &
leach field & propane tank



Home
Approx.
1300#
measured
from outside

Interior
measurements
are
approximate
& not
strictly
scale.

FRONT

33'

463 TRINITY



CONSENT AGENDA ITEM 7

SUPPORTING DOCUMENTATION FOLLOWS WITH: 26 PAGES

7. Accept Report on Emergency Water Filter Repair Project.

CONSENT AGENDA ITEM

Wednesday, February 08, 2017

Item: Update and Budget Adjustment for Water Filter Emergency Repair Project

Background: The rebuilding of two of the main filters at the Water Treatment Plant is nearly complete as of this staff report, and may be fully complete by the Council Meeting on February 8th.

The City Council approved a Resolution in December authorizing emergency action to initiate these repairs. As part of the state code governing such emergency action, staff are required to provide an update at each meeting until the project is complete.

Following that December meeting, staff signed a contract with Whitson Inc. for \$59,308 to repair both filters. That contract is attached. The repair work is nearly complete.

Budget Adjustment: These repairs are an appropriate use of the City's Water Fund Reserve, which is at just under \$1,000,000. The current budget includes a year-end transfer of \$15,000 to the Water Fund Reserve.

Staff recommend that Council adjust the Water Fund Operating Budget as follows:

1. Increase the Water Plant Repairs Expense Account (# 79160) by \$60,000 to cover this expense.
2. Adjust the Capital Reserve Transfer Account (#90000) so that instead of transferring \$15,000 to Reserves, we are transferring \$45,000 from Reserves to the Operating Budget.

Recommended Action: Accept Repair Update and approve Budget Adjustment.

Attachment: Contract for Water Filter Repairs.

CONSTRUCTION SERVICES AGREEMENT
Providing Payment of Prevailing Wages

(City of Trinidad / Whitson, Inc.)

1. IDENTIFICATION

This CONSTRUCTION SERVICES AGREEMENT ("Agreement") is entered into by and between the City of Trinidad, ("City"), and Whitson, Inc., a Corporation ("Contractor").

2. RECITALS

2.1. City has determined that it requires the following construction services from a contractor:

Replace underdrain manifold including drain headers and laterals, and replace filter media for Filter Trains 1 and 2. In order to replace the underdrain manifold, the filter vessels need to be drained and the media removed and disposed of. The existing manifolds are then removed, piping modified and new manifolds installed. After installation of the manifolds, new media is then layered back into the vessels and properly disinfect. This task includes all equipment, labor, and materials necessary to complete the underdrain manifold repair and media replacement.

2.2. Contractor represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Contractor further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

2.3. This is a public works project, so all contractors/subcontractors working on the project must be registered with the Department of Industrial Relations, pay the prevailing wage, and submit certified payroll records (CPRs) to the Labor Commissioner using DIR's electronic certified payroll reporting system.

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

3. DEFINITIONS

3.1. "Scope of Services": Such professional services as are set forth in Contractor's December 13, 2016 proposal to City attached hereto as Exhibit A and incorporated herein by this reference.

3.2. "Standards and Requirements": All work on this project must meet the State Drinking Water Statutes and Regulations.

- 3.3. "Authorized Representative": The Authorized Representative for this project is Daniel Berman, City Manager. All services under this Agreement shall be performed at the request of the Authorized Representative.
- 3.4. "Project Manager": The Project Manager is Bryan Buckman, Water Superintendent. The Project Manager shall be the principal point of contact at the City for this project, and shall supervise all repair or construction work authorized by the City Council. The Project Manager will establish the timetable for completion of services and any interim milestones.
- 3.5. "Maximum Amount": The highest total compensation and costs payable to Contractor by City under this Agreement. The Maximum Amount under this Agreement is Sixty Thousand Dollars (\$60,000).
- 3.6. "Commencement Date": December 15, 2016
- 3.7. "Termination Date": February 3, 2017

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date unless extended by written agreement of the parties or terminated earlier under Section 18 ("Termination") below. Contractor may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by City in writing and incorporated in written amendments to this agreement.

5. CONTRACTOR'S DUTIES

- 5.1. **Services.** Contractor shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of 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.
- 5.2. **Coordination with City.** In performing services under this Agreement, Contractor shall coordinate all contact with City through its Project Manager.
- 5.3. **Budgetary Notification.** Contractor shall notify the Project Manager, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount. Contractor shall concurrently inform the Project Manager, in writing, of Contractor's estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount.

- 5.4. **Business License.** Contractor shall obtain and maintain in force a City business license for the duration of this Agreement.

Professional Standards. Contractor shall perform all work to the highest standards of Contractor's profession and in a manner reasonably satisfactory to City. Contractor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement, including all Cal/OSHA requirements, the conflict of interest provisions of Government Code § 1090 and the Political Reform Act (Government Code § 81000 et seq.).

- 5.5. **Appropriate Personnel.** Contractor has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Contractor or under its supervision or by subcontractor(s) of Contractor, and all personnel engaged in the work shall be qualified to perform such services. Rick Reinhard shall be Contractor's project administrator and shall have direct responsibility for management of Contractor's performance under this Agreement. No change shall be made in Contractor's project administrator without City's prior written consent.

- 5.6. **Project Site.** Contractor shall perform the Services in such a manner as to cause a minimum of interference with City's operations and the operations of other contractors at each Project site and to protect all persons and property thereon from damage or injury. Upon completion of the Services at a Project site, Contractor shall leave such Project site clean and free of all tools, equipment, waste materials and rubbish. Each Project site may include all buildings, offices, and other locations where Services are to be performed, including any access roads. Contractor shall be solely responsible for the safe transportation and packing in proper containers and storage of any equipment required for performing the Services, whether owned, leased or rented. City will not be responsible for any such equipment which is lost, stolen or damaged or for any additional rental charges for such equipment. Equipment left or stored at a Project site, with or without permission, is at Contractor's sole risk. City may assume that anything left on the work site an unreasonable length of time after said work is completed has been abandoned. Any transportation furnished by City shall be solely as an accommodation and City shall have no liability therefore. Contractor acknowledges and agrees that it shall assume the risk and is solely responsible for its use of any City owned equipment and property provided by City for the performance of Services. City shall have no liability to Contractor therefore. In addition, Contractor further acknowledges and agrees that it shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tools, or other property which is utilized by Contractor on each Project site.

- 5.7. **Prevailing Wages.** This Agreement is subject to the prevailing wage law as more fully set forth in Section 8 (Labor Code), for all work performed under this

Agreement for which the payment of prevailing wages is required under the California Labor Code. In particular, Contractor acknowledges that prevailing wage determinations are available for work performed under this Agreement.

- 5.8. **Unauthorized Delay.** In accordance with Government Code 53069.85, and all other applicable law, the Contractor agrees to forfeit and pay City the amount of Two Hundred Dollars (\$200.00) per day for each and every day of unauthorized delay beyond the Termination Date, which shall be deducted from any monies due to Contractor. This payment shall be considered liquidated damages. Contractor agrees that such liquidated damages are reasonable under the circumstances existing at the time of execution of the contract, that such liquidated damages are to compensate City for losses that are difficult to measure, and that such damages are not a penalty.
- 5.9. **Unforeseeable Delay.** Contractor shall not be deemed in breach of this Agreement and no forfeiture due to delay shall be made because of any delays in the completion of the Scope of Services due to unforeseeable causes beyond the control and without the fault or negligence of Contractor provided Contractor requests from the Project Manager an extension of time in writing. Unforeseeable causes of delay beyond the control of Contractor shall include acts of God, acts of a public enemy, acts of the government, acts of City, or acts of another contractor in the performance of a contract with City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather, or delays of subcontractors due to such causes, or delays caused by failure of the owner of a utility to provide for removal or relocation of existing utility facilities. Delays caused by actions or negligence of Contractor or its agents, servants, employees, officers, subcontractors, directors, or of any party contracting to perform part of all of the Scope of Services or to supply any equipment or materials shall not be unforeseeable delays. Unforeseeable delays (those beyond Contractor's control) shall not entitle Contractor to any additional compensation beyond the Maximum Amount. The sole recourse of Contractor shall be to seek an extension of time from the Project Manager.
- 5.10. **Defective Work.** All work which is defective in its construction or deficient in any of the requirements set by State Drinking Water or City Water Codes shall be remedied or replaced by Contractor in an acceptable manner at its own expense. Defective work shall not entitle Contractor to any additional compensation beyond the Maximum Amount.
- 5.11. **Permits and Approvals.** Contractor shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Contractor's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.
- 5.12. **Notification of Organizational Changes.** Contractor shall notify the Project Administrator, in writing, of any change in name, ownership or control of

Contractor's firm or of any subcontractor. Change of ownership or control of Contractor's firm may require an amendment to this Agreement.

- 5.13. Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Contractor under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

6. HEALTH AND SAFETY PROGRAMS

- 6.1.** As appropriate for the scope of work to be performed, the Contractor shall establish, maintain, and enforce safe work practices, and implement an accident/incident prevention program intended to ensure safe and healthful operations under their direction. The program shall include all requisite components of such a program under Federal, State and local regulations and shall comply with all City site programs.
- 6.2.** Contractor will be responsible for acquiring job hazard assessments as necessary to safely perform all duties of each Project and provide a copy to City upon request.
- 6.3.** Contractor will be responsible for providing all employee health and safety training and personal protective equipment in accordance with potential hazards that may be encountered in performance of Project and provide copies of the certified training records upon request by City. Contractor shall be responsible for proper maintenance and/or disposal of their personal protective equipment and material handling equipment.
- 6.4.** Contractor is responsible for ensuring that its lower-tier subcontractors are aware of and will comply with the requirements set forth herein.
- 6.5.** City, or its representatives, shall periodically monitor the safety performance of the Contractor working on the Project. All Contractors and their subcontractors shall be required to comply with the safety and health obligations as established in the Agreement. Non-compliance with safety, health, or fire requirements may result in cessation of work activities, until items in non-compliance are corrected. It is also expressly acknowledged, understood and agreed that no payment shall be due from City to Contractor under this Agreement at any time when, or for any Services performed when, Contractor is not in full compliance with this Section 10.

- 6.6. Contractor shall immediately report any injuries to the City site safety representative. Additionally, the Contractor shall investigate and submit to the City site safety representative copies of all written accident reports, and coordinate with City if further investigation is requested.
- 6.7. Contractor shall take all reasonable steps and precautions to protect the health of their employees and other site personnel with regard to their Scope of Services. Contractor shall conduct occupational health monitoring and/or sampling to determine levels of exposure of its employees to hazardous or toxic substances or environmental conditions. Copies of any sampling results will be forwarded to the City site safety representative upon request.
- 6.8. Contractor shall develop a plan to properly handle and dispose of all hazardous wastes they generate within the Scope of Services.
- 6.9. Contractor shall advise its employees and subcontractors that any employee, who jeopardizes his/her safety and health, or the safety and health of others, may be subject to actions including removal from Project.
- 6.10. Contractor shall, at the sole option of the City develop and provide to the City a Hazardous Material Spill Response Plan that includes provisions for spill containment and clean-up, emergency contact information including regulatory agencies and spill sampling and analysis procedures. Hazardous Materials to include diesel fuel used for trucks owned or leased by the Contractor.

7. SUBCONTRACTING AND ASSIGNMENT

- 7.1. **General Prohibition of Assignment.** This Agreement covers construction services of a specific and unique nature. Except as otherwise provided herein, Contractor shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.
- 7.2. **Contractor Responsible.** Contractor shall be responsible to City for all services to be performed under this Agreement.
- 7.3. **Subcontracting.** Contractor shall not subcontract any portion of the performance contemplated and provided for herein unless (1) such subcontracting is specifically described in the proposal attached hereto or (2) the City provides prior written approval. In any event, Contractor shall supervise all work subcontracted by Contractor in performing the Services and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work shall not relieve Contractor from any of its obligations under this Agreement with respect to the Services. Contractor is obligated to ensure that any and all subcontractors performing any Services shall be fully insured in all respects and to the same extent as set forth under Section 13, to City's satisfaction.

- 7.4. **Compensation for Subcontractors.** Contractor shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. City shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.
- 7.5. **Warranty.** In addition to any and all warranties provided or implied by law or public policy, Contractor warrants that all Services (including but not limited to all equipment and materials supplied in connection therewith) shall be free from defects in design and workmanship, and that Contractor shall perform all Services in accordance with all applicable engineering, construction and other codes and standards, and with the degree of high professional skill normally exercised by or expected from recognized professional firms engaged in the practice of supplying services of a nature similar to the Services in question. Contractor further warrants that, in addition to furnishing all tools, equipment and supplies customarily required for performance of work, Contractor shall furnish personnel with the training, experience and physical ability, as well as adequate supervision, required to perform the Services in accordance with the preceding standards and the other requirements of this Agreement. In addition to all other rights and remedies which City may have, City shall have the right to require, and Contractor shall be obligated at its own expense to perform, all further services which may be required to correct any deficiencies which result from Contractor's failure to perform any Services in accordance with the standards required by this Agreement. Moreover, if, during the term of this Agreement (or during the one (1) year period following the term hereof), any equipment, goods or other materials or Services used or provided by Contractor under this Agreement fail due to defects in material and/or workmanship or other breach of this Agreement, Contractor shall, upon any reasonable notice from City, replace or repair the same to City's satisfaction. Unless otherwise expressly permitted, all materials and supplies to be used by Contractor in the performance of the Services shall be new and best of kind.

Contractor hereby assigns to City all additional warranties, extended warranties, or benefits like warranties, such as insurance, provided by or reasonably obtainable from suppliers of equipment and material used in the Services.

8. COMPENSATION

- 8.1. **General.** City agrees to compensate Contractor for the services provided under this Agreement on a time and materials basis, and Contractor agrees to accept payment, not to exceed the Maximum Amount in full satisfaction for such services. Compensation shall not exceed the Maximum Amount. Contractor shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by City in advance.
- 8.2. **Retention.** City may retain up to 5% of each payment until project completion. Contractor may at its own expense substitute securities equivalent to the amount

withheld as retention (or the retained percentage) in accordance with Public Contract Code 22300. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with City, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to City. Upon satisfactory completion of this Agreement, the securities shall be returned to Contractor.

- 8.3. **Invoices.** Contractor shall submit to City an invoice, on a monthly basis or as otherwise agreed to by the Project Manager, for services performed pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. Contractor shall include a copy of each subcontractor invoice, if any, for which reimbursement is sought in the invoice.
- 8.4. **Taxes.** City shall not withhold applicable taxes or other payroll deductions from payments made to Contractor except as otherwise required by law. Contractor shall be solely responsible for calculating, withholding, and paying all taxes.
- 8.5. **Compensation Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Contractor.
- 8.6. **Additional Work.** Contractor shall not be reimbursed for any expenses incurred for work performed outside the Scope of Services unless prior written approval is given by the City on a time-and-materials basis pursuant to a written change order. Contractor shall not undertake any such work without prior written approval of the City. A written change order may be issued without amendment to this Agreement, so long as such written change order does not cause the Maximum Amount to be exceeded. Contractor shall only be compensated for such additional work at the rates and costs for labor and materials included in the bid or proposal.
- 8.7. **City-Initiated Changes** - City may propose in writing changes to Contractor's work within the Scope of Services described. If Contractor is of the opinion that any proposed change causes an increase or decrease in the cost, or a change in the schedule for performance, of the services, Contractor shall notify City in writing of that fact within five (5) days after receipt of written proposal for changes.
- 8.8. **Contractor-Initiated Changes** - Contractor may propose in writing changes to the Scope of Services, upon identifying a condition which may change the Scope of Services as agreed at the time of execution of this Agreement. Contractor must notify the City's Project Manager of any changed conditions upon discovery and before they are disturbed. The Project Manager shall investigate, and if the Project Manager determines that the conditions will materially affect costs, will issue a Change Order adjusting the compensation for such portion of the Scope of Services. If the Project Manager determines that conditions are changed conditions and they will materially affect performance time, the Contractor, upon submitting a written request, will be

granted an extension of time. If the Project Manager determines that the conditions do not justify an adjustment in compensation or time, the Contractor will be notified in writing. This notice will also advise the Contractor of its obligation to notify the Project Manager in writing if the Contractor disagrees.

When and if City and Contractor reach agreement on any such proposed change and its effect on the cost and time for performance, they shall confirm such agreement in writing as an amendment to this Agreement. Contractor may not cease work or delay progress on the original project pending negotiations over changes, and must continue to diligently complete the project.

Should the Contractor disagree with the decision, it may submit a written notice of potential claim to the Project Manager before commencing the disputed work. In the event of such a dispute, the Contractor shall not be excused from any scheduled completion date provided by the Contract and shall proceed with all work to be performed under the Contract. However, the Contractor shall retain any and all rights provided by either Contract or law which pertain to the resolution of disputes and protests between the contracting parties.

The Contractor's failure to give notice of changed conditions promptly upon their discovery and before they are disturbed shall constitute a waiver of all claims in connection therewith.

9. LABOR CODE

- 9.1. **Prevailing Wage Law.** This is a public works project, so this Agreement is subject to the requirements of the prevailing wage laws, including, but not limited to, Labor Code Section 1720 et seq., and Labor Code Section 1770 et seq., as well as Code of Regulations, Title 8, Section 16000 et seq., which require payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Contractor shall defend, indemnify, and hold harmless City, and its officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of failure or alleged failure of Contractor to comply with such prevailing wage laws.
- 9.2. **Payment of Prevailing Wages.** Contractor shall pay the prevailing wage rates for all work performed under this Agreement. When any craft or classification is omitted from the general prevailing wage determinations, the Contractor shall pay the wage rate of the craft or classification most closely related to the omitted classification. Copies of the prevailing rate of per diem wages are available upon request.
- 9.3. **Forfeiture.** Contractor shall forfeit as a penalty to City Two Hundred Dollars (\$200.00), or any greater penalty provided in the Labor Code, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates for any work done under this Agreement employed in the performance of the Scope of Services by Contractor or by any subcontractor of Contractor in violation of the

provisions of the Labor Code. In addition, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate shall be paid to each worker by Contractor.

- 9.4. **Apprentices.** Contractor shall comply with the provisions of Labor Code 1777.5 concerning the employment of apprentices on public works projects. Contractor shall be responsible for ensuring compliance by its subcontractors with Labor Code 1777.5.
- 9.5. **Payroll Records.** Pursuant to Labor Code 1776, Contractor and any subcontractor(s) shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor in connection with this Agreement. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Labor Code 1811 and Labor Code 1815 for any work performed by his or her employees on the public works project. The payroll records shall be certified and shall be available for inspection at all reasonable hours as required by Labor Code 1776.
- 9.6. **8-Hour Work Day.** This Agreement is subject to 8-hour work day and wage and hour penalty laws, including, but not limited to, Labor Code 1810 and Labor Code 1813. Contractor and any subcontractor(s) of Contractor shall strictly adhere to the provisions of the Labor Code regarding 8-hour work day and 40-hour work week requirements, and overtime, Saturday, Sunday, and holiday work. Pursuant to the Labor Code, eight hours' labor shall constitute a legal day's work. Work performed by Contractor's employees in excess of eight hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. Contractor shall forfeit as a penalty to City \$25.00, or any greater penalty set forth in the Labor Code, for each worker employed in the execution of the work by Contractor or by any subcontractor(s) of Contractor, for each calendar day during which such worker is required or permitted to the work more than eight hours in one calendar day or more than 40 hours in any one calendar week in violation of the Labor Code.
- 9.7. **Registration with DIR.** Contractor and any subcontractor(s) of Contractor shall comply with the provisions of Labor Code 1771 and Labor Code 1725.5 requiring registration with the Department of Industrial Relations (DIR).
- 9.8. **Labor Compliance Monitoring.** The project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. The contractor shall post

job site notices, as prescribed by regulation. Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner: At least monthly in a format prescribed by the Labor Commissioner.

1. PUBLIC CONTRACT CODE.

- 1.1. **Prompt Payment.** This Agreement is subject to the provisions of Article 1.7 (commencing at § 20104.50) of Division 2, Part 3 of the Public Contract Code regarding prompt payment of contractors by local governments. Article 1.7 mandates certain procedures for the payment of undisputed and properly submitted payment requests within 30 days after receipt, for the review of payment requests, for notice to the contractor of improper payment requests, and provides for the payment of interest on progress payment requests which are not timely made in accordance with this Article. This Agreement hereby incorporates the provisions of Article 1.7 as though fully set forth herein.
- 1.2. **Public Works Claims Less Than \$375,000.** To the extent applicable, this Agreement is further subject to the provisions of Article 1.5 (commencing at Section 20104) of Division 2, Part 3 of the Public Contract Code regarding the resolution of public works claims of less than \$375,000. Article 1.5 mandates certain procedures for the filing of claims and supporting documentation by the contractor, for the response to such claims by the contracting public agency, for a mandatory meet and confer conference upon the request of the contractor, for mandatory nonbinding mediation in the event litigation is commenced, and for mandatory judicial arbitration if the parties fail to resolve the dispute through mediation. This Agreement hereby incorporates the provisions of Article 1.5 as though fully set forth herein.
- 1.3. **Ineligible Subcontractor(s).** This Agreement is further subject to the provisions of Public Contracts Code 6109 which prohibits Contractor from performing work on this project with a subcontractor who is ineligible to perform work on the project pursuant to Labor Code 1777.1 or Labor Code 1777.7.
- 1.4. **Assignment of Actions.** Contractor and any and all subcontractors shall offer and agree to assign to City all rights, title, and interest in and to all causes of action it/they may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 4) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to this Agreement. This assignment shall be made and become effective at the time City tenders final payment to Contractor, without further acknowledgment by the parties.

2. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material ("written products" herein) developed by Contractor in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City except as provided by law. Contractor may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Contractor.

3. RELATIONSHIP OF PARTIES

- 3.1. **General.** Contractor is, and shall at all times remain as to City, a wholly independent contractor.
- 3.2. **No Agent Authority.** Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.
- 3.3. **Independent Contractor Status.** Under no circumstances shall Contractor or its employees look to the City as an employer. Contractor shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Contractor's previously earned California Public Employees Retirement System ("CalPERS") retirement benefits, if any, and Contractor specifically assumes the responsibility for making such a determination. Contractor shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation, and other applicable federal and state taxes.
- 3.4. **Indemnification of CalPERS Determination.** In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

4. INDEMNIFICATION

- 4.1. **Definitions.** For purposes of this Section 13, "Contractor" shall include Contractor, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Contractor or its subcontractors, in the performance of

this Agreement. "City" shall include City, its officers, agents, employees and volunteers.

- 4.2. **Contractor to Indemnify City.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless, and defend City from and against any and all claims, losses, costs or expenses for any personal injury or property damage arising out of or in connection with Contractor's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Contractor or failure to comply with any provision in this Agreement.
- 4.3. **Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential or otherwise. Property damage shall include injury to any personal or real property. Contractor shall not be required to indemnify City for such loss or damage as is caused by the sole active negligence or willful misconduct of the City.
- 4.4. **Attorneys Fees.** Such costs and expenses shall include reasonable attorneys' fees for counsel of City's choice, expert fees and all other costs and fees of litigation. Contractor shall not be entitled to any refund of attorneys' fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.
- 4.5. **Defense Deposit.** The City may request a deposit for defense costs from Contractor with respect to a claim. If the City requests a defense deposit, Contractor shall provide it within 15 days of the request.
- 4.6. **Waiver of Statutory Immunity.** The obligations of Contractor under this Section 13 are not limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City.
- 4.7. **Indemnification by Subcontractors.** Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 13 from each and every subcontractor or any other person or entity involved in the performance of this Agreement on Contractor's behalf.
- 4.8. **Insurance Not a Substitute.** City does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. Contractor's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

5. INSURANCE

- 5.1. **Insurance Required.** Contractor shall maintain insurance as described in this section and shall require all of its subcontractors, Contractors, and other agents to do the same. Approval of the insurance by the City shall not relieve or decrease any liability

coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

- 5.4. **General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.
- 5.5. **Worker's Compensation Insurance.** Contractor is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Contractor will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.
- 5.6. **Automobile Liability Insurance.** Covered vehicles shall include owned if any, non-owned, and hired automobiles and, trucks.
- 5.7. **Additional Insured Endorsements.** The City, its City Council, Commissions, officers, and employees of Trinidad must be endorsed as an additional insured for each policy required herein — other than Auto, Workers Compensation and Professional Errors and Omissions — for liability arising out of ongoing and completed operations by or on behalf of the Contractor. The City must be named as an additional insured for Auto Insurance policies for ongoing operations. Contractor's insurance policies shall be primary as respects any claims related to or as the result of the Contractor's work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.
- 5.8. **Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and the Contractor does not furnish a new certificate of insurance prior to cancellation, City has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Contractor under this Agreement. Failure of the Contractor to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of this Agreement.
- 5.9. **Notices.** Contractor shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Contractor shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Contractor shall provide proof that cancelled or expired

policies of insurance have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: City of Trinidad, PO Box 390, Trinidad, CA 95570.

- 5.10. Contractor's Insurance Primary.** The insurance provided by Contractor, including all endorsements, shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.
- 5.11. Waiver of Subrogation.** Contractor hereby waives all rights of subrogation against the City. Contractor shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.
- 5.12. Report of Claims to City.** Contractor shall report to the City, in addition to the Contractor's insurer, any and all insurance claims submitted to Contractor's insurer in connection with the services under this Agreement.
- 5.13. Premium Payments and Deductibles.** Contractor must disclose all deductibles and self-insured retention amounts to the City. The City may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, City must approve all such amounts prior to execution of this Agreement.

City has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Contractor shall be responsible for all premiums and deductibles in all of Contractor's insurance policies. The amounts of deductibles for insurance coverage required herein are subject to City's approval.

- 5.14. Duty to Defend and Indemnify.** Contractor's duties to defend and indemnify City under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

6. MUTUAL COOPERATION

- 6.1. City Cooperation in Performance.** City shall provide Contractor with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Contractor's services under this Agreement.
- 6.2. Contractor Cooperation in Defense of Claims.** If any claim or action is brought against City relating to Contractor's performance in connection with this Agreement, Contractor shall render any reasonable assistance that City may require in the defense of that claim or action.

7. NOTICES

Any notice required to be given to Contractor shall be deemed to be duly and properly given if mailed to Contractor; postage prepaid, addressed to:

Whitson, Inc.
P. O. Box 240
Willow Creek, CA 95573

or personally delivered to Contractor at such address or at such other addresses as Contractor may designate in writing to the City.

Any notice required to be given to City shall be deemed to be duly and properly given if mailed postage prepaid, addressed to:

City of Trinidad
P. O. Box 390
Trinidad, CA 95570

or personally delivered to the City of Trinidad at such address or at such other addresses as the City may designate in writing to Contractor.

8. SURVIVING COVENANTS

The parties agree that the covenants contained in paragraph 5.12 (Records), paragraph 12.4 (Indemnification of CalPERS Determination), Section 13 (Indemnity), paragraph 14.8 (Claims-Made Policies), paragraph 15.2 (Contractor Cooperation in Defense of Claims), and paragraph 20.1 (Confidentiality) of this Agreement shall survive the expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

9. TERMINATION

- 9.1. **City Termination.** City may terminate this Agreement for any reason on five calendar days' written notice to Contractor. Contractor agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.
- 9.2. **Contractor Termination.** Contractor may terminate this Agreement for a material breach of this Agreement upon 30 days' notice.
- 9.3. **Compensation Following Termination.** Upon termination, Contractor shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Contractor be entitled to receive more than the amount that would be paid to Contractor for the full performance of the services required by this Agreement. The

City shall have the benefit of such work as may have been completed up to the time of such termination.

- 9.4. **Remedies.** City retains any and all available legal and equitable remedies for Contractor's breach of this Agreement.

10. INTERPRETATION OF AGREEMENT

- 10.1. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 10.2. **Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Contractor with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on by City and Contractor.
- 10.3. **Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this Agreement.
- 10.4. **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 10.5. **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 shall be enforceable in its amended form. 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, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 10.6. **No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

11. GENERAL PROVISIONS

- 11.1. **Confidentiality.** All data, documents, discussion, or other information developed or received by Contractor for performance of this Agreement are deemed confidential and Contractor shall not disclose it without prior written consent by City. City shall grant such consent if disclosure is legally required. All City data shall be returned to City upon the termination or expiration of this Agreement.
- 11.2. **Conflicts of Interest.** Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the City's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 11.3. **Non-assignment.** Contractor shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Contractor.
- 11.4. **Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.
- 11.5. **No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 11.6. **Time of the Essence.** Time is of the essence for each and every provision of this Agreement.
- 11.7. **Non-Discrimination.** Contractor shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. Contractor

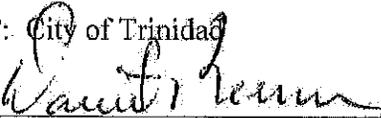
agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.

- 11.8. Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by City or Contractor unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by City or Contractor of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.
- 11.9. Excused Failure to Perform.** Contractor shall not be liable for any failure to perform if Contractor presents acceptable evidence, in City's sole judgment that such failure was due to causes beyond the control and without the fault or negligence of Contractor.
- 11.10. Remedies Non-Exclusive.** 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 from 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 or all of such other rights, powers or remedies.
- 11.11. Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, each party shall pay its own costs, including any accountants' and attorneys' fees expended in the action.
- 11.12. Venue.** The venue for any litigation shall be Los Angeles County, California and Contractor hereby consents to jurisdiction in Los Angeles County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.
- 11.13. General Dispute Resolution.** If any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:

Each Party will designate a senior management or executive level representative to negotiate the dispute. Through good faith negotiations, the representatives will attempt to resolve the dispute by any means within their authority. If dispute remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by mediation through a disinterested third person as mediator selected by both Parties. Mediation will begin within thirty (30) days of the selection of this disinterested third party, and will end fifteen (15) days after commencement. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

The alternative dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either Party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code § 900, et. seq.

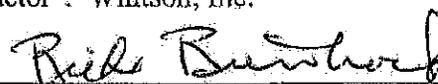
TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

"City": City of Trinidad
By: 
Signature

Printed: Daniel Berman

Title: City Manager

Date: 12/20/2016

"Contractor": Whitson, Inc.
By: 
Signature

Printed: RICK REINHARD

Title: CEO

Date: 12-22-2016

Attest:

By: 
Gabriel Adams, City Clerk

Date: 12/20/16



PROPOSAL

PERFORMED BY: **Whitson Inc.**
P.O. Box 240
Willow Creek, CA 95573

PROJECT: WTP Filter 1 & 2 Repair
 NAME: City of Trinidad
 NUMBER: Emergency repair

DATE OF REPORT 12/20/2016

Dec 13, 2016, re-formatted by R.R.

SEND TO: **City of Trinidad**
P.O. Drawer 390
Trinidad CA 95570

WORK DESCRIPTION: Replace media, drain headers and laterals for Train # 1 and 2 per each.

EQUIP #	EQUIPMENT	HOURS	RATE	EXTENSION
	Fully Stock Service Truck with Tools.	96	\$32.90	\$3,158.40
	Kubota Excavator and Loader	16	\$52.99	\$847.84
EQUIPMENT TOTALS		112		\$4,006.24

MATERIAL and/or WORK DONE BY SPECIALISTS

DESCRIPTION	UNITS	UNIT COST	EXTENSION
Rescue Media, Drains and laterals.	1	\$12,500.00	\$12,500.00
Hauling and Disposal of Old media	1	\$575.00	\$575.00
No Tax			
No Tax			
No Tax Sub			
SALES TAX 8.00%		\$13,075.00	\$1,046.00
TOTAL EQUIPMENT, MATERIALS AND WORK (B)			\$18,127.24

PR #	LABOR	HOURS	RATE	EXTENSION
	Laborer	96 REG	\$46.17	\$4,432.32
	Electrician	REG	\$83.46	
	Carpenter, Cement Mason, Ironworker.	REG	\$58.89	
	Equipment Operator	16 REG	\$67.22	\$1,075.52
		REG		
		REG		
LABOR SUBTOTAL		112 HRS		\$5,507.84
LABOR SURCHARGE		26.35%		\$1,451.32
SUBSISTENCE		@		
TRAVEL EXPENSE		112 @	\$6.25	\$700.00
TOTAL COST OF LABOR (A)				\$7,659.16

MARKUP ON LABOR COST	15.00%	(A)	\$1,148.87
MARKUP ON EQUIPMENT & MATERIAL	15.00%	(B)	\$2,718.73
MARKUP ON SUB CONTRACT WORK	5.00%	(C)	

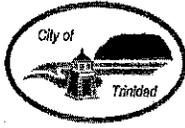
TOTAL One Filter: **\$29,654.00**
 Both Filters: **\$59,308.00**

Rich Reinhard

Whitson Inc. Representative

12/20/2016
 Date:





DISCUSSION AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 10 PAGES

1. Discussion/Decision regarding Acceptance of 2015-2016 Financial Report and Annual Audit, and Authorize the City Manager to Execute the 2016-2017 Engagement Letter.

*Bound copies of the Final Audit have been distributed to each Council member. An electronic version is available online in the **Financials** folder **Document Library** of the city website: www.trinidad.ca.gov*

Paper copies are available for public review at the Town Hall. Copies can be made at the public's requests.

DISCUSSION/ACTION AGENDA

Date: February 8, 2017

Item: Presentation and Acceptance of the FY 2015-2016 Annual Financial Report and Audit, and Authorization to Engage Professional Services for next year's audit.

Background: The firm of Marcello and Company, Certified Public Accountants, has performed the fiscal and management audit for the City of Trinidad for the past several years. The principal in the firm, Ralph Marcello, CPA, has personally performed these audits and is very familiar with the City's practices and finances.

The 2016 Financial Report finds that the city conformed with generally accepted accounting principles, the financial statements are a fair and accurate representation of our financial position and activities over the prior year, and no audit findings or exceptions were identified. This is a clean audit report.

As a part of the annual audit, Mr. Marcello provides a list of recommendations to the City in a Management Letter. That letter is also attached and staff will discuss our plans to address these recommendations at our meeting.

Staff Notes on the Financial Statements:

The City's General Fund cash balance increased during this audit year by approximately \$50,000, due primarily to Sales Tax and TOT revenue being higher than expected. However approximately \$45,000 in depreciation expense of capital assets was also recorded, for a total 'Change in Net Position' of positive \$5,000. (see pages 5 and 8-9 of the audit). The City ended the year with a total General Fund balance of ~\$1,355,000

The Water Fund cash balance increased during this audit year by ~\$48,000. This surplus is permanently dedicated to the long-term capital replacement, maintenance, and improvement of the Water System. For reference, the current Water Filter Replacement project cost of \$60,000 is roughly equal to the net 'surplus' of this year (~\$48,000) plus the \$15,000 that was transferred to the Reserve Fund in the previous year. The City ended the year with a Water Fund Cash Balance (Reserve) of ~\$940,000.

The Cemetery Fund continues to slowly lose money, with a net negative of \$10,000 this year, as plot sales do not cover the annual maintenance expense of the cemetery. This annual deficit is slowly reducing a dedicated 'Cemetery Reserve Fund' that was at \$134,000 at the close of this audit period. The auditor recommends the City eventually incorporate the Cemetery income and expenses into the General Fund budget rather than maintain it as a separate enterprise fund. As cemeteries fill up, they transition from a 'business-type' activity that can be managed to break even, to something more similar (financially) to a City park, where maintenance activity needs to be paid with General

Fund revenue. If this year's income and expense continue going forward, we have about ten years until the cemetery reserves are expended and this becomes a regular General Fund expense.

Staff is working with Mr. Marcello to see if he can be available via telephone connection during the Council's discussion of this item. This is to save the travel costs that would be associated with an on-site visit.

Staff will provide a powerpoint presentation with additional detail on the annual financial statements.

Mr. Marcello is willing to perform the audit for FY2016-17, and his proposed engagement letter is included for your consideration. Due to Mr. Marcello's knowledge of the city's financial practices and methods, he requires minimal support from the city's limited staff to support his audit efforts. His fees are unchanged from last year, and continue to include a 10% fee reduction based on his familiarity with our finances, and clean audit results to date.

Recommended Action:

1. Accept the FY2015-16 Annual Financial Report and Audit; and
2. Authorize the City Manager to execute an Audit Engagement Letter to perform the FY2016-17 audit for \$16,200, prepare the draft financials for \$1,800 and reimburse for out of pocket costs at \$900.

Attachment: Annual Audited Financial Statements
Management Letter

MARCELLO & COMPANY

CERTIFIED PUBLIC ACCOUNTANTS

2701 Cottage Way, Suite 30 / Sacramento, California 95825 / 916.979.9079

June 30, 2017

City Hall - Trinidad
Attention: Dan Berman, City Manager
409 Trinity Street
Trinidad, California 95570

RE: 2017 Audit Engagement Letter

We are pleased to confirm our understanding of the services we are to provide the City of Trinidad for the year ended June 30, 2017. We will audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the City of Trinidad as of and for the year ended June 30, 2017. Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to accompany the City of Trinidad's basic financial statements. As part of our engagement, we will apply certain limited procedures to the City of Trinidad's RSI. These limited procedures will consist principally of inquiries of management regarding the methods of measurement and presentation, which management is responsible for affirming to us in its representation letter. Unless we encounter problems with the presentation of the RSI or with procedures relating to it, we will disclaim an opinion on it. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis
2. Budget to Actual Comparisons – Major Funds

In the event you do not prepare the MD&A, we will modify our auditor's opinion to include a paragraph stating the following:

"The City of Trinidad has not presented management's discussion and analysis that the Governmental Accounting Standards Board has determined is necessary to supplement, although not required to be part of, the basic financial statements."

We have also been engaged to report on supplementary information other than RSI that accompanies the City's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America, and we will provide an opinion on it in relation to the financial statements as a whole:

1. Combining financial statements of nonmajor governmental funds

Audit Objective

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with generally accepted accounting principles and to report on the fairness of the additional information referred to in the first paragraph when considered in relation to the basic financial statements taken as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions. If our opinion on the financial statements is other than unqualified, we will fully discuss the reasons with you in advance.

If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or to issue a report as a result of this engagement.

Audit Procedures - General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity.

Because an audit is designed to provide reasonable, but not absolute, assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements, or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We may request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures - Internal Control

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures - Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we may perform tests of the City of Trinidad's compliance with applicable laws and regulations and the provisions of contracts and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

Other Services

We will also draft and prepare your financial statements in conformity with U.S. generally accepted accounting principles based on information provided by you. We will perform this service in accordance with applicable professional standards. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

Management Responsibilities

Management is responsible for establishing and maintaining effective internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information.

You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, (2) additional information that we may request for the purpose of the audit, and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws and regulations.

You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon OR make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon. Your responsibilities include acknowledging to us in the representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

You agree to assume all management responsibilities for financial statement preparation services and any other nonattest services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash or other confirmations we request and will locate any documents selected by us for testing.

We expect to begin our audit in October or November 2017 and to issue the draft report approximately 45 days later or when all issues have been resolved. Ralph Marcello is the engagement director and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it. Our fee for these services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses** is estimated as follows:

Financial Audit of the City	\$ 18,000
Less continuing client adjustment	(1,800)
Prepare the draft financial statement report	2,000
Less continuing client adjustment	(200)
Out-of-pocket costs	900
Total	<u>\$ 18,900</u>

** Additional billings are calculated at a reduced government rate of \$150 per hour in conjunction with an audit engagement contract.

The above fee is based upon the following prerequisites:

1. The complete and fully adjusted year-end Trial Balance should be prepared and delivered to the auditor on the first day of fieldwork. "Fully adjusted" refers to the recording of fiscal year end receivables, payables, depreciation and capital asset adjustments.
2. Upon our arrival to perform field work, all requested documents, schedules, bank statements and invoices shall be retrieved from their files and ready for us at 9am on the morning of the first day of field work.

Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination.

The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. Such unexpected circumstances might include, for example, a greater than expected risk of material misstatement due to fraud. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Financial Statement Report and Timing

- Field work is tentatively scheduled to begin in October or November 2017.
- Preparation of the printed & bound financial statement reports will be the responsibility of the auditor.
- Preparation of Management's Discussion and Analysis (MD&A) and other Required Supplementary Information (RSI) will be the responsibility of the City. Note - the City did not prepare the MD&A in the prior year.
- Preparation of all State Controller Office reports will be the responsibility of the City.
- If required, this engagement letter will serve as the City's agreement with the Auditor to perform the *Single Audit* engagement. The fee for a Compliance Audit of federal grant award money (*Single Audit*) is \$7,500 for the first major program; additional major programs range from \$2,500 to \$3,500 each.

We appreciate the opportunity to be of service to the City of Trinidad and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,
 Marcello & Company, CPAs

RESPONSE:

This letter correctly sets forth the understanding of the City of Trinidad.

By

Title

Date



December 1, 2016

Marcello & Company, CPAs
Post Office Box 60127
Sacramento, California 95860

COPY

We are providing this letter in connection with your audit of the financial statements of City of Trinidad, California as of June 30, 2016 and for the year then ended for the purpose of expressing an opinion as to whether the financial statements present fairly, in all material respects, the respective financial position of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Trinidad and the respective changes in financial position and, where applicable, cash flows thereof in conformity with U.S. generally accepted accounting principles. We confirm that we are responsible for the fair presentation of the previously mentioned financial statements in conformity with U.S. generally accepted accounting principles. We are also responsible for adopting sound accounting policies, establishing and maintaining effective internal control over financial reporting, and preventing and detecting fraud.

We confirm, to the best of our knowledge and belief, as of December 1, 2016, the following representations made to you during your audit:

- 1) The financial statements referred to above are fairly presented in conformity with U.S. generally accepted accounting principles and include all properly classified funds and other financial information of the primary government required by generally accepted accounting principles to be included in the financial reporting City.
- 2) We have made available to you all—
 - a) Financial records and related data [and all audit or relevant monitoring reports, if any, received from funding sources].
 - b) Minutes of the meetings of City of Trinidad or summaries of actions of recent meetings for which minutes have not yet been prepared.
- 3) There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices.
- 4) There are no material transactions that have not been properly recorded in the accounting records underlying the financial statements.
- 5) You have proposed 3 year-end adjusting journal entries that we have accepted and will be posted effective June 30, 2016, and no management decisions were made by you in preparing your proposed adjusting journal entries.
- 6) We acknowledge our responsibility for the design and implementation of programs and controls to prevent and detect fraud.
- 7) We have no knowledge of any fraud or suspected fraud affecting the City involving:
 - a) Management,
 - b) Employees who have significant roles in internal control, or
 - c) Others where the fraud could have a material effect on the financial statements.

- 8) We have no knowledge of any allegations of fraud or suspected fraud affecting the City received in communications from employees, former employees, analysts, regulators, or others.
- 9) The City has no plans or intentions that may materially affect the carrying value or classification of assets, liabilities, or equity.
- 10) The following, if any, have been properly recorded or disclosed in the financial statements:
 - a) Related party transactions, including revenues, expenditures/expenses, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties, although there were no related party transactions during the fiscal year under audit.
 - b) Guarantees, whether written or oral, under which the City is contingently liable.
 - c) All accounting estimates that could be material to the financial statements, including the key factors and significant assumptions underlying those estimates and measurements. We believe the estimates and measurements are reasonable in the circumstances, consistently applied, and adequately disclosed.
- 11) We are responsible for compliance with the laws, regulations, and provisions of contracts and grant agreements applicable to us, including tax or debt limits and debt contracts; and we have identified and disclosed to you all laws, regulations and provisions of contracts and grant agreements that we believe have a direct and material effect on the determination of financial statement amounts or other financial data significant to the audit objectives, including legal and contractual provisions for reporting specific activities in separate funds.
- 12) There are no—
 - a) Violations or possible violations of budget ordinances, laws and regulations (including those pertaining to adopting, approving, and amending budgets), provisions of contracts and grant agreements, tax or debt limits, and any related debt covenants whose effects should be considered for disclosure in the financial statements, or as a basis for recording a loss contingency, or for reporting on noncompliance.
 - b) Unasserted claims or assessments that our lawyer has advised us are probable of assertion and must be disclosed in accordance with *Financial Accounting Standards Board (FASB) Statement No. 5, Accounting for Contingencies*.
 - c) Other liabilities or gain or loss contingencies that are required to be accrued or disclosed by FASB Statement No. 5.
 - d) Reservations or designation of fund equity that were not properly authorized and approved.
- 13) As part of your audit, you assisted in a very limited role with preparation of the financial statements and related notes which are based upon our Trial Balance by individual funds. We have designated an individual with suitable skill, knowledge, or experience to oversee your services and have made all management decisions and performed all management functions. We have reviewed, approved, and accepted responsibility for those financial statements and related notes.
- 14) The City has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral.
- 15) The City has complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.
- 16) We have followed all applicable laws and regulations in adopting, approving, and amending budgets.
- 17) The financial statements properly classify all funds and activities.
- 18) All funds that meet the quantitative criteria in GASB Statement Nos. 34 and 37 for presentation as major are identified and presented as such and all other funds that are presented as major are particularly important to financial statement users.
- 19) Net position, formerly net assets, components (invested in capital assets, net of related debt; restricted; and unrestricted) and GASB 54 fund balance designations are properly classified and, if applicable, approved.
- 20) Provisions for uncollectible receivables have been properly identified and recorded, except that as of June 30, 2016, we have determined that all governmental receivables are collectible and that all enterprise receivables are collectible, with a small amount of immaterial uncollectible water enterprise fund accounts written off during the fiscal year after collection efforts proved not worth pursuing.

- 21) Expenses have been appropriately classified in or allocated to functions and programs in the statement of activities, and allocations have been made on a reasonable basis.
- 22) Revenue is appropriately classified in the statement of activities within program revenue and general revenue.
- 23) Interfund, internal, and intra-City activity and balances have been appropriately classified and reported.
- 24) Bank deposits and investments are properly classified as to risk, and investments are properly valued.
- 25) Required supplementary information (RSI) is measured and presented within prescribed guidelines, except that the City did not prepare Management's Discussion and Analysis (MDA) that the *Governmental Accounting Standards Board (GASB)* has determined is necessary to supplement, although not required to be part of, the basic financial statements.
- 26) The City is in compliance with all its grant compliance requirements, both State and Federal grants.
- 27) The City has determined that an OMB Circular A-133 "Single Audit" will not be required this year since the City did not spend more than \$750,000 in expenditures of Federal grant award money, based upon the accrual method of accounting.
- 28) No events, including instances of noncompliance, have occurred subsequent to the balance sheet date and through the date of this letter that would require adjustment to or disclosure in the aforementioned financial statements.

Sincerely,



Dan Berman
City Manager



Gabriel Adams
City Clerk



DISCUSSION AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 6 PAGES

2. Discussion and Possible First Reading of Noise Ordinance 2017-01

ACTION AGENDA ITEM
Wednesday, February 8th, 2016

Item: Noise Ordinance

Summary:

A revised version of the Noise Ordinance is presented for discussion and potential first reading. Shaded (highlighted) text has been revised from the prior ordinance.

The City Attorney, City Manager, and Councilmembers Miller and West met to review notes from the January 25th Council discussion and generated this current draft.

Highlighted changes:

1. Text related to Construction activities have been simplified, and only appear in one Section rather than in two. As currently drafted, reasonable construction noise is OK from 7 am to 7 pm on weekdays, and 8 am to 7 pm on weekends.
2. The already existing City Code re: nuisance noises from animals is repeated for clarity.
3. The Exemption for entertainment events is quite different. No exemption is provided for parties, bands, events, unless they have a specific City Permit that addresses noise.
4. As currently drafted, Town Hall would go quiet at 10 pm on weeknights, and 11 on Friday and Saturday nights.
5. Commercial and recreational fishing activities are exempt as long as the noise is 'reasonable' in the context of conducting those activities.
6. A new 'Enforcement' Section has been added by our Attorney, outlining the various remedies available to affected citizens and to the City.

Staff Recommendation:

Provide direction on any edits or additions to the Draft Ordinance.

If Council is satisfied with the Ordinance,

Conduct the First Reading of Ordinance 2017-01 by title, waiving the full reading of the text.



ORDINANCE 2017-01

AN ORDINANCE OF THE CITY OF TRINIDAD ADDING CHAPTER 8.06 TO TITLE 8 OF THE TRINIDAD MUNICIPAL CODE,

GENERAL NOISE REGULATIONS

WHEREAS, excessive noise can damage hearing and impact the character and quality of life for residents and visitors to the City of Trinidad; and

WHEREAS, residents are entitled to the peaceful use and enjoyment of their property; and

WHEREAS, the establishment of these noise standards will facilitate compliance and assist in the resolution of problems relating to excessive noise.

WHEREAS, this Ordinance is enacted pursuant to the City's police power as granted broadly under Article XI, Section 7 of the California Constitution in order to promote the health, safety and welfare of Trinidad residents,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRINIDAD DOES HEREBY ORDAIN AS FOLLOWS:

That new Chapter 8.06 is added to Title 8 of the Trinidad Municipal Code, to read as follows:

CHAPTER 8.06

GENERAL NOISE REGULATIONS

SECTION 8.06.010 PURPOSE AND FINDINGS

In order to serve the public health, safety, and welfare of the residents and businesses within the City of Trinidad, the declared purpose of this chapter is to set explicit standards and hours related to noise for the purpose of protecting citizens and visitors to Trinidad from noise disturbances, and to facilitate resolution of such problems if they do arise.

SECTION 8.06.020 QUIET HOURS

Excessive noise can impact citizens at all hours, but is especially problematic at night. Therefore, the City of Trinidad hereby establishes the period from 10 p.m. to 8

a.m. as quiet hours. The general restriction against noise that unreasonably disturbs the quiet use and enjoyment of residents and visitors to Trinidad applies at all times, but the standard of 'unreasonably disturbs' shall be considered much more strictly during quiet hours.

SECTION 8.06.030 EXCESSIVE NOISE PROHIBITED

It shall be unlawful for any person to unreasonably make, continue or cause to be made or continued, within the limits of the City of Trinidad, any disturbing, excessive or offensive noise which causes discomfort or annoyance to any reasonable persons of normal sensitivity residing in the area.

The following acts, among others, are declared to be offensive, loud, disturbing, and unnecessary noises originating from residential properties or on public ways in violation of this section, but such enumeration shall not be deemed to be exclusive:

(a) The using, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, stereo, television, or other machine or device for producing or reproducing sound in such a manner as to disturb the peace, quiet, and comfort of neighboring residential inhabitants at any time with volume louder than is necessary for convenient hearing for the persons who are in the room, vehicle, or chamber in which such machine or device is operating and who are voluntary listeners. The operation of any such set, instrument, phonograph, stereo, machine, or device in such a manner as to be audible to a person of normal hearing sensitivity, more than ten (10) feet from said real property parcel on which the structure is located between the hours of 10:00 p.m. and 8:00 a.m.

(b) The use or operation of a radio, tape player, tape recorder, record player, CD player, digital music player, smart phone, or similar sound device in any vehicle on a street, which is audible to a person of normal hearing sensitivity, more than twenty-five (25) feet from said vehicle.

(c) The use of power tools, lawn mowers, or other loud mechanical equipment during quiet hours such that it is audible to a person of normal hearing sensitivity more than ten (10) feet from the real property parcel on which the noise is being generated.

~~(d) Construction work or related activity between the hours of 7 p.m. and 7 a.m. on weekdays, or between 7 p.m. and 8 a.m. on Saturday and Sunday, unless other hours are specifically authorized by individual City Permit(s). As used in this section, "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property.~~

~~(e) Any animal, poultry, or household pet which by any sound or cry should unreasonably disturb the peace of any neighborhood, or interfere with any person or prevent the reasonable enjoyment of life or property, as previously set forth in Chapter 6.05 of the Trinidad Municipal Code.~~

(f) For other than noise sources identified in a-e above, the following noises shall be prohibited:

- a. Plainly audible across property boundaries ~~during quiet hours~~;
- b. Plainly audible through partitions common to two residences within a building;
- c. Plainly audible at a distance of 50 feet in any direction from the source of music or sound between the hours of 8:00 a.m. and 10:00 p.m.; or
- d. Plainly audible at a distance of 25 feet in any direction from the source of music or sound between the hours of 10:00 p.m. and 8:00 a.m.

As used in subsection (a) 'person of normal hearing sensitivity' means a person who has a hearing threshold level of between zero (0) decibels and twenty-five (25) decibels HL averaged over the frequencies 500, 1000, and 2000 Hertz.

SECTION 8.06.040 EXEMPTIONS

The following activities shall be exempt from the provisions of this Chapter:

(a) Emergency Work. The provisions of this Chapter shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work.

~~(b) Entertainment Events. The provisions of this Chapter shall not apply to those reasonable sounds emanating from:~~

- ~~i) school bands, school athletic and school entertainment events conducted between the hours of 8:00 a.m. and 10:00 p.m.;~~
- ~~ii) entertainment events that have been specifically permitted by the City where those permits address noise; and~~
- ~~iii) amplified music at Trinidad Town Hall until 11:00 pm on Friday and Saturday nights and 10:00 p.m. on all other nights.~~

(c) Federal or State Preempted Activities. The provisions of this Chapter shall not apply to any activity the noise level of which is regulated by state or federal law.

(d) Minor Maintenance to Residential Property. The provisions of this Chapter shall not apply to reasonable noise sources associated with minor maintenance to property used for residential purposes, provided the activities take place between the hours of 8:00 a.m. and 10:00 p.m. For the purposes of this Section, 'minor maintenance' means repair or construction work that does not require a permit from the City.

(e) Public Health, Welfare and Safety Activities. The provisions of this Chapter shall not apply to construction maintenance and repair operations conducted by public agencies and/or utility companies or their contractors which are deemed necessary to serve the best interests of the public and to protect the public health, welfare and safety, including but not limited to, trash collection, street sweeping, debris and limb removal, removal of downed wires, restoring electrical service, repairing traffic signals, unplugging sewers, vacuuming catch basins, repairing of damaged poles, removal of abandoned vehicles, repairing of water hydrants and mains, gas lines, oil lines, sewers, storm drains, roads, sidewalks, etc.

(f) Reasonable noise sources associated with commercial and recreational fishing activity at any hours.

SECTION 8.06.050 PENALTY

Except as may otherwise be expressly provided, any person who violates any provision of this Ordinance is guilty of a misdemeanor and shall, upon conviction thereof, be punished in the manner provided in Section 1.08.010 of the Trinidad Municipal Code.

SECTION 8.06.060 ENFORCEMENT

All reasonable and available evidence shall be considered by City staff and/or Humboldt County Sheriff's Officers in evaluating whether this Ordinance has been violated, including but not limited to recordings or measurements of sound levels, and witness statements.

The City of Trinidad, its residents, and visitors may resolve violations of this Noise Ordinance by one or more of the following procedures:

ENFORCEMENT BY THE PUBLIC

Generally, as a first step, all persons who believe their quiet use and enjoyment of their property has been impacted by violations of this Noise Ordinance are encouraged to try and peaceably resolve the problem by calmly and politely discussing the matter with any other involved person(s) unless it is feared it would be unsafe or dangerous to do so. If peaceable discussions do not resolve the noise problem or are not practicable, the public is encouraged to call the Humboldt County Sheriff's Department to report violations and request assistance, and to file a complaint with the City of Trinidad.

If problems are ongoing, the public is encouraged to consider filing a claim against any liable parties in Small Claims Court. Small Claims Court Judges can award damages and issue an injunction barring any future violations where the Court deems it appropriate and if the requisite legal standards have been met. Assistance with procedures and paperwork for enforcement of small claims judgments is available through the County Self-Help Center at 707-269-1223. The foregoing small claims court services are provided solely by Humboldt County and the City of Trinidad does not participate in or have any control of the services provided.

ENFORCEMENT BY CITY OF TRINIDAD AND THE HUMBOLDT COUNTY SHERIFF'S DEPARTMENT

The City Manager is authorized to investigate Noise Ordinance violations or to delegate the investigation to others at the City Manager's sole discretion or when directed to do so by the City Council.

The City of Trinidad's contract with the Humboldt County Sheriff's Department also authorizes the Humboldt County Sheriff's Department to use its police powers authority to cite and/or arrest any person violating this Noise Ordinance.

The City Council may, upon recommendations by the City Manager or of its own volition, authorize the City Attorney to file an abatement action to enjoin any future violations of this Noise Ordinance and to seek redress of past violations. If the abatement action is successful as to any defendant, that defendant shall be liable for actual damages and a fine of \$2,500 as well as the City of Trinidad's costs to bring the action and attorney fees. Costs to bring the action shall include legal costs as well as all City of Trinidad staff time resulting from the violation(s).

SECTION 8.07.070 SEVERABILITY

The City Council of the City of Trinidad hereby declares that should any section, paragraph, sentence, phrase, term or word of this Ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this Ordinance independent of the elimination here from of any such portion as may be declared invalid.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Trinidad held on the February 8, 2017, and thereafter passed and adopted at a regular meeting of said City Council held on _____, 2017, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

By: _____
Dwight Miller, Mayor

ATTEST:

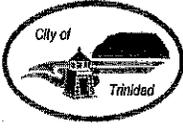
Gabe Adams, City Clerk



DISCUSSION AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 0 PAGES

3. Assign Councilmember(s) to assist in creating Trinidad Trails Committee



DISCUSSION AGENDA ITEM 4

SUPPORTING DOCUMENTATION FOLLOWS WITH: 8 PAGES

4. Consider Claim by Jim Baker for Expenses Related to Retaining Wall Construction, and Request for Assistance Resolving Property Boundaries.

ACTION AGENDA ITEM

Wednesday, February 8th, 2016

Item: J. Baker Claim and Request for Property Line Adjustment

Summary:

Jim Baker (as a citizen, not a Council Member) has two requests that require Council consideration. Staff believes he will need to recuse himself from the meeting for this discussion.

1. A request for \$1,499 as reimbursement for costs related to a small retaining wall that relates to a City Sidewalk project.
2. A request for assistance in resolving a property line issue. Jim's deeded parcel extends well over the sidewalks and into the street on the corner of Main and Trinity. He seeks to work with the City to clarify (perfect) the title issues involved, basically by giving that portion of his land that underlies the sidewalk and street back to the City .

Background:

Reimbursement Request:

Jim's letters are attached describing the history and his requests. The last two pages are a 'back and forth' discussion between myself and Jim that get to the heart of the request for \$1499.

Staff agree that the retaining wall was necessary, and that the costs are reasonable. It would certainly have cost more for the City to build the wall. The concern that staff has is in a precedent of paying for work that was undertaken without any commitment from the City. Given the scenario that occurred here, it would have been much better if Jim had either asked the City to build it, or submitted this request in advance of expending the funds rather than after the fact.

Claims against the City (which this are decided on a case by case basis by the Council. Given the small sums involved, the fact that the City's effort to widen the sidewalk created the need for the wall, and the benefit the wall provides to the City in terms of aesthetics and keeping the walk clear, Staff thinks it would be reasonable for the Council to approve this claim. Jim has submitted detailed copies of all expenses (not included in this packet).

Property Line Request.

Staff recommend that the Council authorize staff to work with Jim to develop a more detailed proposal, with cost estimates, to resolve this property line issue. Staff would then return to Council for direction.

Staff Recommendation:

Approve Reimbursement Claim

Direct staff to work with Jim on a detailed proposal to resolve the property line issue, and return to Council with that proposal.

James H. Baker
Land Surveyor

June 13, 2016

Dan Berman, City Manager
City of Trinidad

Dear Dan,

In the past year, I have discussed with you the necessity of our constructing a short retaining wall on the north side of our property at 311 Trinity Street to contain the lawn in that area from encroaching onto the City sidewalk as a result of bioturbation by gophers and other natural processes. In addition, it was becoming increasingly difficult for me to maintain that portion of the adjacent lawn area with a lawnmower due to the steepness of the slope adjacent to the sidewalk and the absence of a retaining wall.

When we purchased the property in 1995, there was an existing 3' high concrete block wall adjacent to the back of the City sidewalk which retained the planted area between the sidewalk and the residence. That wall extended from our property corner on the east side of Trinity Street running northerly to the intersection with Main Street, and continuing easterly along the back of the 5' wide sidewalk at the southerly right-of-way line of Main Street to a point approximately 35 feet west of the west edge of our garage driveway. At the easterly termination of that wall, the 5' wide sidewalk transitioned to a 3' wide sidewalk, with our lawn area extending to the back edge of it. From that point easterly along the south side of Main Street for the entire two blocks extending across Ocean Avenue to the west side of View Street, the sidewalk was, and remains to this day, between 3' and 4' wide. This is totally inadequate for the level of pedestrian traffic adjacent to the thoroughfare of Main Street, especially during the peak tourist season in the summer months, and makes it difficult for oncoming groups of pedestrians to pass each other without having to exit the sidewalk and walk out into the traffic lane past parked vehicles in order to do so. I have personally seen this happen many times.

Accordingly, when I was approached by the City Road Commissioner in 2007 and told that a project for Main Street which would improve parking, pedestrian walkways, and traffic flow was in the planning phase, I was anxious to cooperate in any way I could as an adjacent landowner. I was asked whether I would be amenable to deeding an additional foot of our property along Main Street to the City in order to facilitate the project. I told him that we would be open to doing that, contingent upon our approval of the proposed design plans. Shortly thereafter, the Publics Works Director, Noell, requested that in the meantime, the 2' wide, 33' long strip of lawn on the south side of Main Street which was not adjacent to the existing retaining wall be converted to concrete sidewalk to make it 5' wide in that area, in anticipation of the upcoming improvement project which would, I assumed, result in the entire length of sidewalk on that side of Main Street being converted to an acceptable condition and width. Under those conditions, I agreed to allowing that to be done. Bryan Buckman and other public works employees completed the task, at Noell's direction.

My wife and I were absentee property owners of the parcel at that time and were working and residing in Southern Humboldt County, so were not able to attend public hearings during the design phase of the Main Street improvement project nor give input or receive design updates as the process moved forward. It became immediately apparent when we moved into the house in 2012, however, that the final design plans did not include any improvements whatsoever to our (southerly) side of Main Street, as we had previously been led to believe when we agreed to have the 2' wide, 33' long strip of our lawn converted to sidewalk by a City crew. In the interim, Publics Works Director Noell had passed away and the city road commissioner who had originally approached us regarding the proposed improvements for

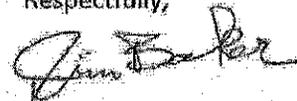
the south side of Main Street had moved out of the City and resigned his position on the City Council. I do have a copy of a memo to me from planner Trever Parker dated July 30, 2007, however, affirming that the City was considering widening the sidewalk along our side of Trinity and Main Streets, and that City officials might want to take that into consideration before approving an improvement project on our property which we were proposing at that time. I am attaching a copy of the memo from Trever with that portion of the memo highlighted.

As I previously noted, the absence of a retaining wall at the back of the new portion of sidewalk has resulted in increased maintenance problems in keeping the lawn area from encroaching again on the City sidewalk. This was largely a direct result of regrading it and making it steeper to accommodate the wider sidewalk. As I have informed you, I found it necessary to hire a private company who is licensed to deal with such problems (Lindquist Landscapes), to build a small retaining wall to correct the situation caused by widening of the sidewalk.

I am enclosing the Lindquist invoice dated 6/15/15 for services rendered in that regard, in the amount of \$1161.57, along with a receipt for wall caps from Miller Farms for \$37.53 dated 6/17/15, and my cancelled check in the amount of \$200 to Colin Ott masonry for applying the caps to match the existing wall dated 2/15/16. In addition, I spent 4 hours of my own time digging the footings in preparation for forming and pouring the wall by Lindquist Landscapes, for which I would like to be reimbursed at the rate of \$25/ hour, for a total of \$100.00 for my own labor.

I am also attaching two 2011 photos from google maps portraying the lawn area prior to construction of the retaining wall, but after the pouring of the additional 2' wide portion of sidewalk, which can clearly be seen as the lighter portion of the sidewalk in the photos. The resulting steep slope of the lawn area can also be clearly seen. The total out-of-pocket construction costs incurred by me for the additional improvements necessary to mitigate problems on my property caused by City widening of the sidewalk adjacent to it in preparation for proposed City project improvements which never came to fruition, totals \$1499.00. I would appreciate your attention to this matter, and remittance of a check for that amount as reimbursement at your earliest convenience.

Respectfully,



Jim Baker

James H. Baker
Land Surveyor

July 10, 2016

Dear Dan,

Thanks for your response to my letter to you of June 13 regarding our request for reimbursement of costs expended to deal with maintenance issues resulting from the City widening of the sidewalk adjoining our 311 Trinity Street property line along the south side of Main Street. I am attaching a copy of the response with my comments to each item superimposed in red. Feel free to include any of my written communications regarding this matter in the council agenda packet which includes council consideration of any such reimbursement. Joan and I have nothing to hide in this regard and we feel that our request speaks for itself. I would be glad to absent myself from the meeting during which the matter may be discussed, to avoid any sense of embarrassment on the part of other council members or the public who may be uneasy about speaking on this subject during open session in my presence. On the contrary, as I hope you know by now, I welcome honest, respectful dissenting views on any opinions I may voice in open session. This includes, of course, issues which affect me personally, subject to my legal obligation to recuse myself from voting, but I will not relinquish my individual entitlement as a resident of Trinidad to assert my own rights simply because it might make someone else uneasy.

In that regard, I have to bring up the issue of public and City encroachment upon the northwest portion of our property at 311 Trinity Street, as described in the deed to that parcel recorded in the County Recorder's office. I need to bring this matter up in the context of our request to be reimbursed for construction of the retaining wall, because the two are inextricably entwined. I originally approached the City in 2007 to correct the encroachment situation, and that is how I first learned of the impending plans to improve Main Street and the possibility of the City requesting that we deed them an additional 1' strip of our parcel adjoining the south right-of-way line of Main Street. It was suggested that the area of public road, sidewalk and drop inlet which was already encroaching upon our deed description could be included in the new recorded legal description and compensation which would be necessary for City acquisition of the 1' strip adjoining the existing public right-of-way.

That is obviously not under consideration at this point, but clearing the title for the area of City encroachment upon our deed description and perfecting whatever title the public and the City may have by means of a quiet title judgment and the recording of new deeds, or by other legal means, still needs to take place in order to impart constructive notice of the change in deeded ownership. It is the City's responsibility to make this happen, and I am hereby requesting that the City move ahead with it as soon as possible.

I am not contesting the legal reality that the public and the City may have acquired some prescriptive rights to the encroachment area through continued public and City use and improvement over the years and the acquiescence of some of the past owners of the property who may have been aware of the encroachment. Frankly, however, I am not certain that any of the former owners of our parcel were aware that their property was being encroached upon by the City, especially in light of the long history of ignoring property boundaries and title rights exhibited by City officials and City residents. This situation has been compounded in some cases by an apparent inability or disinterest on the part of some individuals who have written deeds or recorded surveys within the City to produce a description or map which is adequately retraceable on the ground. For those reasons, I am asking that the City initiate and pay the costs associated with a quiet title action to perfect whatever unwritten rights that the Court determines the City and the public may have acquired over our deeded title. The recording of such court action and new deed descriptions is necessary in order to give title companies and future

potential property owners their constructive notice of such change in the property boundaries of the parcel.

I would appreciate your contacting the City Attorney to get his opinions regarding this matter as soon as possible and request that he express those opinions in writing to both of us, along with any alternate suggestions he may have to settle the issue, as soon as conveniently possible. In lieu of initiating a quiet title action, we would consider signing a quitclaim deed for fee title or a public easement to the City for the area in question upon compensation for that parcel based on the percentage of its area (+/- 150 sq. ft.) to the total deeded area, multiplied by the total value of the "land" (undeveloped) portion of our parcel as determined by the Assessor's Office on the present County tax rolls. This is the proposal I originally proposed to the City in 2007 which was never followed up on.

I want to emphasize three facts that may be helpful to the City Attorney in forming his opinions:

1) The standard title report we were issued did not include any recorded document which would have given constructive notice of any interest in the parcel described in our deed on the part of the City or the public. An ALTA report would, I assume, have discovered the encroachment on the ground and given us notice of it prior to close of escrow, but the issuance of an ALTA report is not standard practice in the course of an escrow involving residential property unless specifically requested by the potential buyer.

2) The County Assessor's records do not show any change in our parcel boundaries from its original deed description, and we have been paying taxes regularly since we acquired the property based on the deed description, which includes the physical encroachments enumerated herein. A copy of the Assessor's Map is attached.

3) There have been numerous recorded survey maps depicting our deeded parcel, all of which show the boundary of the parcel exactly as it is described in our recorded deed. These recorded maps include the earliest recorded map of the City of Trinidad by J.S. Murray dated 1871; a 1906 plat of Lot No. 7 by W.F. Hunter recorded in Book 4 of Surveys, Page 67; a 1951 Survey of the Peter A. Hanson Estate by Dewey Dolf recorded in Book 12 of Surveys, Page 141; and the Record of Survey by E.L. Macmillan for the City of Trinidad recorded in 1962 in Book 19 of Surveys, Page 120. Copies of all these recorded surveys are attached.

This last Macmillan and Larson survey was performed at the request of the City of Trinidad expressly for the purpose of establishing a system of street monumentation from which the property boundaries of parcels within the City limits can be determined and monumented by subsequent surveys. Even though this survey and record map was for the specific purpose of determining and depicting the property boundaries of City parcels based on older recovered monumentation, it continues to indicate that the legal boundaries of our parcel were at that time exactly as set forth in our recorded deed description. I'm not certain whether the present physical encroachments such as the drop inlet, curbs or sidewalks were in existence at that time, but it is safe to assume that the map was reviewed by the City Engineer at that time prior to its recording, and there is no indication on the map that the right-of-way line in the area of the present physical encroachments had changed by virtue of a fee title deed, public easement, or any other written or oral agreement prior to the recording of the map.

3) The construction plans for the most recent improvement projects during the past ten years in the area of the encroachment still show the City and public right-of-way line exactly as described in the recorded deed that we received when we acquired the parcel in 1998. These include the Gateway Improvement Project and the later Stormwater Improvement Project which both included the area at

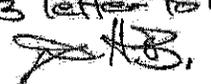
the intersection of Trinity and Main Streets. Both of these construction drawings depict the existing curb and gutter, sidewalk and drop inlet within the boundaries of our parcel, as labeled on the drawings as "R/W", the standard civil engineering abbreviation for "Right-of-Way". Since these drawings were produced by the same company (GHD, formerly Winzler and Kelly) who employs our contracted City Engineer who is responsible for reviewing the drawings on behalf of the City, this appears to be an implicit recognition on behalf of City officials that the City improvements are encroaching on our deeded property description outside of the City and public right-of-way. Copies of the relevant pages of the recent Gateway and Stormwater Improvement construction projects produced by GHD are attached herein.

Also attached is a copy of our original 1998 title insurance policy, which includes the Grant Deed legal description.

I would appreciate your forwarding copies of this letter and attachments to the City Attorney for his consideration and opinions. A hard copy of this email, along with the attachments, will be submitted to you. Thank you for your attention to this matter.

Respectfully,

Jim Baker

July 11, 2016 response to Davis request to confirm his understanding James H. Baker of my June 13 letter to him
Land Surveyor 

Hi Jim,

As an initial response to your letter of June 13th 2016 - I wanted to restate the situation to make sure I understand it clearly and make sure we are all on the same page with the basic facts. Please confirm that the following summary is accurate from your perspective.

- In 2007 you agreed to a City request to widen the sidewalk adjacent to your property. This entailed converting a 2' by 33' strip of lawn to concrete so that the sidewalk could go from 3' wide to 5' wide in this area.

As the third paragraph of my initial letter to you details, we agreed to allow City personnel to remove a 2' wide strip of our lawn which was within the City right-of-way, in order to widen the sidewalk in that area to a width of 5' from its existing 3' width, in anticipation of the upcoming Main Street improvement project which we had previously been told by the City Road Commissioner would probably involve a request from the City to deed an additional 1' strip of our property frontage along Main Street to widen the public right-of-way in that area. This is what Trever refers to in her July 20, 2007 memo regarding the City needing "additional room on the north (this should have been "south") Main Street side. The property owner (me) has indicated a willingness to work with the City as needed." At that time I did not make my approval of the sidewalk widening contingent upon the concurrent construction of an adjoining retaining wall at the back of the new sidewalk, as already was the case along the entire length of the existing 5' sidewalk, because the existing retaining wall, along with any new addition to it which was constructed at the time of the sidewalk widening, would have to be demolished and rebuilt during the construction of the Main Street Improvements if we deeded an additional foot along our property frontage to the City. It would have been a waste of money and time to construct a 33' long wall addition at that time, knowing that there was a probability that it would be demolished and rebuilt a foot farther to the south in the near future.

- The City completed this sidewalk widening at their expense.

Yes, a City crew completed the sidewalk widening. It was a City sidewalk entirely within the City right-of-way, constructed at the City's request, not mine.

- You thought this effort was going to be a part of widening the sidewalk all along this southern side of Main St, but to date only this strip along your property has been widened.

Yes, I believed that to be true because I was told by a City Official that it was a good possibility. Obviously nothing else on the south side of Main Street has been widened or improved (or regularly maintained by the City, for that matter) because two people still cannot comfortably walk side by side or pass each other along the entire length of narrow sidewalk between our property and View Street.

- The City work left the new interface between your yard and the widened sidewalk in a condition that you felt required work to address. Specifically the steep slope of the yard at the interface made it difficult to mow, and resulted in dirt accumulating on the sidewalk (gophers, erosion, etc...).

Yes, but my "feeling" that work was required is based on the laws of physics and the particular habits of the gophers that are endemic to Trinidad, to wit: Prior to the sidewalk widening in 2007, the slope of the lawn terminating at the back of the existing 3' wide sidewalk averaged about 30%. After the new sidewalk was poured, the top of the soil slope behind it remained at the same elevation, as did the elevation of the new sidewalk at the toe of the slope, but the horizontal distance between the two of them was decreased by two feet. This mathematically resulted in an increase in the steepness of the slope to about 50%, roughly the angle of repose of the loose material kicked out of the gopher holes on a regular basis. This material was gradually carried down to the toe of the slope at the sidewalk by rain, gravity, mowing of the lawn, and the activities of more gophers. Increasing the steepness of the slope accelerated this movement of soil downhill, resulting in my having to regularly cut back the toe of the slope to keep it off the sidewalk. As you know, it is City policy that it is the responsibility of property owners to maintain the sidewalks adjoining their property. Although my wife and I are among the few residents of Trinidad to actually do that, I think it is too much to ask of us to increase our efforts in that regard as a direct result of a change in the City's reconstruction plans which we were not informed of nor had any influence over.

- In 2015 you decided to resolve these problems by having a low retaining wall built at this sidewalk/yard interface at a cost of approximately \$1,500. My agreement to the widening of the sidewalk, was based on the implicit understanding that the soil behind the sidewalk would be retained in that position in some manner after the reconstruction of our side of Main Street in the near future. Ultimately the City made a decision not to carry that out, and I finally had to take reasonable action to do so by having a licensed local contractor construct a low retaining wall. We do not feel that we should be held financially responsible for that, under the circumstances. I have submitted copies of invoices and an accounting of my own physical labor expended in the construction process in the amount of \$1499.
- You are now requesting that the City reimburse you for those costs, based on the argument that these costs result from the City's sidewalk widening project. The foregoing statement is correct.

Thank you
Dan

Daniel Berman
City Manager
City of Trinidad
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P. O. Box 390
Trinidad, CA 95570