

AMENDMENT NO. 1

Dated: May 22, 2015

City Council Agenda

May 26, 2015

6:00 p.m.

City of Turlock Yosemite Room

156 S. Broadway, Turlock, California



Mayor
Gary Soiseth

Council Members

William DeHart, Jr. Steven Nascimento
Matthew Jacob Amy Bublak
 Vice Mayor

City Manager
Roy W. Wasden
City Clerk
Kellie E. Weaver
City Attorney
Phaedra A. Norton

SPEAKER CARDS: To accommodate those wishing to address the Council and allow for staff follow-up, speaker cards are available for any agenda item or any other topic delivered under Public Comment. Please fill out and provide the Comment Card to the City Clerk or Police Officer.

NOTICE REGARDING NON-ENGLISH SPEAKERS: The Turlock City Council meetings are conducted in English and translation to other languages is not provided. Please make arrangements for an interpreter if necessary.

EQUAL ACCESS POLICY: If you have a disability which affects your access to public facilities or services, please contact the City Clerk's Office at (209) 668-5540. The City is committed to taking all reasonable measures to provide access to its facilities and services. Please allow sufficient time for the City to process and respond to your request.

NOTICE: Pursuant to California Government Code Section 54954.3, any member of the public may directly address the City Council on any item appearing on the agenda, including Consent Calendar and Public Hearing items, before or during the City Council's consideration of the item.

AGENDA PACKETS: Prior to the City Council meeting, a complete Agenda Packet is available for review on the City's website at www.cityofturlock.org and in the City Clerk's Office at 156 S. Broadway, Suite 230, Turlock, during normal business hours. Materials related to an item on this Agenda submitted to the Council after distribution of the Agenda Packet are also available for public inspection in the City Clerk's Office. Such documents may be available on the City's website subject to staff's ability to post the documents before the meeting.

1. **A. CALL TO ORDER**

B. SALUTE TO THE FLAG

2. **PROCLAMATIONS, RECOGNITIONS, APPOINTMENTS, ANNOUNCEMENTS & PRESENTATIONS**

- A. Proclamation: Disability Awareness Month, June 2015 accepted by Shannon Anderson
- B. Proclamation: Lupus Awareness Month, May 2015 accepted by Amanda Ashlock
- C. Recognition: Stanislaus County Office of Education Awards - Recreation Staff

3. **A. SPECIAL BRIEFINGS**

B. STAFF UPDATES

1. Water Conservation Efforts and Progress Update (*Reynolds & Van Guilder*)

C. PUBLIC PARTICIPATION

This is the time set aside for members of the public to directly address the City Council on any item of interest to the public that is within the subject matter jurisdiction of the City Council and to address the Council on any item on tonight's agenda, including Consent Calendar items. You will be allowed five (5) minutes for your comments. If you wish to speak regarding an item on the agenda, you may be asked to defer your remarks until the Council addresses the matter.

No action or discussion may be undertaken on any item not appearing on the posted agenda, except that Council may refer the matter to staff or request it be placed on a future agenda.

4. **A. MOTION WAIVING READING OF ALL ORDINANCES ON THE AGENDA, EXCEPT BY TITLE**

B. DECLARATION OF CONFLICTS OF INTEREST AND DISQUALIFICATIONS

5. **CONSENT CALENDAR**

Information concerning the consent items listed hereinbelow has been forwarded to each Councilmember prior to this meeting for study. Unless the Mayor, a Councilmember or member of the audience has questions concerning the Consent Calendar, the items are approved at one time by the Council. The action taken by the Council in approving the consent items is set forth in the explanation of the individual items.

- A. Resolution: Accepting Demands of 4/23/15 in the amount of \$670,836.75; Demands of 4/30/15 in the amount of \$770,517.82
- B. Motion: Accepting Minutes of Regular Meeting of May 12, 2015
- C. Motion: Approving Contract Change Order No. 1 in the amount of \$20,457.90 (Fund 215) for City Project No. 12-35, "Various Road Rehabilitation," bringing the contract total to \$857,299.30
- D. Motion: Approving Contract Change Order No. 2 in the amount of \$11,227.66 (Fund 305) for City Project No. 13-49, "Dianne Drive Realignment," bringing the contract total to \$852,175.06
- E.
 1. Motion: Awarding a retainer agreement in an amount not to exceed \$150,000 with Kleinfelder, Inc., of Modesto, California, for City Project No. 15-20, "RFQ for Materials Testing and Inspection Retainer Agreement"
 2. Motion: Awarding a retainer agreement in an amount not to exceed \$150,000 with River City Geoprosessionals, Inc., dba Wallace-Kuhl and Associates, of West Sacramento, California, for City Project No. 15-20, "RFQ for Materials Testing and Inspection Retainer Agreement"
- F. Motion: Awarding a retainer agreement in an amount not to exceed \$75,000 with LPAS, Inc., of Sacramento, California, for City Project No. 15-21, "RFQ for Landscape Architectural Services Retainer Agreement"
- G. Motion: Awarding a retainer agreement in an amount not to exceed \$75,000 with Omni-Means, Ltd., of Roseville, California, for City Project No. 15-22, "RFQ for Traffic Engineering Services Retainer Agreement"

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- H. *Motion:* Awarding bid and approving an agreement in the amount of \$11,457 (Fund 302) with Darrale Patrias Electrical Contractor Inc., of Turlock, California, for City Project No. 15-31, "Gemstone Way Electrolier"
- I. *Resolution:* Considering Intention to Levy and Collect Assessments for the Taco Bell Landscaping, Lighting, and Street Maintenance Benefit Assessment District, Development Project No. 15-34
- J. 1. *Motion:* Accepting notification of Contract Change Order No. 5 in the decreased amount of (\$85,679.91) (Fund 415) for City Project No. 0751, "Turlock Regional Water Quality Control Facility Headworks and Secondary Treatment Capacity Expansion - Phase 1," bringing the contract total to \$23,170,183.67
2. *Motion:* Accepting improvements for City Project No. 0751, "Turlock Regional Water Quality Control Facility Headworks and Secondary Treatment Capacity Expansion - Phase 1, and authorizing the City Engineer to file a Notice of Completion
- K. *Resolution:* Directing the filing of the Annual Reports for Fiscal Year 2015-16 for Assessment Districts in the City of Turlock
- L. *Resolution:* Authorizing the closure of North Soderquist Road, between West Canal Drive and Fulkerth Road, for the Kat Country Listener Appreciation Concert (LAC) at the Stanislaus County Fairgrounds on Saturday, June 6, 2015, from 10:00 a.m. to 8:00 p.m., and authorizing the City Manager to apply appropriate conditions and restrictions
- M. *Resolution:* Approving an amendment to the Fiscal Year 2014-15 Budget to appropriate \$20,000 to account number 110-10-112.47088 "Cargo Container Amnesty Program" from Fund 110 "General Fund" Reserve Balance to subsidize the cost of Planning Permits for Cargo Containers required pursuant to TMC §9-2-125
- N. *Motion:* Accepting the Analysis of Impediments to Fair Housing Report as required by the United States Department of Housing and Urban Development
- O. *Motion:* Approving a Service Provider Agreement with Intuit Mint Bills, Inc., to provide utility customers with a payment source by mobile application and customer support for a period of twelve (12) months
- P. *Motion:* Approving a Memorandum of Understanding between the City of Turlock and the Turlock National Little League for the use of Pedretti Park and Soderquist Field for youth baseball programs within the community
- Q. 1. *Motion:* Making the determination that the Aeronautical Survey of the Turlock Municipal Airport in support of the Runway 12/30 widening project is exempt from the provisions of CEQA in accordance with Section 15262 Feasibility and Planning Studies
2. *Resolution:* Authorizing the submittal of an application, acceptance of an allocation of funds, and execution of a grant agreement with the Federal Aviation Administration for an Aeronautical Survey of the Turlock Municipal Airport in support of the Runway 12/30 widening project
- R. *Motion:* Authorizing the City Manager or designee to execute the service maintenance agreement and addendum with Microbiz Security Company beginning July 2, 2015 through June 30, 2016, to provide full preventive maintenance for City of Turlock security and camera systems, for a total amount not to exceed \$14,000 annually
- S. *Resolution:* Adopting a Debt Obligation Continuing Disclosure Policy and Related Procedures
- T. ***Motion:* Authorizing the City Manager to enter into a Professional Services Agreement and sign an engagement letter with Kemper CPA Group, LLP, (Stockton Office), in an amount not to exceed \$15,000 to perform a compliance audit of the Convention and Visitors Bureau "Tourism Fund" for the period of January 1, 2009 through May 3, 2015**

6. **FINAL READINGS:**

A. **Recommended Action:**

Ordinance: Amending Turlock Municipal Code Title 6, Chapter 7, regarding Water Conservation and Education; Title 6, Chapter 5, Sections 105(f), 114, 117(e), 701, and 702(a) regarding Water Conservation Measures and Construction Water; and Title 6, Chapter 6, Section 02(r) regarding Cross-Connection Control and Backflow Prevention Devices as introduced at the May 12, 2015 meeting.

7. **PUBLIC HEARINGS**

Challenges in court to any of the items listed below, may be limited to only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the Turlock City Council at, or prior to, the public hearing.

- A. Request to amend Turlock Municipal Code Title 4, Chapter 6, Article 3, regarding prohibited parking and authorized removal of vehicles (also known as “tow-away zones”). (*Pitcock*)

Recommended Action:

Ordinance: Amending Turlock Municipal Code Title 4, Chapter 6, Article 3, regarding prohibited parking and authorized removal of vehicles (also known as “tow-away zones”)

8. **SCHEDULED MATTERS:**

- A. Request to approve an agreement between the Turlock Irrigation District and the City of Turlock to purchase sixty-four (64) district owned streetlights, in an amount not to exceed \$19,208.80. (*Reynolds*)

Recommended Action:

Motion: Approving an agreement between the Turlock Irrigation District and the City of Turlock to purchase sixty-four (64) district owned streetlights, in an amount not to exceed \$19,208.80

- B. Request to authorize the City Manager to execute the agreement with Packet Fusion, Inc., to purchase the ShoreTel Telecommunications Platform systems (phone systems) for City of Turlock, for an inclusive purchase of all items and services, with a five (5) year preventive service agreement identified in the Packet Fusion agreement and City Contract No. 15-023, in an amount not to exceed \$240,216.43; Authorize the City Manager to execute City Contract No. 15-24, Communication Strategies (Com-Strat LLC), to provide project management for the City of Turlock Telecommunications Platform (phone system) purchase and implementation of systems in an amount not to exceed \$18,915; Appropriate \$100,000 to account number 112-10-116.44117 “Phone System” to be funded via a transfer from Fund 110 “General Fund” unappropriated reserves to provide funding for the purchase of a new City-wide phone system. (*Amirfar*)

Recommended Action:

Motion: Authorizing the City Manager to execute an agreement with Packet Fusion, Inc., to purchase the ShoreTel Telecommunications Platform systems (phone systems) for City of Turlock, for an inclusive purchase of all items and services, with a five (5) year preventive service agreement identified in the Packet Fusion agreement and City Contract No. 15-023, in an amount not to exceed \$240,216.43

Motion: Authorizing the City Manager to execute City Contract No. 15-24, Communication Strategies (Com-Strat LLC), to provide project management for the City of Turlock Telecommunications Platform (phone system) purchase and implementation of systems in an amount not to exceed \$18,915

Resolution: Appropriating \$100,000 to account number 112-10-116.44117 "Phone System" to be funded via a transfer from Fund 110 "General Fund" unappropriated reserves to provide funding for the purchase of a new City-wide phone system

~~C. Request to receive information, preview, discuss and provide direction for the City of Turlock Strategic Plan 2015-2019. (Wasden)~~

~~Recommended Action:~~

~~None – Discussion and Informational Item Only~~

~~Receive information, preview, discuss and provide direction for the City of Turlock 2015-2019 Strategic Plan~~

9. COUNCIL ITEMS FOR FUTURE CONSIDERATION

10. COUNCIL COMMENTS

Councilmembers may provide a brief report on notable topics of interest. The Brown Act does not allow discussion or action by the legislative body.

11. CLOSED SESSION

12. ADJOURNMENT



Council Synopsis

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May 26, 2015

From: Kellie L. Jacobs-Hunter, Administrative Services Director

Prepared by: Kellie L. Jacobs-Hunter, Administrative Services Director

Agendized by: Roy W. Wasden, City Manager

1. ACTION RECOMMENDED:

Motion: Authorizing the City Manager to enter into a Professional Services Agreement and sign an engagement letter with Kemper CPA Group, LLP, (Stockton Office), in an amount not to exceed \$15,000 to perform a compliance audit of the Convention and Visitors Bureau "Tourism Fund" for the period of January 1, 2009 through May 3, 2015

2. DISCUSSION OF ISSUE:

On May 12, 2015, the City Council accepted the City Manager's recommendation to enter into a Professional Services Agreement with an outside accounting/auditing firm to conduct a formal accounting/audit of the Convention and Visitors Bureau "Tourism Fund" for the period January 1, 2009 through May 3, 2015. The May 12, 2015 staff report stated that the Professional Services Agreement would be brought back to the Council for approval on May 26, 2015.

Administrative Services Director, Kellie Jacobs-Hunter, sent out Requests for Proposal for said services. The City received one response to said RFP. The responses are set forth below:

Kemper CPA Group, LLP (Stockton Office)
Estimated Cost: \$10,000-\$15,000 + Expenses

Based upon the responses received, City staff recommends contracting with Kemper CPA Group, LLP (Stockton Office) to perform the services requested.

3. BASIS FOR RECOMMENDATION:

Strategic Plan Initiative: B. FISCAL RESPONSIBILITY

Goal(s): a. Create an "efficient" yet effective City government organization.

4. FISCAL IMPACT / BUDGET AMENDMENT:

Account No. 512-10-152.43016 contains \$15,000 for the cost of the Convention and Visitors Bureau audit.

5. CITY MANAGER'S COMMENTS:

The City Manager recommends approval.

6. ENVIRONMENTAL DETERMINATION:

N/A

7. ALTERNATIVES:

- A) Do not authorize City Manager to enter into Professional Services Agreement or sign engagement letter with Kemper CPA Group, LLP (Stockton Office).



AGREEMENT FOR SPECIAL SERVICES
between
CITY OF TURLOCK
and
KEMPER CPA GROUP, LLP (Stockton Office)
for
Agreed-Upon Procedures Pertaining to Agreement for Tourism Services

THIS AGREEMENT is made this 26th day of May, 2015, by and between the **CITY OF TURLOCK**, a municipal corporation of the State of California hereinafter referred to as "CITY" and **Kemper CPA Group, LLP (Stockton Office)**, Certified Public Accountants and Consultants, hereinafter referred to as "CONSULTANT."

WITNESSETH:

WHEREAS, in accordance with California Government Code §37103, CITY has a need for agreed-upon procedures to be performed related to the Agreement for Tourism Services with the Turlock Chamber of Commerce; and

WHEREAS, CONSULTANT has represented itself as duly trained, qualified, and experienced to provide such special service, hereinafter referred to as "Services."

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. SCOPE OF WORK: CONSULTANT shall furnish all labor, equipment, materials and process, implements, tools, and machinery, except as otherwise specified, which are necessary and required to provide the Services and shall perform such special services in accordance with the standards of its profession and the specifications attached hereto as Exhibit A. CONSULTANT shall provide Services that are acceptable to CITY.

2. PERSONNEL AND EQUIPMENT: CONSULTANT shall provide all personnel needed to accomplish the Services hereunder. CONSULTANT shall additionally acquire, provide, maintain, and repair, at its sole cost and expense, such equipment, materials, and supplies as CONSULTANT shall reasonably require to accomplish said Services.

3. SAFETY REQUIREMENT: All Services and merchandise must comply with California State Division of Industrial Safety orders and O.S.H.A.

4. COMPENSATION: CITY agrees to pay CONSULTANT in accordance with Exhibit A as full remuneration for performing all Services and furnishing all staffing and materials called for in Exhibit A and for performance by CONSULTANT of all of its duties and obligations under this Agreement. In no event shall the sum of this Agreement exceed Fifteen Thousand and 00/100^{ths} Dollars (\$15,000.00). CONSULTANT agrees that compensation shall be paid in the manner and at the times set forth below:

(a) Invoices: CONSULTANT shall submit dated invoices to CITY specifying the date, location and service rendered, and the charge therefor.

(b) Payment:

(1) All payments by CITY shall be made in arrears, after satisfactory service, as determined and approved by CITY, has been provided. Payment shall be made by CITY no more than thirty (30) days from CITY's receipt of invoice.

(2) CITY shall normally pay by voucher or check within ten (10) working days after each meeting at which payments can be authorized, provided that CITY receives the invoice at least five (5) working days prior to CITY's meeting date.

(3) If CITY disputes any items on an invoice for a reasonable cause, which includes but is not limited to unsatisfactory service, CITY may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions. The amounts and reasons for such deletions shall be documented to CONSULTANT within fifteen (15) working days after receipt of invoice by CITY. CITY shall assign a sequential reference number to each deletion.

(4) If dispute is settled, payment shall be by voucher or check payable to and mailed to CONSULTANT within five (5) working days of dispute settlement.

(5) CITY reserves the right to only pay for such services rendered to the satisfaction of CITY.

5. TERM OF AGREEMENT: This Agreement shall become effective upon execution and shall continue in full force and effect until CONSULTANT completes all the work required to be performed under the agreed-upon procedures and is accepted by the CITY, subject to CITY's availability of funds.

6. INSURANCE: CONSULTANT shall not commence work under this Agreement until CONSULTANT has obtained CITY's approval regarding all insurance requirements, forms, endorsements, amounts, and carrier ratings, nor shall CONSULTANT allow any subcontractor to commence work on a subcontract until all similar insurance required of the subcontractor shall have been so obtained and approved. CONSULTANT shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONSULTANT, its agents, representatives, employees or subcontractors. Failure to maintain or renew coverage or to provide evidence of renewal may constitute a material breach of contract.

(a) Minimum Scope of Insurance: Coverage shall be at least as broad as:

(1) Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01) with an additional insured endorsement (form CG 20 10 for ongoing operations and 20 37 for products/completed operations), to be approved by the City of Turlock.

(2) Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto).

(3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(4) Errors and Omissions/Professional Liability Insurance.

(b) Minimum Limits of Insurance: CONSULTANT shall maintain limits no less than:

(1) General Liability (including operations, products and completed operations): \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

(2) Automobile Liability: \$1,000,000 per occurrence for bodily injury and property damage.

(3) Workers' Compensation: as statutorily required by the State of California. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

(4) Errors and Omissions/Professional Liability: \$1,000,000 per claim.

(c) Deductibles and Self-Insured Retentions: Upon request of CITY, any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its elective and appointive boards, officers, agents, employees, and volunteers; or (2) CONSULTANT shall provide a financial guarantee satisfactory to CITY guaranteeing payment of losses and related investigations, claim administration and defense expenses.

(d) Other Insurance Provisions: The commercial general liability policy shall contain, or be endorsed to contain, the following provisions:

(1) CITY, its elective and appointive boards, officers, agents, employees, and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONSULTANT, including materials, parts or equipment furnished in connection with such work or operations, which coverage shall be maintained in effect for at least three (3) years following the completion of the work specified in the contract. General liability coverage can be provided in the form of an endorsement to CONSULTANT's insurance (at least as broad as CG 20 10 for ongoing operations and CG 20 37 for products/completed operations), or as a separate Owners and Contractors Protective Liability policy providing both ongoing operations and completed operations coverage.

(2) For any claims related to this project, CONSULTANT's insurance coverage shall be primary insurance as respects CITY and any insurance or self-insurance maintained by CITY shall be excess of CONSULTANT's insurance and shall not contribute with it.

(3) In the event of cancellation, non-renewal, or material change that reduces or restricts the insurance coverage afforded to CITY under this Agreement, the insurer, broker/producer, or CONSULTANT shall provide CITY with thirty (30) days' prior written notice of

such cancellation, non-renewal, or material change.

(4) Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

(e) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

(f) Verification of Coverage: CONSULTANT shall furnish CITY with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by CITY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive CONSULTANT'S obligation to provide them. CITY reserves the right, at any time, to require complete, certified copies of all required insurance policies and endorsements.

(g) Waiver of Subrogation: With the exception of professional liability, CONSULTANT hereby agrees to waive subrogation which any insurer of CONSULTANT may acquire from CONSULTANT by virtue of the payment of any loss. The commercial general liability policy and workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of CITY for all work performed by CONSULTANT, its agents, employees, independent contractors and subcontractors. CONSULTANT agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation.

(h) Subcontractors: CONSULTANT shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

7. INDEMNIFICATION: CONSULTANT shall indemnify, defend, and hold harmless CITY and its elective and appointive boards, officers, agents, employees, and volunteers from and against all claims, damages, losses and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of CONSULTANT, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of CITY.

8. INDEPENDENT CONTRACTOR RELATIONSHIP: All acts of CONSULTANT, its agents, officers, and employees and all others acting on behalf of CONSULTANT relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of CITY. CONSULTANT, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of CITY. CONSULTANT has no authority or responsibility to exercise any rights or power vested in the CITY. No agent, officer, or employee of the CITY is to be considered an employee of CONSULTANT. It is understood by both CONSULTANT and CITY that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

CONSULTANT, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of CITY.

CONSULTANT shall determine the method, details and means of performing the

work and services to be provided by CONSULTANT under this Agreement. CONSULTANT shall be responsible to CITY only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to CITY's control with respect to the physical action or activities of the CONSULTANT in fulfillment of this Agreement. CONSULTANT has control over the manner and means of performing the services under this Agreement. CONSULTANT is permitted to provide services to others during the same period service is provided to CITY under this Agreement. If necessary, CONSULTANT has the responsibility for employing other persons or firms to assist CONSULTANT in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by CONSULTANT, such persons shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the CONSULTANT.

It is understood and agreed that as an independent contractor and not an employee of CITY neither the CONSULTANT or CONSULTANT'S assigned personnel shall have any entitlement as a CITY employee, right to act on behalf of the CITY in any capacity whatsoever as an agent, or to bind the CITY to any obligation whatsoever.

It is further understood and agreed that CONSULTANT must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONSULTANT'S personnel.

As an independent contractor, CONSULTANT hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. VOLUNTARY TERMINATION: CITY may terminate this Agreement without cause or legal excuse by providing thirty (30) days' written notice to CONSULTANT.

10. TERMINATION OF STATED EVENT:

(a) Termination on Occurrence of Stated Events. This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of CONSULTANT, (2) legal dissolution of CONSULTANT, or (3) death of key principal(s) of CONSULTANT.

(b) Termination by CITY for Default of CONSULTANT. Should CONSULTANT default in the performance of this Agreement or materially breach any of its provisions, at its option CITY may terminate this Agreement by giving written notification to CONSULTANT. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of CITY's property by CONSULTANT, dishonesty or theft.

(c) Termination by CONSULTANT for Default of CITY. Should CITY default in the performance of this Agreement or materially breach any of its provisions, at its option CONSULTANT may terminate this Agreement by giving written notice to CITY. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate

reasonably with CONSULTANT, willful destruction of CONSULTANT's property by CITY, dishonesty or theft.

(d) Termination for Failure to Make Agreed-Upon Payments. Should CITY fail to pay CONSULTANT all or any part of the payments set forth in this Agreement on the date due, at its option CONSULTANT may terminate this Agreement if the failure is not remedied within thirty (30) days after CONSULTANT notifies CITY in writing of such failure to pay. The termination date shall be the effective date of the notice.

(e) Termination by CITY for Change of CONSULTANT'S Tax Status. If CITY determines that CONSULTANT does not meet the requirements of federal and state tax laws for independent contractor status, CITY may terminate this Agreement by giving written notice to CONSULTANT. The termination date shall be the effective date of the notice.

(f) In the Event of Termination. If this Agreement is terminated pursuant to this Paragraph, CONSULTANT shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If CITY so requests, and at CITY's cost, CONSULTANT shall provide sufficient oral or written status reports to make CITY reasonably aware of the status of CONSULTANT'S work on the project. Further, if CITY so requests, and at CITY's cost, CONSULTANT shall deliver to CITY any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, CITY will pay CONSULTANT an amount based on the percentage of work completed on the termination date, this percentage shall be determined by CITY in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by CITY for Default of CONSULTANT, CONSULTANT understands and agrees that CITY may, in CITY's sole discretion, refuse to pay CONSULTANT for that portion of CONSULTANT'S services which were performed by CONSULTANT on the project prior to the termination date and which remain unacceptable and/or not useful to CITY as of the termination date.

11. CONFORMANCE WITH FEDERAL AND STATE LAW: All equipment, supplies and services used by CONSULTANT in the performance of this Agreement shall conform to the laws of the government of the United States and the State of California.

12. NONDISCRIMINATION: In connection with the execution of this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of age, race religion, color, sex, or national origin. CONSULTANT shall take affirmative action to insure that applicants are employed, and the employees are treated during their employment, without regard to their age, race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotions, demotions or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT shall also comply with the requirement of Title VII of the Civil Rights Act of 1964 (P.L. 88-352) and with all applicable regulations, statutes, laws, etc., promulgated pursuant to the civil rights acts of the government of the United States and the State of California now in existence or hereafter enacted. Further, CONSULTANT shall comply with the provisions of Section 1735 of the California Labor Code.

13. TIME: Time is of the essence in this Agreement.

14. ENTIRE AGREEMENT AND MODIFICATION: This Agreement supersedes all previous Agreements and constitutes the entire understanding of the parties hereto. CONSULTANT

shall be entitled to no other benefits than those specified herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. CONSULTANT specifically acknowledges that in entering into and executing this Agreement, CONSULTANT relies solely upon the provisions contained in this Agreement and no others.

15. OBLIGATIONS OF CONSULTANT: Throughout the term of this Agreement, CONSULTANT shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. CONSULTANT warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the CITY with the services contemplated by this Agreement. CONSULTANT further represents that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

16. OWNERSHIP OF DOCUMENTS: All reports, data, drawings, plans, designs, specifications, graphics, calculations, working papers, models, flow diagrams, visual aids, and other incidental work or materials furnished hereunder shall become and remain the property of the CITY, and may be used by CITY as it may require without any additional cost to CITY. No reports shall be used by the CONSULTANT for purposes other than this contract without the express prior written consent of CITY.

17. NEWS AND INFORMATION RELEASE: CONSULTANT agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from CITY through the City Manager.

18. INTEREST OF CONSULTANT: CONSULTANT warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT warrants that, in performance of this Agreement, CONSULTANT shall not employ any person having any such interest. CONSULTANT agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this contract if so required at the option of CITY.

19. AMENDMENTS: Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for CITY or CONSULTANT to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with CITY and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, CITY will not be responsible to pay any charges CONSULTANT may incur in performing such additional services, and CONSULTANT shall not be required to perform any such additional services.

20. PATENT/COPYRIGHT MATERIALS: Unless otherwise expressly provided in the contract, CONSULTANT shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. CONSULTANT shall furnish a warranty of such right to use to CITY at the request of CITY.

21. CERTIFIED PAYROLL REQUIREMENT: For CONSULTANTS performing field work on public works contracts on which prevailing wages are required, CONSULTANT shall comply with the provisions of the California Labor Code including, but not limited to Section 1776, regarding payroll records, and shall require its subconsultants and subcontractors to comply with that section

as may be required by law.

22. PARTIAL INVALIDITY: If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

23. WAIVER: The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

24. AUDIT: CITY's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify CONSULTANT'S charges to CITY under this Agreement.

CONSULTANT agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for CONSULTANT services. CITY's representative shall have the right to reproduce any of the aforesaid documents.

25. GOVERNING LAW: This Agreement shall be governed according to the laws of the State of California.

26. HEADINGS NOT CONTROLLING: Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

27. COMPLIANCE WITH LAWS: CONSULTANT shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws including, but not limited to, prevailing wage laws, if applicable. CONSULTANT shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits.

28. CITY BUSINESS LICENSE: CONSULTANT will have a City of Turlock business license.

29. ASSIGNMENT: This Agreement is binding upon CITY and CONSULTANT and their successors. Except as otherwise provided herein, neither CITY nor CONSULTANT shall assign, sublet, or transfer interest in this Agreement or any part thereof without the prior written consent of the other.

30. RECORD INSPECTION AND AUDIT: CONSULTANT shall maintain adequate records to permit inspection and audit of CONSULTANT's time and material charges under this Agreement. CONSULTANT shall make such records available to CITY during normal business hours upon reasonable notice. Such records shall be turned over to CITY upon request.

31. EXCLUSIVE USE: Services provided within the scope of this Agreement are for the exclusive use of CITY and CONSULTANT agrees that, until final approval by CITY, all data, plans, specifications, reports, and other documents will not be released to third parties by CONSULTANT without the prior written consent of CITY.

32. EMPLOYMENT OF CITY OFFICIAL OR EMPLOYEE: CONSULTANT shall employ no CITY official or employee in the work performed pursuant to this Agreement. No officer or employee of CITY shall have any financial interest in this Agreement in violation of California

Government Code Sections 1090 *et seq.*; nor shall CITY violate any provision of its Conflict of Interest Code adopted pursuant to the provisions of California Government Code Sections 87300 *et seq.*

33. NOTICE: Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail, if delivery is by postage paid, registered, or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time:

for CONSULTANT: Kemper CPA Group, LLP
3031 West March Lane, Suite 133 South
Stockton, CA 95219
PHONE: (209) 473-2001
FAX: (209) 473-1761

for CITY: CITY OF TURLOCK
ATTN: Kellie L. Jacobs-Hunter
156 SOUTH BROADWAY, SUITE 230
TURLOCK, CALIFORNIA 95380-5454
PHONE: (209) 668-5542 Ext. 1104
FAX: (209) 668-5668

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by and through their respective officers thereunto duly authorized.

CITY OF TURLOCK, a municipal corporation

KEMPER CPA GROUP, LLP

By: _____
Roy W. Wasden, City Manager

By: _____

Date: _____

Title: _____

Print name: _____

APPROVED AS TO FORM:

Date: _____

By: _____
Phaedra A. Norton, City Attorney

ATTEST:

By: _____
Kellie E. Weaver, City Clerk



May 19, 2015

City of Turlock
156 S. Broadway, Suite 230
Turlock, Ca 95380

We are pleased to confirm our understanding of the nature and limitations of the services we are to provide for The City of Turlock.

We will apply the agreed-upon procedures which The City of Turlock has specified, listed in the attached Schedule I, to the Agreement for Tourism Services between the City of Turlock and the Turlock Chamber of Commerce for the period of January 1, 2009 through May 3, 2015. This engagement is solely to assist The City of Turlock by performing the agreed-upon procedures pertaining to the Agreement for Tourism Services between the City of Turlock and the Turlock Chamber of Commerce. Our engagement to apply agreed-upon procedures will be conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of the procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described in the attached Schedule I either for the purpose for which this report has been requested or for any other purpose. If, for any reason, we are unable to complete the procedures, we will describe any restrictions on the performance of the procedures in our report, or will not issue a report as a result of this engagement.

Because the agreed-upon procedures listed in the attached Schedule I do not constitute an examination, we will not express an opinion on the agreed-upon procedures pertaining to the Agreement for Tourism Services between the City of Turlock and Turlock Chamber of Commerce. In addition, we have no obligation to perform any procedures beyond those listed in the attached Schedule I.

We will submit a report listing the procedures performed and our findings. This report is intended solely for the use of The City of Turlock, and should not be used by anyone other than these specified parties. Our report will contain a paragraph indicating that had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

You are responsible for selecting the criteria and determining that such criteria are appropriate for your purposes.

Lammert Van Laar is the engagement partner and is responsible for supervising the engagement and signing the report or authorizing another individual to sign it.

We plan to begin our procedures on a specified date as agreed and, unless unforeseeable problems are encountered, the engagement should be completed within 60 days. At the conclusion of our engagement, we will require a representation letter from management that, among other things, will confirm management's responsibility that the criterion is appropriate for your purpose.

We estimate that our fees for these services will range from \$10,000 to \$15,000. You will also be billed for travel and other out-of-pocket costs such as report production, word processing, postage, etc. Additional expenses are estimated to be \$1,000. The fee estimate is based on anticipated cooperation

from your personnel and the assumption that unexpected circumstances will not be encountered during the engagement. 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. 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 60 or more overdue and will 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 expenditures through the date of termination.

We appreciate the opportunity to assist you 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. If the need for additional procedures arises, our agreement with you will need to be revised. It is customary for us to enumerate these revisions in an addendum to this letter. If additional specified parties of the report are added, we will require that they acknowledge in writing their responsibility for the sufficiency of procedures.

Very truly yours,

Kemper CPA Group LLP

Kemper CPA Group, LLP

RESPONSE:

This letter correctly sets forth the understanding with The City of Turlock.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

Schedule I - Schedule of Procedures to be Performed

Agreed-Upon Procedures as noted in request for proposal:

- Review the Agreement and all associated Amendments along with all approved Turlock City Council actions related to the Agreement.
- Apply the terms of the Agreement and all Amendments to financial documentation from the Turlock Chamber of Commerce to determine compliance under the Agreement. The period under review is January 9, 2009 through May 3, 2015.
- Review the Turlock Chamber of Commerce's internal controls related to the Agreement and determine the adequacy of those procedures as it related to the expenses charged under the Agreement.
- Test transactions selected by City of Turlock to determine compliance under the Agreement.
- Review all transactions on General ledger for each year and test transactions that appear irregular.
- Review all transactions expensed under Chamber Administration on the General Ledger for each year to determine compliance under the agreement.
- Perform other related services as directed by the City of Turlock as it pertains to the Agreement.
- Issue a report enumerating the procedures performed and the results of those procedures. The report shall include a findings section that will identify any exceptions, errors, internal control weaknesses, unallowable costs, and noncompliance issues as a result of the procedures performed.
- Attend Turlock City Council Meeting and present report to City Council and be available to answer any questions regarding the report, procedures followed, and findings.

Schedule II - Hourly Rates and Fees

We are available throughout the year to assist staff on general financial, accounting, tax and compliance issues. Brief phone calls throughout the year are not tracked or charged. In depth research of complex accounting or consulting issues would incur fees based on the amount of time expended by each professional at his/her standard billing rate.

Barring circumstances beyond our control, we will commit to perform the work within the specified time period agreed upon in advance. Should a situation arise that requires extended services or services other than those described in this letter, their extent and additional fees will be discussed with you and your authorization obtained before we perform the work.

Requested services which are outside the AUP services as outlined on the engagement letter will be billed at our standard hourly rates. However, we will provide you with an estimate of our fees for additional services prior to the work being performed. The range of hourly rates is as follows:

Hourly Rates

Partners	\$200 to \$305
Managers	\$165 to \$200
Seniors	\$135 to \$155
Staff Accountants I & II	\$ 95 to \$135