

# AGENDA

**TEHACHAPI CITY COUNCIL SPECIAL MEETING,  
TEHACHAPI REDEVELOPMENT SUCCESSOR AGENCY SPECIAL MEETING,  
TEHACHAPI PUBLIC FINANCING AUTHORITY SPECIAL MEETING, AND  
TEHACHAPI CITY FINANCING CORPORATION SPECIAL MEETING**

**BEEKAY THEATRE  
110 SOUTH GREEN STREET  
MONDAY, JUNE 24, 2013 – 6:00 P.M.**

Persons desiring disability-related accommodations should contact the City Clerk no later than ten days prior to the need for the accommodation. A copy of any writing that is a public record relating to an open session of this meeting is available at City Hall, 115 South Robinson Street, Tehachapi, California.

## CALL TO ORDER

## ROLL CALL

## PLEDGE TO FLAG

## CONSENT AGENDA/OPPORTUNITY FOR PUBLIC COMMENT

All items listed with an asterisk (\*) are considered to be routine and non-controversial by city staff. Consent items will be considered first and may be approved by one motion if no member of the council or audience wishes to comment or ask questions. If comment or discussion is desired by anyone, the item will be removed from the consent agenda and will be considered in listed sequence with an opportunity for any member of the public to address the city council concerning the item before action is taken. Staff recommendations are shown in caps. Please turn all cellular phones off during the meeting.

## FINANCE DIRECTOR REPORTS

- \*1. Formal commitment of an amount of fund balance to be set aside specifically for emergency contingencies as required by the Governmental Accounting Standards Board Statement No. 54 (GASB54) – **ADOPT A RESOLUTION APPROVING THE CITY OF TEHACHAPI'S EMERGENCY CONTINGENCY COMMITMENT OF FUND BALANCE FOR THE GENERAL FUND AND REPEALING RESOLUTION NO. 22-12**
  
- \*2. Termination of audit services agreement with Teaman, Ramirez & Smith due to inability to provide future services and approval of an agreement with Van Lant & Fankhanel for future auditing services – **APPROVE THE TERMINATION OF THE AUDIT SERVICES AGREEMENT BETWEEN THE CITY OF TEHACHAPI AND TEAMAN, RAMIREZ & SMITH AND APPROVE THE AGREEMENT BETWEEN THE CITY OF TEHACHAPI AND VAN LANT & FANKHANEL FOR FUTURE AUDITING SERVICES**

### **CITY ENGINEERS REPORTS**

3. Tehachapi Police Department Bids – **AWARD THE TEHACHAPI POLICE DEPARTMENT PROJECT TO ASPEN BUILDERS, INC. IN THE AMOUNT OF \$2,880,537.00 AND AUTHORIZE THE CITY MANAGER TO APPROVE ANY NECESSARY CHANGE ORDERS UP TO A MAXIMUM OF 5% OF THE ORIGINAL CONTRACT (OR \$144,026)**

### **ASSISTANT CITY MANAGER REPORTS**

- \*4. Agreement with David Reed, dba Kingsmen Tractor for weed abatement services – **APPROVE THE AGREEMENT BETWEEN THE CITY OF TEHACHAPI AND DAVID REED, dba KINGSMEN TRACTOR FOR WEED ABATEMENT SERVICES SUBJECT TO REVIEW AND APPROVAL BY THE CITY ATTORNEY**

### **CITY MANAGER REPORTS**

- \*5. Amendment to agreement with Van Lant & Fankhanel, LLP for Transient Occupancy Tax Audit Services to extend the audit period from one to three years and increase the maximum cost per hotel from \$3000 to \$5000 – **APPROVE THE AMENDED AGREEMENT BETWEEN THE CITY OF TEHACHAPI AND VAN LANT & FANKHANEL, LLP AND AUTHORIZE THE MAYOR TO SIGN**
6. The City Council held a special meeting on June 24, 2013 at 4:00 pm, on the five-year budget for Fiscal-Years 2013/14 through 2017/18 – **ADOPT THE PROPOSED RESOLUTION APPROVING AND ADOPTING THE CITY OF TEHACHAPI'S BUDGET FOR THE FISCAL YEAR 2013/14 AND PRELIMINARY BUDGET FOR FISCAL YEARS 2014/15, 2015/16, 2016/17 AND 2017/18**

### **ADJOURNMENT**

# COUNCIL REPORTS

MEETING DATE: JUNE 24, 2013 AGENDA SECTION: FINANCE DIRECTOR

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**TO:** HONORABLE MAYOR SMITH AND COUNCIL MEMBERS

**FROM:** HANNAH CHUNG, FINANCE DIRECTOR

**DATE:** JUNE 13, 2013

**SUBJECT:** FUND BALANCE POLICY FOR GOVERNMENTAL FUNDS

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## BACKGROUND

In February 2009, the Governmental Accounting Standards Board issued its Statement No. 54 (GASB 54), *Fund Balance Reporting and Governmental Fund Type Definitions*. The objective of this statement is to improve financial reporting and help with understanding the fund balance by presenting the fund balance in five new components. The five new components are Nonspendable Fund Balance, Restricted Fund Balance, Committed Fund Balance, Assigned Fund Balance and Unassigned Fund Balance.

The implementation of GASB 54 by local governments was required for the first fiscal year ending June 30, 2011. The first step in the City's implementation of GASB 54 was the formal adoption of a Fund Balance Policy (Policy), which was adopted on June 20, 2011. The Policy explains the five components of the fund balance and formally designates the Finance Director as the City official to determine and define the amounts of the fund balance to assign for specific purposes for inclusion in the annual financial reports.

The attached resolution is the City Council's formal commitment of an amount of fund balance to be set aside specifically for emergency contingencies defined as a state or federal state of emergency or declaration of a local emergency. The amount is set at \$809,629 for fiscal year 2012/13. It should be noted that this amount and/or commitment may be changed with the adoption of a new resolution by the City Council.

## FISCAL IMPACT

None.

## RECOMMENDATION

Adopt a resolution approving the City of Tehachapi's emergency contingency commitment of fund balance for the general fund and repealing Resolution No. 22-12

# ADMINISTRATIVE POLICY

**Policy: Fund Balance Policy for the Governmental Funds**

**Adopted by Council: June 20, 2011, Resolution No. 28-11**

**Responsible Department: Finance**

## ***POLICY***

This Fund Balance Policy establishes the procedures for reporting unrestricted fund (Committed, Assigned and Unassigned funds) balance in the financial statements of governmental funds. Certain commitments and assignments of fund balance will help ensure that there will be adequate financial resources to protect the City against unforeseen circumstances and events such as revenue shortfalls and unanticipated expenditures. The policy also authorizes and directs the Finance Director to prepare financial reports which accurately categorize fund balance as per Governmental Accounting Standards Board (GASB) Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions.

## ***PROCEDURES***

Fund balance is essentially the difference between the assets and liabilities reported in a governmental fund. There are five separate components of fund balance, each of which identifies the extent to which the City is bound to honor constraints on the specific purposes for which amounts can be spent.

***Nonspendable fund balance (inherently nonspendable):*** A portion of a fund balance that cannot be spent because they are either (a) not in spendable form or (b) legally or contractually required to be maintained intact. i.e., Inventories, Prepaid expenditures, Advances to other funds, Loans receivable

***Restricted fund balance (externally enforceable limitations on use):*** A portion of a fund balance that reflects constraints placed on the use of resources (other than nonspendable items) that are either (a) externally imposed by creditors, grantors, contributors, or laws or regulations of other governments; or (b) imposed by law through constitutional provisions or enabling legislation. i.e., Mitigation fees, Grants for specific purpose, Taxes dedicated to a specific purpose, and Revenues restricted by enabling legislation.

***Committed fund balance (self-imposed limitations on use):*** A portion of a fund balance that includes amounts that can only be used for specific purposes pursuant to constraints imposed by formal action of the government's highest level of decision making authority, and remain binding unless removed in the same manner. i.e., Fund set aside for specific purpose by resolution.

***Assigned fund balance (limitation resulting from intended use):*** A portion of a fund balance that includes amounts that are constrained by the government's intent to be used for specific purposes, but that are neither restricted nor committed. Such intent needs to be established at either the highest level of decision making, or by an official designated for that purpose.

***Unassigned fund balance (residual net resources)***: A portion of a fund balance that includes amounts that do not fall into one of the above four categories. The General Fund is the only fund that should report this category of fund balance.

The first two components listed above are not addressed in this policy due to the nature of their restrictions. This policy is focused on financial reporting of unrestricted fund balance or the last three components listed above. These three components are further defined below.

### **Committed Fund Balance**

As described above, the Committed Fund Balance is approved by either an ordinance or resolution. The General Fund Emergency Contingency Fund is to be committed by adoption of a resolution by the City Council.

The General Fund Emergency Contingency Fund is calculated using the prior fiscal year total expenditure. From the total expenditure, subtract total capital project costs. Then the difference is divided by 12 months and then multiplied by 2 months. This calculation is based on the recommendation of the Government Finance Officers Association (GFOA).

### **Assigned Fund Balance**

Amounts that are constrained by the City's *intent* to be used for specific purposes, but are neither restricted nor committed, should be reported as assigned fund balance. This policy hereby delegates the authority to assign amounts to be used for specific purposes to the Finance Director for the purpose of reporting these amounts in the annual financial statements. A few examples of assigned fund balance follow.

- **Continuing Appropriations**

Fund balance levels must be sufficient to meet funding requirements for projects approved in prior years and which must be carried forward into the new fiscal year.

- **Debt Service**

Established to provide for future debt service obligations.

- **Budget Balancing Measures**

Funds set aside for the purpose of stabilizing the delivery of City services during periods of operational budget deficits and to mitigate the effects of major economic uncertainties resulting from unforeseen changes in revenues and/or expenditures.

### **Unassigned Fund Balance**

These are residual positive net resources of the general fund in excess of what can properly be classified in one of the other four categories.

### **Fund Balance Classification**

When an expenditure is incurred for purposes for which amounts in any of the unrestricted classifications of fund balance could be used, the City considers committed amounts to be reduced first, followed by assigned amounts and then unassigned amounts.

This policy is in place to provide a measure of protection for the City against unforeseen circumstances and to comply with GASB Statement No. 54. No other policy or procedure supersedes the authority and provisions of this policy.

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY  
OF TEHACHAPI APPROVING THE CITY OF  
TEHACHAPI'S EMERGENCY CONTINGENCY  
COMMITMENT OF FUND BALANCE FOR THE  
GENERAL FUND AND REPEALING RESOLUTION NO.  
22-12**

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WHEREAS, the Governmental Accounting Standards Board (GASB) has issued its Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions with the intent of improving financial reporting by providing fund balance categories that will be more easily understood; and

WHEREAS, the City Council of the City of Tehachapi has considered "Fund Balance Policy for the Governmental Fund" ("Policy") which outlines the policy and procedures enacted to accurately categorize and report fund balance in governmental funds; and

WHEREAS, the "Policy" provides that the City Council may commit General Fund balance for specific purposes by taking formal action and these committed amounts cannot be used for any other purpose unless the City Council removes or changes the specific use through the same formal action taken to establish the commitment; and

WHEREAS, the Finance Director has recommended to the City Council that the General Fund Emergency Contingency Commitment of General Fund balance be established at \$809,629 for Fiscal Year 2012-13; and

WHEREAS, the City Council has determined that the General Fund Emergency Contingency Commitment of General Fund balance should be approved at \$809,629 for Fiscal Year 2012-13 as recommended by the Finance Director.

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

SECTION 1. The City Council hereby establishes and approves the General Fund Emergency Contingency Commitment of General Fund balance of \$803,629 for Fiscal Year 2012-13.

SECTION 2. The City Council has determined that the specific purposes for which the General Fund Emergency Contingency Commitment Fund may be used are the declaration of a state or federal state of emergency or a local emergency and these uses may only be changed by approval of a subsequent resolution.

SECTION 3. The City Council hereby confirms that in any fiscal year in which recurring sources exceed recurring uses in the General Fund, the amount of the General Fund Emergency Contingency Commitment of General Fund balance will be estimated to be an amount equal to two (2) months of regular General Fund operating uses.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Tehachapi at a Special Meeting this 24th day of June, 2013 by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

\_\_\_\_\_  
PHILIP SMITH, Mayor of the  
City of Tehachapi, California

ATTEST:

\_\_\_\_\_  
DENISE JONES, CMC  
City Clerk of the City of Tehachapi

I hereby certify that the foregoing resolution was duly and regularly adopted by the City Council of the City of Tehachapi at a Special Meeting thereof held on June 24, 2013.

\_\_\_\_\_  
DENISE JONES  
City Clerk of the City of Tehachapi



APPROVED
DEPARTMENT HEAD: <i>[Signature]</i>
CITY MANAGER: _____

# COUNCIL REPORTS

MEETING DATE: JUNE 24, 2013 AGENDA SECTION: FINANCE DIRECTOR

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**TO:** HONORABLE MAYOR SMITH AND COUNCIL MEMBERS

**FROM:** HANNAH CHUNG, FINANCE DIRECTOR

**DATE:** JUNE 19, 2013

**SUBJECT:** TERMINATION OF AUDIT SERVICES AGREEMENT WITH TEAMAN, RAMIREZ & SMITH AND APPROVAL OF AUDIT SERVICES AGREEMENT WITH VAN LANT & FANKHANEL

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## BACKGROUND

On May 16, 2011, after an RFP process, the firm of Teaman, Ramirez & Smith, Inc (TRS) was engaged to provide independent financial auditing and report preparation services for the City. The engagement partner, Mr. Greg Fankhanel and their senior personnel, Mr. Brett Van Lant, provided services for the fiscal year end (FYE) 2011 and 2012. The services provided were in accordance with the professional services agreement with the City and they also performed required agreed upon procedures for the City of Tehachapi as the Successor Agency to the Tehachapi Redevelopment Agency. The work performed was done in a timely and professional manner.

Recently, Mr. Fankhanel and Mr. Van Lant left TRS and formed the public accounting firm Van Lant & Fankhanel, LLP (VLF). The City was recently informed by TRS that since these two individuals principally handled the governmental auditing practices for their company, that TRS would be unable to provide future auditing services for the City. Based on the contract with TRS, the agreement can be terminated by the City at any time by giving consultant thirty days prior written notice.

In addition, the City would now like to enter into an agreement with Van Lant & Fankhanel to continue our auditing services for a term of four years with the option for an extension for another four years.

## FISCAL IMPACT

The proposed audit service fee from the VLF for the FYE 2013 is \$40,000 which is \$2,050 lower than the contract fee with TRS. The proposed audit service fees for FYE 2013, 2014, 2015 and 2016 are \$40,000, \$40,000, \$41,000 and \$41,000 respectively.

## RECOMMENDATION

1. Terminate the May 16, 2011 contract with Teaman, Ramirez & Smith.
2. Approve the audit service agreement with Van Lant & Fankhanel and authorize the Mayor to sign upon review and approval by the City Attorney.

## **AGREEMENT**

**THIS AGREEMENT** (the "Agreement") made this 16<sup>th</sup> day of May, 2011, by and between the CITY OF TEHACHAPI (the "City"), and TEAMAN, RAMIREZ & SMITH, INC., a California Corporation (the "Consultant"),

### **WITNESSETH:**

WHEREAS, the City wishes to engage Consultant to perform auditing services as more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Services") pursuant to the terms and conditions described hereinafter and Consultant is agreeable thereto.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth hereinafter, the parties agree as follows:

1. The parties incorporate the foregoing recitals as if fully set forth herein verbatim.

2. City hereby contracts with Consultant to perform the Services and Consultant hereby agrees to perform the Services for City pursuant to the terms and conditions of this Agreement.

3. The term of this Agreement (the "Term") shall commence on the date of this Agreement and terminate on completion of the financial audit for fiscal year 2012-2013 unless earlier terminated as hereinafter provided.

4. Consultant shall perform the Services for each fiscal year during the Term for a fee (the "Fee") as hereinafter described: for fiscal year 2010 – 2011, the Fee shall be \$47,050.00; for fiscal year 2011 – 2012, the Fee shall be \$42,050.00; and for fiscal year 2012 – 2013, the Fee shall be \$42,050.00.

(a) The Consultant shall submit invoices (the "Invoices") for the Services no more often than monthly which shall include a description of all Services performed and such additional information as requested by the City Manager. The City Manager or his designated representative shall have the right of reasonable review of the Invoice and the Services described therein and, at the conclusion of the review, shall place the matter on the agenda for the next available City Council meeting for consideration. Upon approval of the Invoice by the City Council, Consultant shall be paid in the regular cycle of payments made by the City for other bills and claims.

5. Consultant shall indemnify, defend and hold harmless the City and its officers, Councilpersons, Commissioners, employees, and agents from any and all claims, liabilities, expenses, and damages arising out of or in any way connected with any act or omission by or on behalf of Consultant. Notwithstanding the foregoing, to the extent that City provides Consultant with information, records, or other documents necessary or convenient for Consultant to complete the Services, Consultant may rely on the accuracy and completeness of same (except as otherwise advised by City in writing) and Consultant shall have no liability for same to the extent that they are incomplete or inaccurate.

6. Without limiting Consultant's obligations under Paragraph 5 of this Agreement, Consultant shall obtain and maintain during the life of this Agreement professional and negligent acts, errors and omissions insurance satisfactory to the City Attorney in an amount not less than \$1 million per occurrence.

7. Consultant shall not assign its interest herein or any part thereof and any attempted assignment shall be void.

8. City may terminate this Agreement at any time by giving Consultant thirty days prior written notice. In such event, Consultant shall be entitled to payment for that portion of the Fee represented by the amount of the Services completed by Consultant to the date of termination as reasonably determined by City in consultation with Consultant.

9. All notices required to be given under this Agreement or by law shall be in writing and shall be deemed received by the party to whom directed if personally served or if faxed or emailed or when deposited in the United States mail, registered or certified, postage prepaid, addressed, faxed or emailed as follows: If to City, City Manager, 115 South Robinson Street, Tehachapi, California 93561, Fax – (661) 822-2197; Email – [hchung@tehachapicityhall.com](mailto:hchung@tehachapicityhall.com); or if to Consultant, Greg Fankhanel, 4201 Brockton Avenue, Suite 100, Riverside, California 92501, Fax – (951) 274-7828, Email – [gfankhanel@trscpas.com](mailto:gfankhanel@trscpas.com). Any

party may change its address or fax number or email address by giving notice to the other party in the manner herein described.

10. Time is of the essence with regard to each covenant, condition and provision of this Agreement.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

12. This Agreement constitutes the entire Agreement between the parties with regard to the subject matter herein and supersedes all prior oral and written agreements and understandings between the parties with respect thereto.

13. This Agreement may not be altered, amended, or modified except by a writing executed by duly authorized representatives of all parties.

14. In the event any action or proceeding is instituted arising out of or relating to this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and actual costs.

15. This Agreement may be executed in counterparts and the respective signature pages for each party may thereafter be attached with the body of this Agreement to constitute one integrated Agreement which is as fully effective and binding as if the entire document had been signed at one time.

16. Notwithstanding any provision to the contrary, this Agreement shall not become effective and shall not be binding as to any party until all of the parties have executed this Agreement.

17. Waiver by a party of any provision of this Agreement shall not be considered a continuing waiver or a waiver of any other provision, including the time for performance of any such provision.

18. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors, and assigns.

19. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and not be affected, impaired, or invalidated thereby.

20. City and Consultant each acknowledge that each party and their respective legal counsel have reviewed this Agreement and agree that this Agreement

is the product of negotiations between the parties. This Agreement shall be interpreted without reference to the rule of interpretation of documents that uncertainties or ambiguities therein shall be determined against the party so drafting the Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date first hereinabove written.

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ED GRIMES, Mayor, City of Tehachapi,  
California, "**City**"

TEAMAN, RAMIREZ & SMITH, INC.,  
a California Corporation, "**Consultant**"

By: \_\_\_\_\_  
GREG FANKHANEL, Partner

## EXHIBIT "A" [Description of Services]

### Audit Approach

The engagement partner is a working partner and will be involved in much of the audit, including fieldwork. The audit staff will perform audit fieldwork under the supervision of the engagement partner.

Our past experience, relating to our approach to the audits, has indicated that the most important service that can be rendered to clients is to be available at all times during the year. This approach allows the clients the opportunity to consult with the auditors about technical problems and alternative approaches to accounting issues that arise during the year.

We take a customized approach to each and every municipal audit. We will apply the recently adopted "Risk Assessment" audit standards to your audits. These standards require an in-depth understanding of the City and its environment, including its internal control, performance of a rigorous assessment of the risks of material misstatement of the financial statements based on that understanding, and further determination of the nature, timing, and extent of audit procedures performed in response to those risks. We utilize general audit programs developed by authoritative and non-authoritative sources, for example, the AICPA, United States General Accounting Office (GAO), State Controller's Office, Practitioner's Publishing Company (PPC) as well as those tailor-made for specific areas of the audit.

Our sampling methods are designed to provide the most coverage possible without expending excess time where impractical. We also concentrate efforts towards those areas known to be susceptible to error. Sample sizes will depend upon our preliminary assessment of control risk and the extent of our planned substantive tests and analytical procedures.

Additionally, we have incorporated SAS (Statement on Auditing Standard) No. 99, Consideration of Fraud in a Financial Statement Audit, into our audit process. As a result, we will specifically: 1) evaluate whether programs and controls address identified fraud risks and whether the controls are suitably designed and placed in operation and; 2) assess the fraud risks, taking into account our evaluation, to determine whether an audit response is required. As part of this assessment we will discuss how fraud could possibly occur and be prevented with various City personnel. Additionally, we will examine adjusting journal entries as part of our assessment. Under SAS 99 we are required to review and assess the City's operations with regard to fraud. Realizing the sensitivity of such a subject, we will conduct our procedures in such a way as to not cause alarm. We will take the time to explain the reasoning of why we are asking such questions and that they are not meant to be accusatory but rather are necessary for us to complete our assignment. This requirement applies to all financial statement auditors but we believe our communicative approach is superior to others.

Shortly after our appointment as auditors, we will schedule a preaudit planning meeting during which we will discuss any special concerns, needs and the timing of the audit with appropriate members of the City's staff. We will also schedule audit progress meetings and an exit conference with the appropriate

City staff and Finance Committee (if applicable) during our engagement to discuss any findings and issues we encountered during the audit. All of our recommendations will be discussed with appropriate personnel in a timely manner. Drafts of all financial reports and management letters will be submitted prior to the issuance of final reports.

We are aware of the amount of additional work and inconvenience the annual audit brings to the City's staff. However, we feel our service approach, and the experience level of the Partner and staff assigned to your audit, will eliminate many of the common problems experienced during an audit, such as:

management letter recommendations made without a thorough understanding of the feasibility of the recommendation;

"year-end surprises;"

new and inexperienced audit staff each year, without adequate supervision.

The fieldwork will normally be coordinated with City staff and begin as soon as the City's books and records are in auditable form. This normally takes place in two stages. Each year we will update our knowledge of your major internal accounting control systems and test such systems (risk assessment). We will also perform various analytical procedures. At the same time, City staff will be interviewed in order to assist in resolving any shortcomings before performing the field work portion of the audit. This generally is completed prior to year-end and often leads to worthwhile suggestions for improving internal controls as well as the efficiency and effectiveness of accounting operations and procedures. All of our recommendations will be discussed with appropriate City personnel in a timely manner, and if appropriate, in a formal written management letter at the conclusion of the audit. In addition, we will complete as much of the single audit compliance, if applicable, as possible in this stage of the audit. We will review the minutes of the City Council meetings during both stages of the audit.

We use models based on statistical sampling theories to help determine sample sizes using nonstatistical sampling methods as necessary for our substantive tests of balances and transactions, tests of controls and tests of compliance. The objective of tests of compliance is to determine whether an organization has complied with laws and regulations that may have a material effect on each major program. Therefore, we select samples that will provide sufficient evidence for that purpose. After defining the population, we determine sample sizes and select samples from each major program. Factors that may affect the sample sizes include the following:

- a) The amount of expenditures for the program and the individual awards;
- b) The newness of the program or changes in its conditions;
- c) Prior experience with the program, particularly as revealed in audits and other evaluations;

- d) The extent to which the program is carried out through subrecipients;
- e) The level to which the program is already subject to program reviews or other forms of independent oversight;
- f) The adequacy of controls for ensuring compliance;
- g) The expectation of adherence or lack of adherence to the applicable laws and regulations; and
- h) The potential impact of adverse findings.

The audit team will have laptop computers onsite during the audit fieldwork utilizing state-of-the-art software. We utilize programs such as Microsoft Excel to assist in our audit procedures and provide for greater efficiency and effectiveness. All audit staff have significant experience working with many various accounting systems in our government audits.

Analytical procedures will be performed in the planning stage of the audit to identify potential problem areas and in the final review stages to identify any possible misclassification. These procedures will include comparing account balances to the prior year and to the current period's budget, and consideration of expected relationships among the accounts and periods. Analytical procedures will also be used in the overall review stages and to assist in our substantive testing as appropriate.

Our audit approach recognizes the importance of laws and regulations in planning the audit of a local governmental entity. As a part of the audit, our firm obtains an understanding of those laws and regulations that have a direct and material effect on the determination of financial statement amounts. We then design the audit to provide reasonable assurance of detecting material instances of noncompliance. We obtain our understanding of applicable laws and regulations by becoming familiar with the following:

The terms and provisions of grant agreements and contracts.

State and federal restrictions affecting funding received by the City; i.e., gas tax law, etc.

The Municipal Code of the City of Tehachapi.

State laws regarding authorized investments, spending limits, debt limits, etc.

City policies regarding investments, purchasing, budgets, and the establishment of funds.

Bond covenants of outstanding issues.

Personnel Policies adopted by the City.

Other laws and regulations as appropriate in the circumstances.

Our review of the internal control will be by questionnaire and procedural write-up of your accounting system. Each of the approaches requires inquiry and observation of City personnel. We will also utilize the City's budget, organizational charts, policies and procedures, and other applicable documents. Comments and recommendations relating to the accounting system will be discussed with appropriate City personnel and where appropriate they may be included in our reports. Our recommendations will be directed at safeguarding City assets, improving the effectiveness of City procedures, and improving the reporting of financial information, as applicable.

The second stage of the audit is primarily concerned with auditing the final numbers and disclosures that will appear in the City's financial statements and will begin as soon as the City's books and records are ready for audit. Drafts of all financial reports and management letters will be submitted prior to the issuance of final reports. We have a proven track record of delivering reports on time. Each year we will initiate an exit conference to discuss any suggestions, which either of us may have for improving the conduct of the annual audit process, management letters, or any other matters of interest. Throughout the year we are always available for meetings or discussions in order to meet your needs. Findings and reports shall be kept confidential and reported only to the City.

In the event that any irregularity in records indicates the City may have suffered or will suffer a monetary loss, we will report such loss to the appropriate City personnel immediately upon discovery in the form of a written report.

Responses to City notifications will be prompt and all reports will be remitted in a timely manner to meet your needs. We make it a practice to be proactive in providing guidance and assistance to our audit clients throughout each fiscal year to ensure proper and timely implementation of new and significant accounting pronouncements, and also with laws and regulations.

#### **Identification of Anticipated Potential Audit Problems**

The first year of any audit usually involves more work, to some extent, for both parties. From the auditors' perspective, we have to obtain many documents that we will not have to obtain in future years, and also take additional time in the first year to become familiar with the City's operations and internal controls. This can also cause additional work for City staff. However, because our audit approach involves significant Partner and Manager level involvement throughout the audit process, the additional work should be kept to a minimum. In addition, the high level of supervision throughout the audit process, including fieldwork, provides for greater efficiency and effectiveness for both parties.

Should any other problems arise, we will bring them immediately to the attention of appropriate City personnel and take steps to resolve them.

### Proposed Timeline

The following is the proposed segmentation of the engagement, including the level of staff involved and the estimated hours for each segment:

<u>Description</u>	<u>Level of Staff</u>	<u>Estimated Date</u>	<u>Estimated Hours</u>
Preaudit planning with City staff. Detail audit plan provided.	Partner, Manager	May	2
Entrance conferences and auditors perform interim audit procedures, including Single Audit procedures.	Partner, Manager, Senior, Other	May/June	140
Progress conference (interim work complete).	Partner, Manager	May/June	1
Auditors mail all necessary audit confirmations.	Manager, others	July/August	4
City Staff provides trial balances and supporting schedules for audit. Auditors commence final examination procedures.	Partner, Manager, Senior, Other	October	160
Exit conference where auditors propose AJE's and discuss internal control and compliance findings from the audit, as applicable.	Partner, Manager	October	1
Auditors prepare draft City and RDA financial statements, including single audit and management letter.	Partner, Manager, Senior	October/November	85
City staff reviews draft financial statements provided by auditors, prepare MD&A and statistical sections of CAFR.	Applicable City Staff	December 1, 20XX	40
All reports are finalized, bound and delivered as applicable.	Partner, Manager	December 12, 20XX	10

### Scope of Services

The scope of the audits will be to perform the audits in accordance with generally accepted auditing standards; the A.I.C.P.A. industry audit guide, Audits of State and Local Governmental Units, as amended; the Government Finance Officers Publication, Governmental Accounting, Auditing and Financial Reporting, as amended; the standards for financial audits contained in the U.S. General Accounting Office publication Government Auditing Standards, the Single Audit Act, as amended, and the Office of Management and Budget Circular A-133, as applicable to the issuance of the reports listed in the RFP.

The audit will include Appropriations Limit Annual Review Compliance Letters in order to assist the City meeting the requirements of Section 1.5 Article XIII B of the California Constitution. We will also provide technical assistance to help ensure the City meets the requirements of the GFOA CAFR award program.

## EXHIBIT "B"

### NOT TO EXCEED PRICE FOR PROPOSED SERVICES SCHEDULE

In accordance with the Request for Audit Services issued by City of Tehachapi, the firm referenced below hereby submits the following cost proposal:

	Year Ended June 30 <sup>th</sup>		
	2011	2012	2013
<b>Basic Reports to be Issued</b>			
City Audit, including CAFR and Memo of Internal Controls	\$ 41,000*	\$ 36,000	\$ 36,000
Single Audit Act Report	3,500	3,500	3,500
Annual Report of City Financial Transactions to State Controller	1,800	1,800	1,800
Gann Limit	750	750	750
<b>Total</b>	<b>\$ 47,050</b>	<b>\$ 42,050</b>	<b>\$ 42,050</b>

\*Includes an additional \$5,000 fee for first year preparation of the Statistical Section of the CAFR.

In addition, please include below an hourly fee quotation and hours proposed for all positions to be assigned to the audit:

	Hours	Hourly Rate
Partners	80	\$ 190
Managers	120	135
Supervisory Staff	120	120
Professional Staff	85	95
Clerical / Support Staff	N/A	N/A
Other		

I hereby certify that under the undersigned is authorized to represent the firm stated above, and empowered to submit this bid, and if selected authorized to sign a contract with the City, for the services identified in the Request for Proposal.

Firm Name: Teaman, Ramirez & Smith, Inc.

Signature: *Greg Fankhanel*

Printed Name: Greg Fankhanel

Title: Partner

Date: 3/24/11



March 14, 2013

Hannah Chung, Finance Director  
City of Tehachapi  
115 S. Robinson St.  
Tehachapi, CA 93561

We are pleased to confirm our understanding of the services we are to provide the City of Tehachapi for the year ending June 30, 2013. 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 Tehachapi as of and for the year ended June 30, 2013. 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 supplement the City of Tehachapi's basic financial statements. Such information, although not a required part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City of Tehachapi's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

Management's Discussion and Analysis

Budgetary Comparison Schedules

Schedule of Funding Progress

We have also been engaged to report on supplementary information other than RSI that accompanies the City of Tehachapi'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 procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

---

**Van Lant & Fankhanel, LLP**  
25901 Kellogg Street  
Loma Linda, CA 92354

909.856.6879

Schedule of Expenditures of Federal Awards

Combining Statements

Individual Fund Statements

The following other information accompanying the financial statements will not be subjected to the auditing procedures in our audit of the financial statements, and for which our auditor's report will not provide an opinion or any assurance:

Transmittal letter and other introductory section information

Statistical Data

### **Audit Objective**

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the additional information referred to in the second paragraph when considered in relation to the basic financial statements taken as a whole. The objective also includes reporting on-

- Internal control related to the financial statements and compliance with the provisions of applicable laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

The reports on internal control and compliance will each include a statement that the report is intended for the information and use of management, the body or individuals charged with governance, others within the entity, specific legislative or regulatory bodies, federal awarding agencies, and if applicable, pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

We will also provide a report on agreed upon procedures performed on the City's calculation of its annual appropriations limit as required by Article XIII B of the California State Constitution. We will perform the procedures in the Article XIII B Appropriations Limit Uniform Guidelines as published by the League of California Cities. This report will include a statement that the report is intended solely for the information and use of management, City Council and specific legislative or regulatory bodies and is not intended to be and should not be used by anyone other than these specified parties.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of accounting records, a determination of major program(s) in accordance with OMB Circular A-133, and other procedures we consider necessary to enable us to express such opinions and to render the required reports. If our opinions on the financial statements or the Single Audit compliance opinions are 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 opinions, we may decline to express opinions or to issue a report as a result of this engagement.

## **Management Responsibilities**

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal awards in accordance with the requirements of OMB Circular A-133. As part of the audit, we will assist with the preparation of your financial statements, schedule of expenditures of federal awards, and related notes. You are responsible for making all management decisions and performing all management functions relating to the financial statements, schedule of expenditures of federal awards, and related notes and for accepting full responsibility for such decisions. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and the schedule of expenditures of federal awards and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any non-audit services we provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for monitoring ongoing activities, to help ensure that appropriate goals and objectives are met. You are also responsible for the selection and application of accounting principles; for the fair presentation in the financial statements of the respective financial position of the governmental activities, business-type activities, each major fund, and the aggregate remaining fund information of the City of Tehachapi and the respective changes in financial position and, where applicable, cash flows in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the 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 or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts 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, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the City complies with applicable laws, regulations, contracts, agreements, and grants. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan. The summary schedule of prior audit findings should be available for our review during interim fieldwork. 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 present certain supplementary information with the audited financial statements 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.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views

on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

### **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 the determination of abuse is subjective, Government Auditing Standards do not expect auditors to provide reasonable assurance of detecting abuse.

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 or noncompliance 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 or major programs. 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. We will include such matters in the reports required for a Single Audit. 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 will 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 also require certain written representations from you about the financial statements and related matters.

### **Audit Procedures - Internal Controls**

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. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by OMB Circular A-133, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies. 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, *Government Auditing Standards*, and OMB Circular A-133.

### **Audit Procedures – Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City of Tehachapi's compliance with applicable laws and regulations and the provisions of contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of the applicable procedures described in the OMB Circular A-133 Compliance Supplement for the types of compliance requirements that could have a direct and material effect on each of the City of Tehachapi's major programs. The purpose of these procedures will be to express an opinion on the City of Tehachapi's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to OMB Circular A-133.

### **Engagement Administration, Fees, and Other**

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

At the conclusion of the engagement, we will complete the appropriate sections of and sign the Data Collection Form that summarizes our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and a corrective action plan) along with the Data Collection Form to the federal clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits. At the conclusion of the engagement, we will provide information to management as to where the reporting packages should be submitted and the number to submit.

The audit documentation for this engagement is the property of Van Lant & Fankhanel, LLP and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to federal cognizant and grantor agencies, or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of our firm. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies. In such cases, Van Lant & Fankhanel, LLP is not responsible for the distribution of the copies or information contained therein.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the federal cognizant and grantor agencies. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit in May of 2013 and to issue our reports no later than December of 2013. Our fee for these services will be as follows:

\$40,000 for the fiscal year ending June 30, 2013

\$40,000 for the fiscal year ending June 30, 2014

\$41,000 for the fiscal year ending June 30, 2015

\$41,000 for the fiscal year ending June 30, 2016

The above fees include preparation of the City's State Controller's Report (\$1,800) and Single Audit (\$3,500). Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. These fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. 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. In accordance with 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 reports. 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. We appreciate the opportunity to be of service to the City of Tehachapi 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,

**VAN LANT & FANKHANEL, LLP**

Greg W. Fankhanel  
Certified Public Accountant

Response:

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

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **AGREEMENT**

**THIS AGREEMENT** (the "Agreement") made this \_\_\_\_ day of June, 2013, by and between the CITY OF TEHACHAPI (the "City"), and VAN LANT & FANKHANEL, LLP, a California Limited Liability Partnership (the "Consultant"),

### **W I T N E S S E T H:**

WHEREAS, the City wishes to engage Consultant to perform auditing services as more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof (the "Services") pursuant to the terms and conditions described hereinafter and Consultant is agreeable thereto.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth hereinafter, the parties agree as follows:

1. The parties incorporate the foregoing recitals as if fully set forth herein verbatim.

2. City hereby contracts with Consultant to perform the Services and Consultant hereby agrees to perform the Services for City pursuant to the terms and conditions of this Agreement.

3. The term of this Agreement (the "Term") shall commence on the date of this Agreement and terminate on completion of the financial audit for fiscal year 2015-2016 unless earlier terminated as hereinafter provided.

4. Consultant shall perform the Services for each fiscal year during the Term for a fee (the "Fee") as hereinafter described: for fiscal year 2012 – 2013, the Fee shall be \$40,000.00; for fiscal year 2013 – 2014, the Fee shall be \$40,000.00;

and for fiscal year 2014 –2015, the Fee shall be \$41,000.00; and for fiscal year 2015-2016, the Fee shall be \$41,000.00.

(a) The Consultant shall submit invoices (the "Invoices") for the Services no more often than monthly which shall include a description of all Services performed and such additional information as requested by the City Manager. The City Manager or his designated representative shall have the right of reasonable review of the Invoice and the Services described therein and, at the conclusion of the review, shall place the matter on the agenda for the next available City Council meeting for consideration. Upon approval of the Invoice by the City Council, Consultant shall be paid in the regular cycle of payments made by the City for other bills and claims.

5. Consultant shall indemnify, defend and hold harmless the City and its officers, Councilpersons, Commissioners, employees, and agents from any and all claims, liabilities, expenses, and damages arising out of or in any way connected with any act or omission by or on behalf of Consultant. Notwithstanding the foregoing, to the extent that City provides Consultant with information, records, or other documents necessary or convenient for Consultant to complete the Services, Consultant may rely on the accuracy and completeness of same (except as otherwise advised by City in writing) and Consultant shall have no liability for same to the extent that they are incomplete or inaccurate.

6. Without limiting Consultant's obligations under Paragraph 5 of this Agreement, Consultant shall obtain and maintain during the life of this Agreement professional and negligent acts, errors and omissions insurance satisfactory to the City Attorney in an amount not less than \$1 million per occurrence.

7. Consultant shall not assign its interest herein or any part thereof and any attempted assignment shall be void.

8. City may terminate this Agreement at any time by giving Consultant thirty days prior written notice. In such event, Consultant shall be entitled to payment for that portion of the Fee represented by the amount of the Services completed by Consultant to the date of termination as reasonably determined by City in consultation with Consultant.

9. All notices required to be given under this Agreement or by law shall be in writing and shall be deemed received by the party to whom directed if personally served or if faxed or emailed or when deposited in the United States mail, registered or certified, postage prepaid, addressed, faxed or emailed as follows: If to City, City Manager, 115 South Robinson Street, Tehachapi, California 93561, Fax – (661) 822-2197; Email –[hchung@tehachapicityhall.com](mailto:hchung@tehachapicityhall.com);

or if to Consultant, Van Lant & Fankhanel, LLP, Attn: Greg Fankhanel, 25901 Kellogg Street, Loma Linda, California 92354, Fax – (951) 679-1549, Email – [gfankhanel@vlfcpa.com](mailto:gfankhanel@vlfcpa.com). Any party may change its address or fax number or email address by giving notice to the other party in the manner herein described.

10. Time is of the essence with regard to each covenant, condition and provision of this Agreement.

11. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

12. This Agreement constitutes the entire Agreement between the parties with regard to the subject matter herein and supersedes all prior oral and written agreements and understandings between the parties with respect thereto.

13. This Agreement may not be altered, amended, or modified except by a writing executed by duly authorized representatives of all parties.

14. In the event any action or proceeding is instituted arising out of or relating to this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and actual costs.

15. This Agreement may be executed in counterparts and the respective signature pages for each party may thereafter be attached with the body of this Agreement to constitute one integrated Agreement which is as fully effective and binding as if the entire document had been signed at one time.

16. Notwithstanding any provision to the contrary, this Agreement shall not become effective and shall not be binding as to any party until all of the parties have executed this Agreement.

17. Waiver by a party of any provision of this Agreement shall not be considered a continuing waiver or a waiver of any other provision, including the time for performance of any such provision.

18. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors, and assigns.

19. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and not be affected, impaired, or invalidated thereby.

20. City and Consultant each acknowledge that each party and their respective legal counsel have reviewed this Agreement and agree that this Agreement is the product of negotiations between the parties. This Agreement shall be interpreted without reference to the rule of interpretation of documents that uncertainties or ambiguities therein shall be determined against the party so drafting the Agreement.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date first hereinabove written.

\_\_\_\_\_  
PHILLIP A. SMITH, Mayor, City of Tehachapi,  
California, "**City**"

VAN LANT & FANKHANEL, LLP,  
a California Limited Liability  
Partnership, "**Consultant**"

By: \_\_\_\_\_  
GREG FANKHANEL

**EXHIBIT "A"**  
**[Description of Services]**



March 14, 2013

Hannah Chung, Finance Director  
City of Tehachapi  
115 S. Robinson St.  
Tehachapi, CA 93561

We are pleased to confirm our understanding of the services we are to provide the City of Tehachapi for the year ending June 30, 2013. 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 Tehachapi as of and for the year ended June 30, 2013. 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 supplement the City of Tehachapi's basic financial statements. Such information, although not a required part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the City of Tehachapi's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

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Van Lant & Fankhanel, LLP  
23901 Kennogg Street  
Loma Linda, CA 92304

909.856.6879

Schedule of Expenditures of Federal Awards

Combining Statements

Individual Fund Statements

The following other information accompanying the financial statements will not be subjected to the auditing procedures in our audit of the financial statements, and for which our auditor's report will not provide an opinion or any assurance:

Transmittal letter and other introductory section information

Statistical Data

#### **Audit Objective**

The objective of our audit is the expression of opinions as to whether your financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on the fairness of the additional information referred to in the second paragraph when considered in relation to the basic financial statements taken as a whole. The objective also includes reporting on-

- Internal control related to the financial statements and compliance with the provisions of applicable laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

The reports on internal control and compliance will each include a statement that the report is intended for the information and use of management, the body or individuals charged with governance, others within the entity, specific legislative or regulatory bodies, federal awarding agencies, and if applicable, pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

We will also provide a report on agreed upon procedures performed on the City's calculation of its annual appropriations limit as required by Article XIII B of the California State Constitution. We will perform the procedures in the Article XIII B Appropriations Limit Uniform Guidelines as published by the League of California Cities. This report will include a statement that the report is intended solely for the information and use of management, City Council and specific legislative or regulatory bodies and is not intended to be and should not be used by anyone other than these specified parties.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of accounting records, a determination of major program(s) in accordance with OMB Circular A-133, and other procedures we consider necessary to enable us to express such opinions and to render the required reports. If our opinions on the financial statements or the Single Audit compliance opinions are 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 opinions, we may decline to express opinions or to issue a report as a result of this engagement.

### **Management Responsibilities**

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal awards in accordance with the requirements of OMB Circular A-133. As part of the audit, we will assist with the preparation of your financial statements, schedule of expenditures of federal awards, and related notes. You are responsible for making all management decisions and performing all management functions relating to the financial statements, schedule of expenditures of federal awards, and related notes and for accepting full responsibility for such decisions. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and the schedule of expenditures of federal awards and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any non-audit services we provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for monitoring ongoing activities, to help ensure that appropriate goals and objectives are met. You are also responsible for the selection and application of accounting principles; for the fair presentation in the financial statements of the respective financial position of the governmental activities, business-type activities, each major fund, and the aggregate remaining fund information of the City of Tehachapi and the respective changes in financial position and, where applicable, cash flows in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the 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 or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts 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, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the City complies with applicable laws, regulations, contracts, agreements, and grants. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan. The summary schedule of prior audit findings should be available for our review during interim fieldwork. 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 present certain supplementary information with the audited financial statements 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.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views

on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

#### **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 the determination of abuse is subjective, Government Auditing Standards do not expect auditors to provide reasonable assurance of detecting abuse.

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 or noncompliance 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 or major programs. 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. We will include such matters in the reports required for a Single Audit. 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 will 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 also require certain written representations from you about the financial statements and related matters.

#### **Audit Procedures - Internal Controls**

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. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by OMB Circular A-133, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies. 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, *Government Auditing Standards*, and OMB Circular A-133.

#### **Audit Procedures – Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City of Tehachapi's compliance with applicable laws and regulations and the provisions of contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of the applicable procedures described in the OMB Circular A-133 Compliance Supplement for the types of compliance requirements that could have a direct and material effect on each of the City of Tehachapi's major programs. The purpose of these procedures will be to express an opinion on the City of Tehachapi's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to OMB Circular A-133.

#### **Engagement Administration, Fees, and Other**

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

At the conclusion of the engagement, we will complete the appropriate sections of and sign the Data Collection Form that summarizes our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and a corrective action plan) along with the Data Collection Form to the federal clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditor's reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits. At the conclusion of the engagement, we will provide information to management as to where the reporting packages should be submitted and the number to submit.

The audit documentation for this engagement is the property of Van Lant & Fankhanel, LLP and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to federal cognizant and grantor agencies, or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of our firm. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies. In such cases, Van Lant & Fankhanel, LLP is not responsible for the distribution of the copies or information contained therein.

The audit documentation for this engagement will be retained for a minimum of five years after the report release date or for any additional period requested by the federal cognizant and grantor agencies. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit in May of 2013 and to issue our reports no later than December of 2013. Our fee for these services will be as follows:

\$40,000 for the fiscal year ending June 30, 2013

\$40,000 for the fiscal year ending June 30, 2014

\$41,000 for the fiscal year ending June 30, 2015

\$41,000 for the fiscal year ending June 30, 2016

The above fees include preparation of the City's State Controller's Report (\$1,800) and Single Audit (\$3,500). Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. These fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. 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. In accordance with 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 reports. 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. We appreciate the opportunity to be of service to the City of Tehachapi 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,

**VAN LANT & FANKHANEL, LLP**

Greg W. Fankhanel  
Certified Public Accountant

Response:

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

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



APPROVED

DEPARTMENT HEAD: 

CITY MANAGER: \_\_\_\_\_

# COUNCIL REPORTS

MEETING DATE: JUNE 24, 2013 AGENDA SECTION: CITY ENGINEER

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**TO:** HONORABLE MAYOR SMITH AND COUNCIL MEMBERS

**FROM:** JOHN (JAY) SCHLOSSER, P.E., CITY ENGINEER

**DATE:** JUNE 18, 2013

**SUBJECT:** TEHACHAPI POLICE DEPARTMENT PROJECT

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**BACKGROUND:**

On February 4, 2013, the City Council approved staff to begin the bid solicitation process for the above noted project. Advertisement began on March 29, 2013. Staff opened bids for this project on April 30, 2013. The results of the bid opening are listed in the table below:

Contractor Name	Bid Amount
Aspen Builders Inc.	\$2,878,987.00
Klassen Corporation	\$3,076,000.00
JTS Construction	\$3,164,000.00
S.C. Anderson Inc.	\$3,175,750.00
AMG & Associates, Inc.	\$3,236,900.00
Lewis C. Nelson & Sons, Inc.	\$3,343,000.00
Wallace & Smith General Contractors	\$3,444,209.00
Black / Hall Construction Inc.	\$3,543,317.00
Hugo Alonso Inc.	\$4,393,528.00

Staff was pleased with the number of bid proposals received and given how closely valued the bids are, staff is confident that the values received are a good representation of the fair market value of this project.

**FISCAL IMPACT:**

Budgetary values were presented in detail for this project at the February 4, 2013 City Council meeting. As a reminder, the Engineer's Estimate and the associated capital budget for this component was \$2,900,000. As such, the low bid proposal provided by Aspen Builders Inc. is within our desired budget.

**RECOMMENDATION:**

City staff has reviewed the bids as received and has deemed the proposal from Aspen Builders Inc. to be responsive. The proposing Contractors were asked to provide a price for the inclusion of Earthquake and Flood Insurance which provides protection to the City during construction beyond the limits of those afforded by Liability and Builder's All-Risk policies. In short, if an earthquake or flood were to occur during construction, the losses would not be covered without this additional policy. Aspen Builders Inc. provided a price of \$1,550.00 for this additional coverage. The City Council, at its discretion, may choose to include this additional coverage. Considering the offered price, staff would recommend inclusion of this additional coverage.

**AWARD THE TEHACHAPI POLICE DEPARTMENT PROJECT TO ASPEN BUILDERS INC. IN THE AMOUNT OF \$2,880,537.00 AND AUTHORIZE THE CITY MANAGER TO APPROVE ANY NECESSARY CHANGE ORDERS UP TO A MAXIMUM OF 5% OF THE ORIGINAL CONTRACT (OR \$144,026).**



APPROVED

DEPARTMENT HEAD: \_\_\_\_\_

CITY MANAGER: \_\_\_\_\_

# COUNCIL REPORTS

**MEETING DATE: JUNE 24, 2013    AGENDA SECTION: ASSISTANT CITY MANAGER**

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**TO:                    HONORABLE MAYOR SMITH AND COUNCIL MEMBERS**

**FROM:                CHRIS KIRK, ASSISTANT CITY MANAGER**

**DATE:                 JUNE 19, 2013**

**SUBJECT:            WEED ABATEMENT AGREEMENT – KINGSMEN TRACTOR**

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## BACKGROUND

According to Section 8.32.010(b) of the Tehachapi Municipal Code, “no grasses, weeds, or other vegetation shall be growing above the surface of any lot, place or area or upon any sidewalk area or parkway abutting the same and all of same shall be cut and removed by June 15 of each year.”

When a property owner fails to comply with Section 8.32.010(b), the City may instruct a contractor to mow the hazardous vegetation in order to abate any serious fire hazards. The property owner is then billed for the cost of the work (contractor costs plus an administrative fee to cover the City’s cost of the inspection) and if the City fails to receive payment, the cost is recovered by placing a tax lien against the property in the amount due.

While the City currently has a contract with one abatement contractor, a second contractor would allow abatement to occur more quickly. Attached to this report, is an agreement with David Reed, dba Kingsmen Tractor for weed abatement services.

## RECOMMENDATION

**APPROVE THE AGREEMENT BETWEEN THE CITY OF TEHACHAPI AND DAVID REED, dba KINGSMEN TRACTOR FOR WEED ABATEMENT SERVICES**

## **AGREEMENT**

THIS AGREEMENT made this \_\_\_ day of \_\_\_ 2013, by and between the CITY OF TEHACHAPI, hereinafter "City", and DAVID REED, dba KINGSMEN TRACTOR, hereinafter "Contractor,"

### **WITNESSETH:**

**WHEREAS**, City wishes to contract with Contractor for weed abatement on various properties throughout the City to be designated by City from time to time, hereinafter referred to as the "Project"; and

**WHEREAS**, Contractor wishes to contract with City to perform the Project and City is agreeable thereto under the terms and conditions hereinafter described.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions set forth hereinafter, the parties agree as follows:

1. The parties incorporate the foregoing recitals as if fully set forth herein verbatim.
2. Contractor agrees to perform the Project and to eradicate weeds and other debris designated by City on lots designated by City from time to time. Completion of Contractor's performance hereunder shall be subject to City's approval and acceptance of same.
3. Contractor agrees to perform its obligations hereunder on a "time and materials" basis and agrees to use the rate schedule attached hereto as Exhibit "A" and by this reference made a part hereof throughout the term of this Agreement. Subject to the following, Contractor shall be paid by City monthly based on written invoices from Contractor. Prior to payment of any compensation to Contractor, Contractor shall first provide City with a written invoice setting forth the services performed during the period described in the invoice and the amounts due and owing. Same shall first be reviewed by the Community Service Officer and the City Manager and approved for payment. Thereafter, same shall be submitted to the Council at the next regularly scheduled meeting for which the matter can be presented for consideration. Thereafter, upon approval by the City Council, the invoice shall be paid in the amounts approved by the City Council within a reasonable time thereafter.
4. The term of this Agreement shall be for 30 days from the date hereof and shall be automatically renewed for additional successive 30-day periods until terminated by either party upon 10 days prior written notice to the other party. In the event of such termination, Contractor

shall be entitled to payment of all work completed by Contractor prior to the date of termination, subject to approval by the City Council. In the performance of Contractor's duties hereunder, Contractor shall provide all vehicles, tools, personnel, equipment, supplies and all such other items as are necessary or convenient to completing the Project at Contractor's sole cost and expense.

5. Contractor, at Contractor's sole cost and expense, shall maintain throughout the term of this Agreement (i) all Worker's Compensation Insurance where and in the amounts required by law, (ii) a Comprehensive General Public Liability Insurance Policy from a company approved by City for protection against liability to the public arising as an incident of Contractor's performance hereunder in amounts not less than \$1 million per occurrence and said policy shall be primary insurance naming City, its officers, councilpersons, employees, contractors, and representatives as additional insureds and affording City at least 10 days notice prior to cancellation or reduction of coverage, and (iii) Vehicle Liability Insurance in amounts not less than those set forth in Subparagraph (ii) of this Article 5. In the event any such policy shall lapse or be canceled, City may, at City's sole discretion, terminate this Agreement without further notice to Contractor. Contractor shall provide City with a Certificate of Insurance verifying Contractor's compliance with the foregoing. This Agreement shall not be effective until City has received and approved same.

6. Contractor hereby indemnifies, agrees to defend, and holds harmless City, its officers, councilpersons, employees, contractors, and representatives from any and all claims, demands, suits, judgments, liability, damages, costs, and expenses arising in any manner out of this Agreement or occasioned by the performance or attempted performance of the provisions hereof including but not limited to any act or omission to act on the part of Contractor or Contractor's employees, subcontractors, agents, or representatives.

7. In addition to any other methods of termination described in this Agreement, City may terminate this Agreement at any time upon determination that Contractor is not performing its duties properly or has otherwise breached this Agreement upon 24 hours prior written notice to Contractor. In the event of such termination, Contractor shall be entitled only to payment for Contractor's performance of its obligations hereunder to the date of its failure to perform or its breach of this Agreement.

8. Contractor's services are utilized by City only for the purpose and to the extent set forth in this Agreement and Contractor's relationship to City shall, during the term of this Agreement, be that of an independent contractor.

9. In the performance of its obligations hereunder, Contractor

acknowledges that Contractor and Contractor's employees, subcontractors, agents, and representatives may encounter dangerous conditions either on real property owned or controlled by City, or in the manner in which Contractor is required to or chooses to perform its obligations hereunder, or in any other aspect or part of its performance hereunder. Contractor for itself and on behalf of its employees, subcontractors, agents, and representatives assumes the risk of same and hereby waives, releases, and forever discharges City, its officers, councilpersons, employees, contractors, agents, and representatives from any and all liability, claims, actions, losses, costs, and expenses arising out of all injuries, and damages which may be suffered by Contractor or Contractor's employees, subcontractors, agents, or representatives including, but not limited to, any of same attributable in any way to any act or omission to act or any negligence whatsoever, whether passive or active, by City, or City's officers, councilpersons, employees, contractors, agents, or representatives. Contractor represents and warrants that it has read and fully understands the provisions of Section 1542 of the Civil Code of California which states as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

Contractor on behalf of itself and its employees, subcontractors, agents, and representatives hereby expressly waives and releases any right or benefit which each has or may have under Civil Code Section 1542.

10. Contractor shall not assign any portion of this Agreement to any other person or entity.

11. If any portion of this Agreement shall be considered invalid by any court of competent jurisdiction, said invalid portion shall not affect the validity of the remainder of the agreement and the agreement shall continue in full force and effect as if the invalid portion had not been included therein.

12. Any notice required under this Agreement shall be effective immediately upon personal delivery of same in writing to the party to whom it is directed or upon deposit in the United States mail, first class, postage prepaid, addressed as hereinafter described or upon facsimile transmission to the facsimile number hereinafter described or upon verbal notification of the party to be notified either in person or by telephone at the telephone number hereinafter described (unless written notice is specifically required elsewhere in this Agreement or under the law). The following shall be used in providing the foregoing notices: City - City Manager, 115 South Robinson Street, Tehachapi, California 93561, Fax - (661) 822-8559, Telephone - (661) 822-2200; and Contractor -

David Reed, 633 Las Colinas Street, Tehachapi CA 93561, Telephone - (661) 477-1376. Any party may change any of the foregoing as it relates to the party by giving written notice to the other party of the change in the manner set forth herein.

13. If any action is commenced between the parties concerning any provision of this Agreement or the rights and duties of any party in relation thereto or the interpretation of this Agreement, the prevailing party shall be entitled, in addition to such other relief as may be granted, to a reasonable sum for the party's attorney fees in such action.

14. This Agreement may be amended only by a writing executed by all parties.

15. The parties hereto agree that this Agreement accurately reflects the agreement of the parties and is the product of negotiations between the parties, and shall not create a rebuttable presumption against the party who drafted same.

16. This Agreement contains all of the agreements of the parties with respect to all matters mentioned herein and no prior agreement or understanding pertaining to any such matter shall be effective.

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date first hereinabove written.

\_\_\_\_\_  
PHILIP SMITH, Mayor, City of Tehachapi,  
California

\_\_\_\_\_  
David Reed, dba KINGSMEN TRACTOR  
SERVICES  
Contractor



APPROVED  
DEPARTMENT HEAD: \_\_\_\_\_  
CITY MANAGER: \_\_\_\_\_

# COUNCIL REPORTS

MEETING DATE: JUNE 24, 2013    AGENDA SECTION: CITY MANAGER

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**TO:**                    HONORABLE MAYOR SMITH AND COUNCIL MEMBERS

**FROM:**              GREG GARRETT, CITY MANAGER

**DATE:**                JUNE 19, 2013

**SUBJECT:**            TRANSIENT OCCUPANCY TAX AUDIT SERVICES

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## BACKGROUND

According to Tehachapi Municipal Code § 3.24.100, the City has the authority to audit transient occupancy taxes (TOT's) from time to time.

On April 15, 2013 the City approved an agreement with Van Lant & Fankhanel, LLP to ensure that local hotels and motels were complying with applicable sections of the City's Municipal Code relating to transient occupancy taxes. This agreement was for a term of one year, not to exceed a cost of \$3,000 per hotel.

At this time, staff would like to amend the agreement with Van Lant & Fankhanel which would change the audit period from one to three years and increase the maximum cost per hotel from \$3,000 to \$5,000.

## RECOMMENDATION

Approve the amended agreement with Van Lant & Fankhanel, LLP and authorize the Mayor to sign.

## **FIRST AMENDMENT TO AGREEMENT**

**THIS AMENDMENT** (the "First Amendment") made this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the CITY OF TEHACHAPI (the "City"), and VAN LANT & FANKHANEL, LLP, a California Limited Liability Profession (the "Consultant"),

### **W I T N E S S E T H:**

WHEREAS, City and Consultant entered into that certain agreement dated April 15, 2013 to conduct audits of transient occupancy taxes paid by hotels (the "Agreement") and the parties wish to amend same under the terms and conditions hereinafter described.

NOW, THEREFORE, the parties amend the Agreement as follows:

1. The parties incorporate the foregoing recitals as if fully set forth herein verbatim.
2. The capitalized terms used herein shall have the same meaning as in the Agreement unless otherwise specifically described herein.
3. The parties hereby replace Exhibit "A" on the Agreement with Exhibit "A" attached hereto and by this reference made a part hereof.
4. The parties hereby replace the first sentence of Paragraph 4 with the following: "Consultant shall be paid a fee (the "Fee") of not to exceed \$5,000.00 per hotel."
5. Except as amended herein, the Agreement, and each of its terms and conditions shall remain in full force and effect. Any inconsistency or ambiguity between this First Amendment and the Agreement shall be resolved in favor of this First Amendment.
6. This First Amendment may be executed in counterparts. A facsimile or electronic copy of this fully executed First Amendment shall be as effective as the original for all purposes.

**IN WITNESS WHEREOF**, the parties have executed this First Amendment to be effective on the date first hereinabove written.

\_\_\_\_\_  
PHILIP A. SMITH, Mayor, City of Tehachapi,  
California, "**City**"

VAN LANT & FANKHANEL, LLP,  
a California Limited Liability Profession,  
"**Consultant**"

By: \_\_\_\_\_  
GREG FANKHANEL, Partner

## EXHIBIT "A"



June 14, 2013

Hannah Chung, Finance Director  
City of Tehachapi  
115 S. Robinson Street  
Tehachapi, CA 93561

Dear Ms. Chung:

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

We will apply certain agreed-upon procedures, which management of the City has specified, listed in the attached schedule, to selected hotels within the City, for the years ended December 31, 2010, December 31, 2011, and December 31, 2012. This engagement is solely to assist management in determining whether local hotels and motels are complying with applicable sections of the City's Municipal Code relating to transient occupancy taxes (i.e., accurately reporting and remitting their transient occupancy taxes to the City). Our engagement to apply agreed-upon procedures will be performed in accordance with 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 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 do not constitute an audit, we will not express an opinion on the hotels' compliance with the City's Municipal Code. In addition, we have no obligation to perform any procedures beyond those listed in the attached schedule.

We will submit a report listing the procedures performed and our findings. This report is intended solely for the information and use of the City's management, and is not intended to be and should not be used by anyone other than this specified party. 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.

We plan to begin our procedures in June 2013. We will issue a draft report shortly after the completion of our fieldwork and the final report will be issued after review by the City's staff. Our estimated total fees for these services will range from \$4,000 to \$5,000 per hotel. Greg and Brett will be performing these services at an hourly rate of \$190. Our travel costs will be incorporated into our hourly rate.

Van Lant & Fankhanel, LLP  
25901 Redgate Street  
Loma Linda, CA 92354  
909.850.6879

Our proposal is based on the anticipated cooperation from hotel personnel and the assumption that unexpected circumstances will not be encountered during the engagement. If significant additional time is necessary, we will discuss the issues with you before proceeding.

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 services arises, our agreement with you will need to be revised.

Very truly yours,

VAN LANT & FANKHANEL, LLP



Brett Van Lant  
Certified Public Accountant

RESPONSE:

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

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

City of Tehachapi  
Agreed-Upon Procedures

Transient Occupancy Tax (TOT) Procedures

1. Obtain and review the City's Municipal Code relating to TOT.
2. Verify the mathematical accuracy and timeliness of transient occupancy reports filed with the City for the applicable period.
3. Trace the gross revenues reported on the TOT returns prepared by the Hotel to gross revenues recorded in the Hotel's accounting records and verify that these were in accordance with the City's Municipal Code.
4. Select a sample of rental transactions during the applicable period and for each transaction selected, verify tax computations and trace the amounts of rental revenues and TOT collected to the books and records of the hotel.
5. Review the internal control procedures of the Hotel to determine the following:
  - a. How "gross rents" and "uncollected rents" were accounted for and reported to the City.
  - b. What procedures were in place to identify transient and non-transient guests.
  - c. How exemptions, including complimentary rooms, were documented and reported to the City.
6. Review the supporting documentation for exemptions claimed on the TOT returns.
7. Inquire how the Hotel handles reservations and payments made on-line through a third party such as Expedia.com and how the TOT was collected and reported to the City on these transactions.
8. Examine the Hotel's "Business License" and determine whether it was posted in a conspicuous place.
9. Perform additional procedures that are considered necessary to verify the reasonableness of reported revenues of the Hotel operator.



APPROVED
DEPARTMENT HEAD: _____
CITY MANAGER: _____

# COUNCIL REPORTS

MEETING DATE: JUNE 24, 2013    AGENDA SECTION: CITY MANAGER

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**TO:** HONORABLE MAYOR SMITH AND COUNCIL MEMBERS

**FROM:** GREG GARRETT, CITY MANAGER

**DATE:** JUNE 19, 2013

**SUBJECT:** FIVE YEAR BUDGET FOR FISCAL YEARS 2013/14 THROUGH 2017/18

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## BACKGROUND

At 4:00 pm on Monday, June 24<sup>th</sup>, the five-year budget for fiscal years 2013/14 through 2017/18 was presented to the Council and the public. The final budget amount presented for fiscal year 2013/14 is \$19,749,555 and preliminary budget amounts for 2014/15, 2015/16, 2016/17, 2017/18 are \$13,440,387, \$16,020,518, \$13,600,639 and \$14,270,304 respectively. Staff believes that all questions and concerns raised during the budget workshop were addressed and answered.

## OPTIONS

1. Approve the five-year budget for fiscal years 2013/14 through 2017/18 as presented.
2. Modify the five-year budget and re-present it at a later date.

## RECOMMENDATION

Approve and adopt the proposed resolution for the City's final budget for fiscal year 2013/14 and preliminary budget for fiscal years 2014/15 through 2017/18 as presented.

**RESOLUTION NO.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEHACHAPI APPROVING AND ADOPTING THE CITY OF TEHACHAPI'S BUDGET FOR THE FISCAL YEAR 2013-14, THE PRELIMINARY BUDGET FOR FISCAL YEARS 2014-15, 2015-16, 2016-17 AND 2017-18**

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WHEREAS, the City Council of the City of Tehachapi did review and hold public meetings on the Budget and Preliminary Budget for Fiscal Years 2013-14 through 2017-18, at City Hall, 115 South Robinson Street, at which time said Budget and Preliminary Budget were modified, revised, corrected, amended and changed, and matters pertaining thereto, were heard and considered; and

WHEREAS, the City Council wishes to approve the Budget for Fiscal Year 2013-2014 and the Preliminary Budget for Fiscal Years 2014-15 through 2017-18; and

WHEREAS, the City Council of the City of Tehachapi has heretofore, or hereafter will, raise sufficient revenues to finance and balance said Budget.

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

SECTION 1. The foregoing recitals are true and correct.

SECTION 2. The Budget of the City of Tehachapi for Fiscal Year 2013-14, as amended, modified, revised, and corrected by the City Council, is hereby approved and adopted, including the specified amounts for each of the various funds, departments, programs and accounts as set forth.

SECTION 3. The Preliminary Budget of the City of Tehachapi for Fiscal Year 2014-15 through 2017-18, as amended modified, revised, and corrected by City Council, is hereby approved and adopted.

SECTION 4. The Budget and Preliminary Budget for the City of Tehachapi, for the Fiscal Years 2013-14 through 2017-2018, as amended, modified, revised and corrected by the City Council, shall be placed on file in the office of the City Clerk and shall be open to public inspection.

SECTION 5. The Finance Director is hereby authorized and instructed to take all steps necessary to implement this resolution in accordance with the provisions of the Budget.

SECTION 6. Without prior approval of the City Council, the City Manager shall have the authority to transfer appropriations of up to \$10,000.00 from program to program but not from fund to fund, except shifts in appropriations relating to personnel, provided that any transfer of more than such amount or any transfer from fund to fund (except as relates to personnel) shall be approved by the City Council.

SECTION 7. The City Manager shall approve the Encumbrances and Continuing Appropriations from Fiscal Year 2012-13 which shall become part of the City Budget for Fiscal Year 2013-14.

SECTION 9. The Budget for Fiscal Year 2013-14, as submitted, amended, modified, revised, corrected, adopted and filed by the City Council, shall be the City Budget for Fiscal Year 2013-14 and is subject to the requirements of Article XIII B of the California Constitution.

SECTION 10. The Budget for Fiscal Year 2013-14, as submitted, amended, modified, revised, corrected and adopted by the City Council includes appropriations which are subject to and are within the Appropriations Limit established for the fiscal year 2013-14.

SECTION 11. The City Council hereby appropriates any revenues in excess of expenditures to meet contingencies for undetermined operating and capital expenses.

PASSED AND ADOPTED by the City Council of the City of Tehachapi at a Special Meeting this 24th day of June 2013 by the following vote:

AYES: COUNCIL MEMBERS: \_\_\_\_\_

NOES: COUNCIL MEMBERS: \_\_\_\_\_

ABSENT: COUNCIL MEMBERS: \_\_\_\_\_

ABSTAIN: COUNCIL MEMBERS: \_\_\_\_\_

\_\_\_\_\_  
PHILIP SMITH, Mayor of the  
City of Tehachapi, California

ATTEST:

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DENISE JONES, CMC  
City Clerk of the City of Tehachapi

I hereby certify that the foregoing resolution was duly and regularly adopted by the City Council of the City of Tehachapi at a Special Meeting thereof held on June 24, 2013

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DENISE JONES  
City Clerk of the City of Tehachapi