

## **AGREEMENT FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made and entered into this 6<sup>th</sup> day of November, 2023, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18<sup>th</sup> Street, Merced, California 95340, (hereinafter referred to as "City") and De Novo Planning Group, a California Corporation, whose address of record is 1020 Suncast Lane #106, El Dorado Hills, CA 95762, (hereinafter referred to as "Consultant").

WHEREAS, City is undertaking a project to annex, on the behalf of a developer, approximately 37.2 acres at the southwest corner of Bellevue Road and Lake Road; and,

WHEREAS, Consultant represents that it possesses the professional skills to provide environmental services in connection with said project.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. **SCOPE OF SERVICES.** The Consultant shall furnish the following services: Consultant shall provide the environmental services described in Exhibit "A" attached hereto.

No additional services shall be performed by Consultant unless approved in advance in writing by the City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the Director of Development Services or designee. However, the means by which the work is accomplished shall be the sole responsibility of the Consultant.

2. **TIME OF PERFORMANCE.** All of the work outlined in the Scope of Services shall be completed in accordance with the Schedule outlined in Exhibit "B" attached hereto and incorporated herein by reference. By mutual agreement and written addendum to this Agreement, the City and the Consultant may change the requirements in said Schedule.

3. **TERM OF AGREEMENT.** The term of this Agreement shall commence upon the day first above written and end upon completion of the scope of services to the satisfaction of the City of Merced.

4. **COMPENSATION.** Payment by the City to the Consultant for actual services rendered under this Agreement shall be made upon presentation of an invoice detailing services performed under the Scope of Services, in accordance with the fee schedule set forth in Exhibit "C" attached hereto and incorporated herein by reference. The Consultant agrees to provide all services required under the Scope of Services in Exhibit "A" within the compensation amount set forth in Exhibit "C". For Consultant's services rendered under this Agreement, City shall pay Consultant the not to exceed sum of Three Hundred Eight Thousand Seven Hundred Seventy-Four Dollars (\$308,774.00).

5. **METHOD OF PAYMENT.** Compensation to Consultant shall be paid by the City after submission by Consultant of an invoice delineating the services performed.

6. **RECORDS.** It is understood and agreed that all plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Consultant relating to the matters covered by this Agreement shall be the property of the City, and Consultant hereby agrees to deliver the same to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.

7. **CONSULTANT'S BOOKS AND RECORDS.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the City.

8. **INDEPENDENT CONTRACTOR.** It is expressly understood that Consultant is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Consultant shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Consultant desire any insurance protection, the Consultant is to acquire same at its expense.

In the event Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

#### 9. INDEMNITY.

A. Indemnity for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City and any and all of its officials, employees and agents from and against any and all losses, liabilities, damages, costs, and expenses, including legal counsel's fees and costs but only to the extent the Consultant (and its Subconsultants), are responsible for such damages, liabilities and costs on a comparative basis of fault between the Consultant (and its Subconsultants) and the City in the performance of professional services under this agreement.

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

10. INSURANCE. During the term of this Agreement, Consultant shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

a. Workers' Compensation Insurance. Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars (\$100,000) for any one person and as required by law, including Employer's Liability limits of \$1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

b. General Liability.

- (i) Consultant shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.
- (ii) Consultant shall maintain limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- (iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Consultant.
- (iv) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.
- (v) Consultant shall maintain its commercial general liability coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.

c. Automobile Insurance.

- (i) Consultant shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.

- (ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects automobiles owned, leased, hired or borrowed by the Consultant.
- (iii) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

d. Professional Liability Insurance. Consultant shall carry professional liability insurance appropriate to Consultant's profession in the minimum amount of One Million Dollars (\$1,000,000). Architects and engineers' coverage is to be endorsed to include contractual liability.

e. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:

- (i) An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,
- (ii) An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through the California State Compensation Fund).

f. Certificate of Insurance. Consultant shall complete and file with the City prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium. In addition to any other remedies City may have, City reserves the right to withhold payment if Consultant's insurance policies are not current.

## 11. PREVAILING WAGES.

A. Labor Code Compliance. If the work performed under this Agreement falls within Labor Code Section 1720(a)(1) definition of a “public works” the Consultant agrees to comply with all of the applicable provisions of the Labor Code including, those provisions requiring the payment of not less than the general prevailing rate of wages. The Consultant further agrees to the penalties and forfeitures provided in said Code in the event a violation of any of the provisions occurs in the execution of this Agreement.

B. These wage rate determinations are made a specific part of this Agreement by reference pursuant to Labor Code Section 1773.2. General Prevailing Wage Rate Determinations may be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov/>.

C. After award of the Agreement, and prior to commencing work, all applicable General Prevailing Wage Rate Determinations, if applicable, are to be obtained by the Consultant from the Department of Industrial Relations. These wage rate determinations are to be posted by the Consultant at the job site in accordance with Section 1773.2 of the California Labor Code.

D. Consultant agrees to include prevailing wage requirements, if applicable, in all subcontracts when the work to be performed by the subcontractor under this Agreement is a “public works” as defined in Labor Code Section 1720(a)(1) and Labor Code Section 1771.

12. ASSIGNABILITY OF AGREEMENT. It is understood and agreed that this Agreement contemplates personal performance by the Consultant and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express written consent of the City.

13. TERMINATION FOR CONVENIENCE OF CITY. The City may terminate this Agreement any time by mailing a notice in writing to Consultant that the Agreement is terminated. Said Agreement shall then be deemed terminated, and no further work shall be performed by Consultant. If the Agreement is so terminated, the Consultant shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

14. CONFORMANCE TO APPLICABLE LAWS. Consultant shall comply with its standard of care regarding all applicable Federal, State, and municipal laws, rules and ordinances. No discrimination shall be made by Consultant in the employment of persons to work under this contract because of race, color, national origin, ancestry, disability, sex or religion of such person.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq.*), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

15. WAIVER. In the event that either City or Consultant shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

16. INCONSISTENT OR CONFLICTING TERMS IN AGREEMENT AND EXHIBITS. In the event of any contradiction or inconsistency between any attached document(s) or exhibit(s) incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control.

Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City unless specifically agreed to in writing, and initialed by the authorized City representative, as to each additional contractual term or condition.

17. AMBIGUITIES. This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other statutes, legal decisions, or common-law principles of similar effect, that would require interpretation of any ambiguities in this

Agreement against the party that drafted this Agreement is of no application and is hereby expressly waived.

18. VENUE. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

19. AMENDMENT. This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

20. INTEGRATION. This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

21. AUTHORITY TO EXECUTE. The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

22. COUNTERPARTS. This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED  
A California Charter Municipal  
Corporation

BY:  \_\_\_\_\_  
*Acting* City Manager

ATTEST:  
STEPHANIE R. DIETZ, CITY CLERK

BY: *Dejisha Melore*  
Assistant/Deputy City Clerk



APPROVED AS TO FORM:

BY: *MD* 6-6-2023  
City Attorney Date

<sup>576</sup>  
ACCOUNT DATA:

BY: *[Signature]*  
Verified by Finance Officer *V-1498*

*Funds available ac 11/6/23*  
*30005020-511012 ac 11/6/23*  
*\$308,774.00*

CONSULTANT  
DE NOVO PLANNING GROUP

BY: *[Signature]*  
(Signature)

Steve McMurtry

Its: Chief Financial Officer and Principal

Taxpayer I.D. No. 26-2962235

ADDRESS: 1020 Suncast Lane #106  
El Dorado Hills, CA 95762

TELEPHONE: 916-580-9818

FAX: \_\_\_\_\_

E-MAIL:

[smcmurtry@denovoplanning.com](mailto:smcmurtry@denovoplanning.com)

## SCOPE OF WORK

### TASK 1 – PROJECT MANAGEMENT

De Novo has assembled a project management team and approach that will maximize our ability to meet the deadlines established for this project. De Novo's Project Manager (Steve McMurtry) will be actively involved in developing the analytical approach to individual sections, providing strategic CEQA guidance and internal quality control for the environmental document, and ensuring the commitment of De Novo resources to meet the project schedule. De Novo's Principal Planner (Christina Erwin) will oversee preparation of each component of the environmental analysis and, as the day-to-day project lead, will coordinate interaction between the City, applicant team and De Novo staff.

This scope and budget assume a high level of involvement by this team to address project management issues, including coordination and meetings with the applicant team, the City team, internal coordination of the technical members of the team, guidance of the technical team, preparation of public presentations, review and revision based on City comments, QA/QC, and other related tasks. We have assumed up to an hour of project management time per week for 52 weeks under this task.

#### *Deliverables:*

- *Monthly progress reports, invoices, quality assurance, budget management, and project communications*

### TASK 2 – MEETINGS

This task includes a project kickoff meeting to discuss:

- Confirmation of the project components, phasing, and appropriate baseline;
- Confirmation of the scope of work, level of analysis, budget, schedule, and communication protocols;
- Identification of project data, information sources, and key contacts;
- Collection of relevant background documents (adopted documents, reports, and studies); and
- Project deliverables.

It is assumed that the City and applicant team will provide any project-specific studies prepared to-date, exhibits, project description details including project and on- and off-site infrastructure plans, and materials for development of the environmental document prior to the kick-off meeting. If additional information is required, we will submit a memorandum identifying outstanding information requirements and the dates when such information is needed in order to maintain schedule compliance.

This task also includes ongoing bi-weekly project coordination meetings/conference calls with the City and applicant team. It is anticipated that these meetings will be attended by De Novo's Project Manager supported, as needed, by our management and technical staff, as needed, to address issues of concern.

The schedule for the EIR will be facilitated through regular, effective communication between the applicant team, the City, and the De Novo management team and technical staff. Therefore, we propose that meetings be scheduled, depending on need, at a standard time and place on a bi-weekly basis. In the event that meetings are determined to be unnecessary, they can be readily cancelled; in our experience it is much easier to cancel a standing meeting than to call an ad-hoc meeting on short notice. We have assumed a total of 26 meetings during the life of the project with each meeting lasting up to one hour.

As is noted above, it is our strong recommendation that these ongoing project coordination meetings include a core group comprised of the applicant team, City planning and environmental staff, and the De Novo team. To successfully meet the project schedule commitments, this group will need to work seamlessly as a team, with regular and expeditious issue identification and resolution, regular and clear communication about assumptions that can be consistently applied through the EIR, and similar issues.

*Deliverables:*

- *Project kickoff meeting agendas and meeting notes*
- *Bi-weekly project coordination meeting/conference call agendas and meeting notes*

### TASK 3 –PROJECT DESCRIPTION

De Novo will prepare a detailed description including text and graphics utilizing the information provided by the applicant team. The project description will include a regional and local setting, project history and land uses, past ownership, objectives, characteristics, important project features including discretionary actions and entitlements, consistency with the General Plan and zoning designations, a list of responsible and other agencies expected to use the product document in decision making, and a list of approvals for which the product document will be used. We will provide the draft project description to the City staff for review and comment. Upon receipt of comments from the City staff we will finalize the project description for use in the NOP/Initial Study as described in Task C, which will involve a second review of the project description along with the Initial Study.

### TASK 4 – NOTICE OF PREPARATION (NOP)

De Novo will prepare Notice of Preparation (NOP) for the proposed EIR. The NOP project description will describe the proposed project, land uses, densities and intensities, and anticipated uses. The NOP will also include information regarding the scoping meeting and the process for completing the EIR. It will indicate that an EIR is in preparation, and request guidance from agencies and the public regarding the scope and content of the information to be included in the EIR. An initial study is not proposed to be attached to the NOP because it is expected that a full EIR will be required.

A Draft NOP will be submitted to the City staff for review and comment. Based on one set of consolidated City comments, De Novo will prepare a Final NOP and Notice of Completion (NOC).

During the 30-day review period of the NOP, the City will hold a scoping meeting conducted by the City and supported by De Novo. The purpose of the scoping meeting will be to provide responsible agencies and the public the opportunity to provide input into the proposed scope of the EIR. De Novo will prepare the format and exhibits for this meeting. The City will be responsible for scheduling the date, time, and location for the meeting and securing the meeting room. Following the 30-day review period, De Novo will collect and review all comment letters received and summarize the content of the comment letters in the Administrative Draft EIR (ADEIR).

On behalf of City staff, De Novo will submit the NOP and NOC to the Office of Planning and Research (OPR) State Clearinghouse. De Novo will also circulate the NOP to the applicable responsible and trustee agencies and interested parties, as directed by the City, post the NOP with the Merced County Clerk, and publish the NOP in a newspaper of general circulation.

*Deliverables:*

- *One (1) electronic copy of the Draft NOP, Final NOP, Notice of Completion, Notice of Availability/Notice of Intent, and Summary Form*
- *Attendance at one scoping meeting*
- *Newspaper notice*

**TASK 5 – TECHNICAL STUDIES**

The following discusses the individual technical studies that will be prepared for the project. In addition to those listed, we will prepare an Air Quality, Greenhouse Gas Emissions, and Energy Analysis that will be incorporated into the EIR, but is not intended to be a standalone document. Lastly, any Engineering Studies, Calculations, and Drawings prepared by the applicant's team will be reviewed by our staff (and the appropriate City Departments/Staff) and incorporated into the EIR as appropriate.

**BIOLOGICAL STUDY**

ECORP will conduct a biological resources assessment to provide the data and information needed to support review of the Project in accordance with the California Environmental Quality Act (CEQA) and permitting with state and federal agencies. The work plan for accomplishing this task includes a literature review, field survey, and reporting.

- *Literature Review and Records Search.* As part of the literature review, ECORP will evaluate existing available information for the Study Area and vicinity, including secured permits, previous biological studies, aerial imagery, topographic mapping, soil survey mapping, and National Wetland Inventory mapping. ECORP will conduct species searches through the California Department of Fish and Wildlife (CDFW) Natural Diversity Database (CNDDDB), California Native Plant Society (CNPS), U.S. Fish and Wildlife Service (USFWS), and National Marine Fisheries Service (NMFS), as applicable, to identify potentially occurring special-status species in the vicinity of the Project. Background information regarding species distribution and habitat requirements will be evaluated to support the field investigation.

- *Reconnaissance Field Survey.* Based on the information collected during the literature review, ECORP will conduct a reconnaissance-level site investigation of the Study Area to document current conditions. During the site investigation ECORP will characterize vegetation communities and evaluate habitat suitability for special-status species. Vegetation communities will be described and mapped using the Manual of California Vegetation (Sawyer et al., 2009). If special-status species are observed, their locations will be recorded and mapped using a Global Positioning System (GPS) device. Aquatic resources, and areas potentially subject to CDFW jurisdiction under Section 1602 of the California Fish and Game Code, will be identified and characterized, and their approximate extents will be mapped based on observed limits of the top of bank (for linear features) and/or extent of aquatic or riparian vegetation.

This task does not include focused (protocol-level) surveys for special-status plant or wildlife species or coordination or consultation with the regulatory agencies. If suitable habitat is identified onsite, ECORP will provide recommendations for focused surveys and mitigation measures in the biological resources assessment.

The scope does not include an Aquatic Resources Delineation (ARD) conducted to U.S. Army Corps of Engineer standards; however, it will provide information needed to determine whether an ARD is likely to be required for the project.

- *Biological Resources Assessment Report.* The findings will be incorporated into a stand-alone Biological Resources Assessment. The report will provide the regulatory context, a discussion of the methods and results, and an evaluation of the potential biological impacts of the project. The report will include a list of special-status species known from the project vicinity, an assessment of their potential to occur onsite, a review of the types and extent of aquatic resources, and a discussion of other sensitive biological resources onsite, such as wildlife migration corridors. The report will describe the potential impacts of the proposed project and provide recommended mitigation measures to avoid and minimize those impacts. The report will be written such that it can be directly incorporated into the Biological Resources section of the CEQA document. ECORP will respond to one round of comments, then provide a final report.

ECORP will coordinate with Vollmar Natural Lands Consulting, Inc. during the preparation of the report. Vollmar is expected to provide advice and guidance, as needed, on the environmental permits that were obtained in 2007 and subsequent construction and monitoring of the created wetlands. It is also anticipated that Vollmar will sample the vegetation in the offsite created vernal pools and delineate the extent of wetlands so data is available, if needed, for additional permitting. Vollmar will provide this information to De Novo and ECORP for incorporation into the Biological Resources Assessment Report. It is anticipated that Vollmar will be under contract directly to the project applicant, not to De Novo as a subconsultant.

#### CULTURAL RESOURCES STUDY

The De Novo team includes ECORP to prepare a Cultural Resources Study, which will serve as the basis for the EIR analysis. A preliminary review of the proposed project indicates the likelihood of historic-age resources, including an irrigation ditch and road alignment, to exist within the project area that meet the age threshold to be considered cultural resources. The project area totals 37.2 acres. To complete the cultural resource identification and reporting for the project area for CEQA review, the following scope of work is proposed:

- *Cultural Resources Inventory Report.* ECORP will conduct a cultural resources inventory of the proposed project area. The cultural resources inventory will be conducted by or under the direct supervision of a Registered Professional Archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for prehistoric and historical archaeology. This study will be conducted pursuant to compliance with the California Environmental Quality Act (CEQA) and Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations in 36 CFR 800.

ECORP will conduct a records search and literature review with the California Historical Resources Information System's (CHRIS) Central California Information Center (CCIC). The CHRIS records search will identify the locations and extent of previous surveys conducted within 0.5-mile of the project area and will determine if there are any known cultural resources (i.e., pre-contact [prehistoric] or historic archaeological sites or historic-period features) located within or near the project area. ECORP will request a search of the Sacred Lands File from the California Native American Heritage Commission (NAHC). The Sacred Lands Files search will identify any known sensitive or sacred Native American resources located within or near the project area that have been previously reported to the NAHC.

Where ground conditions can accommodate, ECORP will complete an intensive field survey using pedestrian transect intervals spaced 15 meters apart. The project area will be examined for evidence of cultural resources, including pre-contact and historic-period (i.e., over 50 years of age) archaeological deposits and built environment features.

A summary of all findings will be provided in an inventory report, following OHP's recommended content and format. The report will provide the historic context, regulatory context, as well as the methods, field and evaluation results, and recommendations. The report will be used to substantiate and inform the Cultural Resources section of the EIR.

- *Cultural Resources Evaluations.* A preliminary review of the project indicates the likelihood of historic-age resources, including an irrigation ditch and road alignment, to exist within the Project Area that meet the age threshold to be considered cultural resources. Until the records search and pedestrian survey is completed, it is currently unknown if these resources, or additional cultural resources, will be recorded within the

project area. To assist with project planning, under this task ECORP estimates that at least these two historic-age resources will require recording and evaluation for the EIR.

In pursuit of compliance with CEQA and Section 106 of the NHPA, a Senior Architectural Historian, who meets the Secretary of the Interiors Professional Qualification Standards for architectural history, will record and evaluate up to two historic-age resources against the eligibility criteria of the California Register of Historical Resources (CRHR) and National Register of Historic Places (NRHP), as required by CEQA. The results of the evaluation and DPR 523 Records for the buildings will be included with the inventory report. The results will also be included in the Cultural Resources section of the EIR.

#### NOISE STUDY

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The De Novo team includes Saxelby Acoustics to prepare a Noise and Vibration Study. The following outlines the scope of work for this study:

- *Existing Noise Environment.*

Traffic Noise: Existing noise levels due to nearby transportation noise sources will be quantified. Saxelby Acoustics uses the Federal Highway Administration (FHWA) traffic noise prediction model for the prediction of traffic noise levels. Direct inputs to the traffic model will include traffic data provided by the project traffic consultant, existing posted speed limits, truck count information, and 24-hour traffic split data collected by Saxelby Acoustics.

Community Noise Survey: Saxelby Acoustics will conduct a noise survey within the project site to quantify existing background noise levels. The noise survey will consist of short-term noise level measurements and continuous noise level measurements for a minimum period of 24-hours.

- *Analysis of Transportation Noise Environment.* Saxelby Acoustics will evaluate increased traffic noise levels at existing sensitive receptors in the project vicinity. This task will be performed using traffic volumes provided by the traffic engineer. We anticipate providing traffic noise levels for existing, existing plus project, cumulative, and cumulative plus project scenarios. However, should additional scenarios be included in the traffic study, we will also evaluate those scenarios. We will also calculate exterior and interior traffic noise levels on the proposed residential uses. If necessary, we will evaluate any required exterior or interior noise control measures needed to achieve compliance with the City of Manteca noise level standards.
- *Analysis of Stationary Noise Environment.* Saxelby Acoustics will provide an analysis of the noise and vibration impacts associated with construction and operation of the project at existing sensitive receptors in the project vicinity. It is expected that this analysis will follow the assumptions used in the project air quality analysis.
- *Report Preparation.* Saxelby Acoustics will provide a draft report which details our findings, methodology, and noise reduction measures (if required). The report will be

prepared to meet the requirements of the City of Merced and CEQA. Saxelby Acoustics will provide the technical noise study in a generic technical format, or a De Novo specific format if preferred.

- *Response to Comments.* Saxelby Acoustics will respond to comments on the draft technical report. After comments are received, a final report will be provided.

#### TRAFFIC STUDY

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The following scope of work presents the work tasks that will be required to complete the CEQA-related VMT analysis and the operations-based Traffic Study.

The City of Merced Planning Commission approved Resolution #4106 requiring the use of vehicle miles traveled (VMT) Thresholds and Guidelines when evaluating the environmental impacts of development projects under CEQA. Further, the Resolution adopts the VMT Thresholds and Guidelines as recommended by the Merced County Association of Governments (MCAG) in November 2022.

Using the County of Merced as the region for analysis purposes, the MCAG Travel Demand Model is the recommended for evaluating project VMT. For all non-retail projects, the City will use a significance threshold of 86% of the existing regional average of the respective VMT metric. For retail projects, the City will use a significance threshold of no net increase in VMT. For mixed use projects, the City will use VMT thresholds based on the respective thresholds for the various land use components. For transportation projects, the City will use net increase in induced VMT as the significance threshold. Finally, for land use plans, the City will use the existing regional average VMT per capita, VMT per employee, and/or VMT per service population as the threshold of significance. A web-based tool to assist with screening is also available.

City of Merced General Plan Amendment #23-01 will guide how VMT analyses will be conducted to comply with SB 743 and Resolution #4106, and will guide usage of Level of Service (LOS) standards as a metric for other purposes such as design, traffic operations, and safety.

In keeping with the requirements of the City of Merced, MCAG and the Office of Planning and Research, TJKM will prepare a comprehensive VMT analysis of the proposed project. If required, TJKM will develop mitigation measures to resolve unacceptable VMT results. This analysis will be included in the EIR for CEQA compliance.

TJKM will prepare a free-standing transportation impact study (TIS) report summarizing the analysis procedures, findings and recommendations. The report would likely be a supporting document, not appended to the EIR, for the City's information. The TIS may partially serve as a source document for the Transportation section of the EIR.

- *Existing Conditions.* TJKM will evaluate existing conditions at the study intersections indicated below during weekday peak hours on Tuesdays, Wednesdays or Thursdays

from 7 to 9 a.m. and from 4 to 6 p.m. TJKM expects to obtain new peak hour counts at all locations.

Intersections to be analyzed:

1. Lake Road and Scholars Lane
2. Bellevue Road at Lake Road
3. Bellevue Road at Golf Road
4. G Street at Bellevue Road
5. G Street at Cardella Road
6. G Street at Yosemite Avenue
7. G Street at W. Olive Avenue
8. Lake Road at Cardella Road
9. Yosemite Avenue at Lake Road
10. Yosemite Avenue at Campus Parkway
11. Olive Avenue at Campus Parkway
12. SR 140 at Campus Parkway
13. Lake Road at Site Access 1
14. Lake Road at Site Access 2 (Mandeville Ext.)

TJKM will perform a site visit to observe existing intersection conditions, especially during the a.m. and p.m. peak hours. Existing roadway conditions, including geometrics and traffic controls, will be verified.

Queuing analysis is included in the proposed scope of work for the study intersections listed above under all study scenarios. This analysis will be utilized to recommend minimum storage lengths for left and right turn lanes at all study intersections.

Roadway segments to be analyzed:

- A. Lake Road from Scholars Lane to Cardella
- B. Bellevue Road from Lake Road to Golf Road

TJKM will obtain directional 24-hour counts at the subject locations. TJKM will evaluate existing and forecast levels of service (LOS) at the study intersections and segments. TJKM will use Synchro software for the study intersections, and a methodology consistent with the General Plan EIR for the study segments, as appropriate to perform this analysis. TJKM will identify the causes of poor level of service.

- *Project Information*

Trip Generation. Vehicle trip generation for the proposed project will be based on information provided and the Institute of Transportation Engineers (ITE) reference, *Trip Generation, 11th Edition*.

Distribution and Assignment. TJKM will utilize the existing MCAG traffic model, existing counts, and input from local transportation officials to determine a recommended distribution and assignment of project trips. TJKM will prepare an analysis of Scenario 2, shown below, which will include the trips from buildout of the project added to existing traffic. Where appropriate, TJKM will recommend potential mitigation measures in order to maintain acceptable levels of service.

Project scenarios. TJKM expects to include the following scenarios in the traffic study.

1. Existing traffic conditions;
2. Existing plus Project traffic conditions;
3. Cumulative No Project traffic conditions; and
4. Cumulative plus Project traffic conditions.

TJKM will reconfirm the desired year of cumulative analysis – likely 2040. Analysis of 2040 conditions would be consistent with both the City and County General Plans and the current MCAG traffic model.

- *Cumulative Scenarios.* TJKM will obtain the MCAG traffic model forecast from MCAG for use in developing cumulative forecasts at the study intersections and segments. The MCAG model provides forecasts through year 2040. The MCAG model is a daily model and TJKM will use the model output to obtain growth factors at each of the study intersections as a basis for developing future year traffic volume counts. General Plan documents prepared for the City and the County will be useful in validating the forecasts that TJKM obtains using these methods. TJKM will analyze Scenarios 3 and 4 in this task. At each location where unacceptable levels of service result, TJKM will develop appropriate mitigation requirements.
- *Other Issues*
  - a) Fair Share Analysis. TJKM will prepare a fair share analysis of costs for the mitigation measures determined to be the full or partial responsibility of the development being analyzed in Scenario 4. TJKM will use methodologies prescribed by Caltrans.
  - b) Review On-site Circulation. TJKM will prepare an analysis of proposed on-site circulation for the development.
  - c) Transit, Bicycle and Pedestrians. TJKM will prepare an analysis of project impacts to transit, bicycle and pedestrian facilities based on the criteria described in the City General Plan EIR.
  - d) Traffic Signal Warrants. TJKM will conduct peak hour signal warrants for all unsignalized intersections in all scenarios.
- *Report.* TJKM will respond to comments on the report made by the EIR preparer as well as the City staff. We will also be able to review and provide comments on the administrative draft DEIR section, if requested.
- *Response to DEIR Comments.* TJKM will be able to respond to technical comments on the DEIR resulting from the transportation impact findings in the DEIR. This will be on a time and materials basis. This task can also be used if attendance at public meetings by TJKM is required during the adoption phase.

#### WATER SUPPLY ASSESSMENT

West Yost is a civil engineering firm with experience preparing water supply assessments for the City of Merced. The proposed project calls for an SB 610 WSA based on the size of the project.

*Develop Water Demand Projection and Evaluate Water Supply Availability*

West Yost will review the estimated water demand for buildout of the Project based on projections prepared by the project applicant's engineer. Only the buildout water demand will be reviewed; no water demands for phasing of the project will be reviewed by West Yost.

West Yost will then conduct an evaluation of available water supplies to meet the project's water demands. West Yost will use the City's 2020 UWMP as a basis for determining the available water supplies to meet the demands under normal, single dry, and multiple dry year conditions.

Based on the evaluation of supply availability, West Yost will identify whether the City has sufficient water supplies and water supply reliability to meet the water demand associated with the proposed project. Because the proposed project is within City's planning area and outside the existing City limits, the proposed project will require annexation into the City limits. This proposed scope of services does assume that the City's water supply will be extended to areas within the planning area outside the existing City limits as those areas are approved for development and annexed into the City.

*Prepare Water Supply Assessment*

West Yost will prepare a WSA for the Project in accordance with the requirements of SB 610 as adopted in the California Water Code as Sections 10910-10915. The WSA will be based on the projected water demands for buildout of the Project; the assumed water supplies for the Project; Project information provided by the City and Project Applicant representatives; the City's existing and future water supply and demand as documented in the City's 2020 UWMP; other identified supplies if required; and other existing data to the extent available. It will be assumed that all Project water demands will be met through the City's potable water system.

The work will include preparation of the following WSA components:

- A description of the Project, including location, overall area, number of parcels, type of proposed development, if applicable
- A description of the total estimated water demand associated with buildout of the Project
- A description of the City's current and future water supply and demand conditions, including supply entitlement and contractual amounts, supply reliability under varying hydrologic conditions, and existing and anticipated future water demands
- A description of determinations as required by SB 610, including:
  - If the Project is subject to the requirements of the California Environmental Quality Act (CEQA),
  - If the Project meets the SB 610 definition of a project,

- Identification of the City as the responsible water system, and
- If the City's 2020 UWMP includes the water demands for the proposed Project.
- A water supply assessment for the Project that will include the following:
  - Identification of existing water supplies for the Project and demonstration that said supplies exist,
  - If inadequate supplies exist, identification of potential options to meet the water supply deficit,
  - Evaluation of the sufficiency and reliability of the proposed supply for the Project,
  - Identification of any potential conflicts that may arise from the exercise of water supply entitlements required for the Project, and
  - Proposed use and sufficiency of groundwater supplies (based on existing available data and studies).
- A determination of sufficiency of existing and future supply for the Project

Results of the analysis described above will be documented in an Administrative Draft WSA Report for the Project. The Administrative Draft WSA Report will be provided to De Novo for delivery to the City. Following receipt of consolidated, written comments from De Novo and the City, West Yost will prepare a Draft WSA for City Council review and comment or adoption, and a final copy after City Council adoption, if needed.

This assessment does not include investigating the offsite or onsite utilities or whether there is sufficient infrastructure to deliver water to the Project or distribute water within the Project. The proposed WSA will evaluate water supply and demand only.

#### TASK 6 – ADMINISTRATIVE DRAFT EIR

De Novo will prepare the project-level EIR for the project in an administrative draft form for City staff to review. The EIR will be intended to provide the information and environmental analysis necessary to assist public agency decision-makers in considering approval of the project.

The EIR will consider all potential environmental effects of the project to determine the level of significance and will analyze these potential effects to the detail necessary to make these determinations on significance. Each section will include GIS graphics and figures to create an easy to comprehend document that is user-friendly.

The EIR will consist of the following sections:

##### EXECUTIVE SUMMARY

This section will provide a concise description of the project, the potential areas of controversy, issues to be resolved, project alternatives, and a summary of impacts and mitigation measures.

The intent of this section is to provide the City and the public with a simple and easy to understand overview of the project and related issues, which will be analyzed and discussed much more thoroughly in the contents of the EIR.

#### INTRODUCTION

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The Introduction will serve as an overview of the EIR, describing its purpose and relevant environmental review procedures, the document organization, and the methodology used.

#### PROJECT DESCRIPTION

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The Project Description section will consist of a detailed description of the project (See Task B), including the proposed actions, the project goals and objectives, and the relationship of the project to other regional plans and projects. This section will also present the City's and other agencies' involvement in the project, and the use of the EIR by other agencies, including permits and approvals. This section will be consistent with the requirements of CEQA Guidelines Section 15124.

#### ENVIRONMENTAL SETTING, IMPACTS, AND MITIGATION MEASURES

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The Environmental Setting, Impacts, and Mitigation Measures section will present a detailed discussion of each individual environmental topic. Each discussion will include the following:

- An environmental setting and environmental baseline conditions (including figures and GIS graphics);
- The applicable local, state, and federal regulatory setting;
- The threshold of significance used for each impact determination;
- The methodology used for conducting the environmental analysis and making significance determinations;
- An analysis of all identified direct and indirect impacts associated with project;
- An analysis of the cumulative impacts associated with the project;
- Identification of mitigation measures to reduce impacts; and
- A determination of the significance of each impact after mitigation.

De Novo will work closely with City staff to formulate the appropriate mitigation measure language and timing that is appropriate for inclusion in the EIR. Each EIR section will be organized concisely for ease of use and future reference.

#### AESTHETICS/VISUAL RESOURCES

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This section will identify applicable General Plan policies that protect the visual resources located along public roadways and surrounding land uses, and will also address the potential for the project to substantially impair the visual character of the project vicinity. The analysis will address the proposed design and landscaping plans developed by the applicant and provide a narrative description of the anticipated changes to the visual characteristics of the project area as a result of project implementation and the conversion of the existing on-site land uses to an urbanized use. If architectural renderings are available for the proposed project, we will

compare and contract design elements to existing architecture and design standards in the city. The analysis will also address potential impacts associated with light spillage onto adjacent properties during nighttime activities. This section of the EIR will provide a discussion of viewsheds, proximity to scenic roadways and scenic vistas, existing lighting standards, an impact analysis, and recommendations for mitigating potentially significant impacts.

This section will provide an analysis including the methodology, thresholds of significance, a consistency analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented to reduce impacts on aesthetics/visual resources.

#### AGRICULTURAL RESOURCES

This section will describe the character of the region's agricultural lands, including maps of prime farmlands, other important farmland classifications, and protected farmland (including Williamson Act contracts). The County Agricultural Commissioner's Office and the State Department of Conservation will be consulted and their respective plans, policies, laws, and regulations affecting agricultural lands will be presented.

This section will provide an analysis including the methodology, thresholds of significance, project impact analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented to offset the loss of agricultural lands and Williamson Act cancellations as a result of project implementation. We will review the General Plan and General Plan EIR, and note the City's previous conclusions regarding the loss of agricultural land.

#### AIR QUALITY

The project site is located within the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD). The project may result in short-term construction-related emissions and long-term operational emissions, primarily attributable to emissions from vehicle trips and from energy consumption by the residential uses. We will consult with the SJVAPCD regarding the project's potential to cause impacts, and the applicability of the SJVAPCD's Rules and Regulations. The Air Quality analysis will include the following:

- Regional air quality and local air quality in the vicinity of the project site will be described. Meteorological conditions in the vicinity of the project site that could affect air pollutant dispersal or transport will be described. Applicable air quality regulatory framework, standards, and significance thresholds will be discussed.
- Short-term (i.e., construction) increases in regional criteria air pollutants will be quantitatively assessed. The ARB-approved CalEEMod computer model will be used to estimate regional mobile source and particulate matter emissions associated with the construction of the proposed project.
- Long-term (operational) increases in regional criteria air pollutants will be quantitatively assessed for area source, mobile sources, and stationary sources. The ARB-approved CalEEMod computer model will be used to estimate emissions associated with the proposed

project. Exposure to odorous or toxic air contaminants will be assessed through a screening method as recommended by the SJVAPCB.

- Local mobile-source CO concentrations will be assessed through a CO screening method as recommended by the SJVAPCD. Mobile source CO concentrations are modeled for signalized intersections expected to operate at unacceptable levels of service (i.e., LOS E or worse). If the screening method indicates that modeling is necessary, upon review of the traffic analysis, CO concentrations will be modeled using the Caltrans-approved CALINE4 computer model.

This section will provide an analysis including the methodology (to be verified by the San Joaquin Valley Air Pollution Control District prior to the analysis), thresholds of significance, a consistency analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented to reduce impacts on air quality. Greenhouse Gases and Climate Change will be addressed in a separate chapter.

It is possible the SJVAPCD may request/require a health risk assessment for the project. If the request is made, De Novo would prepare a health risk assessment consistent with SJVAPCD guidelines (APR - 1906 Framework for Performing Health Risk Assessments).

#### BIOLOGICAL RESOURCES

The De Novo Team includes ECORP, a multi-disciplinary firm with exceptional local knowledge and experience. The scope of work includes the preparation of a biological report, which will be incorporated into this section of the EIR. The scope of the biological report is presented under a separate task.

#### CULTURAL AND TRIBAL RESOURCES

The De Novo Team includes ECORP, who will prepare a Cultural Resources Technical Report. The scope of work includes the preparation of a cultural report, which will be incorporated into this section of the EIR. The scope of the cultural report is presented under a separate task.

ECORP will provide support to the lead agency in consulting with California Native American tribes under Assembly Bill 52 (AB 52) and Senate Bill 18 (SB18). At the agency's direction, ECORP will provide policy-level expertise in guiding the agency through the consultation process. ECORP will draft all required notification letters, coordinate tribal meetings, maintain the AB52 and SB18 administrative record, and provide technical support to the agency in responding to, or acting upon, comments from tribes. ECORP will document the consultation process and comments discussed and advise the lead agency on how to come to a conclusion to the consultation, as specified by AB52 and SB18. If requests from the agency will require more effort that will exceed the budget provided herein, then a contract amendment would be required.

#### ENERGY

De Novo will prepare an Energy analysis pursuant to the requirements of CEQA. This will include an evaluation of the energy consumption (electricity, oil, and natural gas) and a review of the

project related to the Title 24, Part 6 of the California Code of Regulations, known as the Building Energy Efficiency Standards (Standards), including the CALGreen standards. In order to ensure that energy implications are considered in project decisions, Appendix F of the CEQA Guidelines requires that EIRs include a discussion of the potential energy impacts of proposed projects, with particular emphasis on avoiding or reducing inefficient, wasteful and unnecessary consumption of energy. The goal of conserving energy implies the wise and efficient use of energy.

Per Appendix G of the CEQA Guidelines, the proposed project would result in a significant impact on energy use if it would result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation; or conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

This section will provide an analysis including the methodology, thresholds of significance, a consistency analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented to reduce impacts associated with energy consumption.

#### GEOLOGY/SOILS/SEISMICITY

We will review published documents, geologic maps and other geological and geotechnical literature pertaining to the site and surrounding area to aid in evaluating geologic resources and geologic hazards that may be present. We will review documents provided by the project applicant(s). Potentially useful documents may include geotechnical, geologic, and environmental reports, site plans, plot plans, and correspondence with regulatory agencies. We will review aerial photographs of the site to aid in evaluating geologic hazards that may be present. We will perform a site reconnaissance to observe the site and features of interest identified during the literature and air photo evaluations. We will prepare a geohazards evaluation to address soils, geology, and seismicity issues, and propose mitigations, as applicable, to address identified impacts.

The work for this section will include a description of the applicable regulatory setting, a description of the existing geologic and soils conditions on and around the project site, an evaluation of geologic hazards at the project site, a description of the nature and general characteristics of the subsurface conditions within the project site, and the provision of findings and potential mitigation strategies to address any geotechnical concerns or potential hazards.

#### GREENHOUSE GASES AND CLIMATE CHANGE

De Novo will prepare a Greenhouse Gas Emissions analysis pursuant to the requirements of federal, state, regional, and local laws and regulations related to thresholds and methodology for this analysis. The analysis will follow the California Air Pollution Control Officers Association (CAPCOA) white paper methodology and recommendations presented in Climate Change & CEQA, which was prepared in coordination with the California Air Resources Board and the Governor's Office of Planning and Research as a common platform for public agencies to ensure that GHG emissions are appropriately considered and addressed under CEQA. This analysis will

consider a regional approach toward determining whether GHG emissions are significant, and will present mitigation measures to reduce impacts. The discussion and analysis will include quantification of GHGs generated by the project using ARB-approved CalEEMod computer model as well as a qualitative discussion of the project's consistency with any applicable state and local plans to reduce the impacts of climate change. The De Novo team will work with City staff to implement a methodology and mitigation strategy that meets all legal requirements and is consistent with current City policies and preferences.

This section will provide an analysis including the methodology, thresholds of significance, a consistency analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented to reduce impacts associated with greenhouse gas emissions.

#### HAZARDS/HAZARDOUS MATERIALS

The De Novo team will prepare an environmental hazards evaluation in accordance with accepted guidelines for the preparation of an EIR. The environmental hazards evaluation will include a review of hazardous site databases (i.e., California Environmental Protection Agency's (Cal EPA) Cortese List, the Department of Toxic Substances Control Envirostor database, the State Water Resources Control Board Geotracker database, Cal-EPA's CAL-SITES Abandoned Site Program Information System (ASPIS) database, and others that are deemed relevant). We will also rely on a Phase 1 Environmental Site Assessment provided by the applicant team, if available. Based on the findings in the evaluation, we will propose mitigations, as applicable, to address identified impacts. This section of the EIR will present the methodology, thresholds of significance, impact analysis, and a discussion of feasible mitigation measures that should be implemented to reduce impacts, as applicable.

#### HYDROLOGY/WATER QUALITY

We will utilize any storm drainage engineering work performed by the applicant's engineer in the preparation of this section of the EIR. This section of the EIR will present the existing FEMA flood zones, levee protection improvements, reclamation districts, and risk of flooding on the project site and general vicinity. We will consult with the applicable reclamation district if needed. We will review the drainage study/calculations, and improvement plans prepared by the applicant's engineer for the proposed project if available. We will summarize onsite hydrology and hydraulic calculations under existing and proposed conditions. Some of the specific items to be reviewed include: land use classification; acreage calculations; runoff coefficients; time of concentration; and methodology. Calculations will be reviewed for reasonableness and consistency with the site plan and with the City's master plans.

We will also review the project plans and other existing information to evaluate the potential construction and operational impacts of the proposed project on water quality. We will describe the surface drainage patterns of the project area and adjoining areas based on the drainage study/calculations, and improvement plans; and identify surface water quality in the project area based on existing and available data. We will identify 303D listed impaired water bodies in

the vicinity of the project site. Conformity of the proposed project to water quality regulations will also be discussed. Mitigation measures will be developed to incorporate Best Management Practices (BMPs), consistent with the requirements of the Central Valley Regional Water Quality Control Board (CVRWQCB) to reduce the potential for site runoff.

This section will provide an analysis including the methodology, thresholds of significance, a consistency analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented to reduce impacts associated with hydrology and water quality.

#### LAND USE AND PLANNING

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This section will include a detailed discussion of the project entitlements as it relates to the existing General Plan, Zoning Code, and other local regulations. We will discuss and map the existing and planned land uses and the character of the region. The local, regional, state, and federal jurisdictions potentially affected by the project will be identified, as well as their respective plans, policies, laws, and regulations (including zoning), and potentially sensitive land uses. We will evaluate the proposed project for consistency the General Plan, the Zoning Ordinance, and any other relevant planning document. Planned development and land use trends in the region will be identified based on currently available plans. Reasonably foreseeable future development projects within the region will be noted, and the potential land use impacts associated with the project will be presented.

This section will provide an analysis including the methodology, thresholds of significance, a consistency analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented to ensure consistency with the existing and planned land uses.

#### MINERAL RESOURCES

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This section of the EIR will include a detailed discussion of the mineral resources documented on the project site and in the vicinity, Mineral Resource Zone mapping, history of mining in the region and vicinity, and local, state, and federal policies related to mineral resources and mining. This section will provide an analysis including the thresholds of significance, a consistency analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented.

#### NOISE

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The De Novo Team includes Saxelby Acoustics, an acoustical consulting firm with exceptional local knowledge and experience. The scope of work includes the preparation of a noise report, which will be incorporated into this section of the EIR. The scope of the noise report is presented under a separate task.

#### POPULATION AND HOUSING

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This section will begin with a detailed discussion of existing population and housing trends within the city. Relevant policies related to the location and intensity of housing development and population growth will be summarized and addressed. We will utilize the Housing Element to identify housing supply, and future availability of housing within the City. Potential impacts related to the existing housing supply and the future availability of housing will be addressed. This section will include population growth and housing unit forecasts associated with full buildout of the proposed project and General Plan.

#### PUBLIC SERVICES/RECREATION

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Implementation of the project has the potential to result in impacts to the public services/recreation. Specifically, implementation of the project may result in a significant increase in demand for public services/recreation in the project area and may result in level of service impacts to police, fire (including split jurisdiction), and emergency service providers, as well as park and open space facilities.

We will contact public service and recreation providers in order to determine existing service levels in the project areas. This will include documentation regarding existing staff levels, equipment and facilities, current service capacity, existing service boundaries, and planned service expansions. We will review master plans from such public service and recreation providers. We will describe City policies, programs, and standards associated with the provision of public services and recreation.

This section will provide an analysis including the methodology, thresholds of significance, a consistency analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented reduce impacts associated with public services and recreation.

#### TRANSPORTATION AND CIRCULATION

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The De Novo Team includes TJKM, a traffic consulting firm with exceptional local knowledge and experience. The scope of work includes the preparation of a traffic report, which will be incorporated into this section of the EIR. The scope of the traffic report is presented under a separate task.

#### UTILITIES AND SERVICES SYSTEMS

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We understand that an engineer has been retained by the applicant to perform civil engineering for this project. We will utilize the engineering design/calculations performed by the engineer in the preparation of this section of the EIR. This section will focus on wastewater, water, and storm drainage infrastructure, as well as other utilities (i.e. solid waste, gas, electric, etc.) that are needed to serve the proposed project. It is noted that these topics are relevant to the Utilities Department and the appropriate level of coordination will be performed to confirm that the plans are acceptable and that the project description is accurate. This section will provide an analysis, including the methodology, thresholds of significance, a consistency analysis,

cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented to reduce impacts associated with utilities and service systems. A brief description of the wastewater, storm drainage, and water are provided below.

**Wastewater:** We will analyze the impacts associated with on-site and off-site construction of the conveyance system, including temporary impacts associated with the construction phase. We will present the proposed infrastructure as provided by the developer's engineer. This will likely include a system of gravity pipes, pump station(s), and a forcemain(s). Lastly, we will discuss the disposal methods and location, including environmental impacts and permit requirements associated with disposal of treated wastewater. We will address the potential for the use of recycled water for irrigation to the extent allowed by the City's Waste Discharge Permit issued by the RWQCB.

**Storm Drain:** We will analyze the impacts associated with on-site and off-site construction of the storm drainage system, including temporary impacts associated with the construction phase. We will identify permit requirements and mitigations needed to minimize and/or avoid impacts. We will present the proposed infrastructure as provided by the developer's engineer. We will review the proposed system for consistency with the City's Master Storm Drain Plan. This section will include some information that will also be presented in the hydrology and water quality section of the EIR (i.e. flood hazards), although the focus of this section will be on the environmental impacts associated with the system.

**Water Supply:** We understand that the applicant has retained a civil engineer for the civil engineering of the project, including water analysis. The size of the project warrants an SB 610 Water Supply Assessment (WSA). We have included West Yost to prepare a WSA, which is described in a separate task. Results of the WSA will be documented in an Administrative Draft WSA Report for the Project, which will include the following: a description of the Project and the associated water demand; a description of the City's existing and future water supply and demand conditions; a description of determinations as required by SB 610; documentation of the WSA for the Project; and determination of sufficiency of existing and future supplies to meet the proposed demand of the Project. The WSA will be the basis for this section.

#### WILDFIRES

De Novo will evaluate the proposed project for wildlife fire impacts. This will include a review of the project for the potential to expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes. We will determine if there is a slope, prevailing winds, or other factors, that might exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire. We will evaluate the potential for the project to substantially impair an adopted emergency response plan or emergency evacuation plan. Lastly, we will evaluate the project to determine if it will require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.

This section will provide an analysis including the methodology, thresholds of significance, a consistency analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented reduce impacts associated with wildfire.

#### CUMULATIVE IMPACT SUMMARY

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Each issue area section will define cumulative impacts, the cumulative context and scenario, geographic or temporal scope, and methods for characterizing cumulative impacts. The cumulative impacts identified for each issue area will then be summarized in the Cumulative Impacts portion of each topical section contained in the ADEIR. The cumulative analysis will utilize either a cumulative list of projects or growth projections found in planning documents.

#### ALTERNATIVES

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De Novo will coordinate with City staff to formulate up to four (4) alternatives for analysis in the EIR as required by the CEQA Guidelines. Our efforts will result in an EIR that will include an examination of a range of reasonable alternatives that could feasibly achieve the basic objectives of the project.

The CEQA Guidelines require that a “No Project” alternative be analyzed among the range of alternatives. An alternative location must also be analyzed unless it is determined by the lead agency that a feasible alternative location does not exist. If the lead agency determines that an alternative location does not exist, it must disclose the reasons for this conclusion in the EIR.

The alternatives section will provide a description and comparison of the alternatives. Finally, an environmental superior alternative will be selected. From our experience with similar EIRs, we will provide suggested alternatives for City staff to consider. *(Note: We do not propose to analyze the alternatives at an equal level to the proposed project.)*

#### OTHER CEQA REQUIREMENTS

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The section will include the other required CEQA sections including issues previously determined to be less than significant, growth-inducing impacts, significant irreversible environmental effects, and a summary of significant and unavoidable impacts.

Consistent with the requirements of CEQA Guidelines Section 15126.2(d), the ADEIR is required to consider the ways in which the project could induce additional growth, either through the removal of obstacles to growth or through the creation of economic stimuli that might spur growth beyond that provided for in the General Plan. In addition, consistent with CEQA case law, the ADEIR must consider the ways that the proposed project might trigger economic blight that would result in physical adverse effects to buildings and/or public spaces.

In the context of the ADEIR, the focus of this analysis will be on how the proposed project would change uses from the Merced Vision 2030 General Plan and how the proposed project would alter the prior conclusions in the Merced Vision 2030 General Plan regarding growth inducement and urban decay.

De Novo will compare the potential for the proposed project to remove obstacles to growth through construction of infrastructure improvements that would provide such capacity that unplanned growth could occur. The ADEIR will also document the ways that the proposed project would affect growth-inducement in the area. Particular attention will be directed to the additional pressure for growth on unincorporated land between the project site and the City's northern boundary. The analysis will consider whether any utility or transportation improvements would facilitate growth in the City of Merced that is currently constrained or limited.

The proposed project will increase the amount of commercial retail and hotel use within the City of Merced, but it is not anticipated that the relatively small increase could result in the abandonment of established commercial retail and hotel businesses in other parts of the city. De Novo will describe what urban decay is and the potential for the project to cause it.

#### REPORT PREPARERS AND REFERENCES

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This section will provide a list of all persons, agencies, and references used to prepare the EIR.

#### *Deliverables:*

- *One (1) electronic copy of the Administrative Draft EIR, with appendices*

#### TASK 7 – DRAFT EIR

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##### SCREENCHECK DRAFT ENVIRONMENTAL IMPACT REPORT

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De Novo anticipates that all comments on the ADEIR will be directed through the City of Merced Development Services Department, Planning Division, which will convey their approved comments to De Novo. De Novo will incorporate City staff comments on the ADEIR and submit one electronic version of the Screencheck Draft EIR. We have assumed that no new technical studies will be prepared and that ADEIR technical studies will not need to be substantially revised based on changes to the proposed project or other pre-approved assumptions.

##### DRAFT ENVIRONMENTAL IMPACT REPORT

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De Novo will incorporate City staff comments on the Screencheck DEIR based on a single set of consolidated comments, and submit a final public Draft EIR to the City for distribution for a 45-day public comment period. We expect that the comments will direct revisions to the Screencheck DEIR, and we have assumed that the comments will be primarily editorial in nature.

After the document is finalized, De Novo will submit an electronic copy of the entire document and a NOC to the State Clearinghouse. We will also prepare a Notice of Availability (NOA) to accompany the Draft EIR. De Novo will distribute the NOA to interested stakeholders, post the NOA with the Merced County Clerk, and publish the NOA in a newspaper of general circulation in the area affected by the proposed project.

##### ATTENDANCE AT PUBLIC MEETING FOR DEIR

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De Novo will attend up to two (2) public meetings for the Draft EIR.

*Deliverables:*

- *One (1) electronic copy of the Screencheck Draft EIR with appendices*
- *Twenty (20) printed copies of the Draft EIR*
- *Twenty (20) printed copies of the Draft EIR Appendices*
- *One (1) electronic copy of the NOA/NOI, Summary Form, newspaper ad*
- *Attendance at two (2) public meetings*

*Note: Additional printed copies of the Draft EIR (without appendices) are estimated to be \$100 per copy. Additional printed copies of the Draft EIR Appendices are estimated to be \$150 per copy.*

**TASK 8 – ADMINISTRATIVE FINAL EIR**

De Novo will review the comments received during the public review period on the Draft EIR. We will prepare written responses to comments and make appropriate changes to the Draft EIR to create the Administrative Final EIR (AFEIR) document. The AFEIR will include:

- a brief introduction;
- revisions to the Draft EIR text;
- enumerated comment letters on the Draft EIR;
- responses to all comments on substantive environmental issues presented in the Draft EIR; and
- a Draft Mitigation Monitoring Plan (MMP).

Based on our understanding of the proposed project, we expect that the level of comment received during public review of the Draft EIR will be modest. It is our current expectation that comments on the Draft EIR will be limited to a few letters from local residents, UC Merced campus planning staff, community-based groups, labor unions, and potentially agencies such as the United States Army Corps of Engineers, California Department of Fish and Wildlife (CDFW), and Caltrans.

De Novo has provided an estimate of the level of effort required to prepare responses to comments based on our experience with other similar projects in the Merced area, our current understanding of the relative support and opposition to the project, and our understanding of the schedule. More specifically, this assumes that no more than 40 pages of agency and public comment on the Draft EIR is received and that no new substantive issues are raised that were not originally addressed in the Draft EIR. De Novo will respond to comments related to the potential physical impacts of the proposed project as they relate to the environmental analyses presented in the Draft EIR within the estimated level of effort. We have assumed that responses will involve explanation, clarification, or amplification of the contents of the Draft EIR. De Novo has assumed that no new technical analyses will be required nor that completed technical studies will need to be substantially revised based on changes to the project or pre-approved assumptions as part of the response to comments.

*Deliverables:*

- *One (1) electronic copy of the administrative draft Final EIR*

TASK 9 – FINAL EIR

Following City review of the AFEIR, De Novo will make revisions to the responses and prepare the Final EIR.

*Deliverables:*

- *Twenty (20) printed copies of the Final EIR*
- *One (1) electronic copy of the Final EIR*

*Note: Additional printed copies of the Final EIR are estimated to be \$75 per copy.*

TASK 10 – FINDINGS OF FACT / STATEMENT OF OVERRIDING CONSIDERATIONS

In the event that the City determines to approve the proposed project, De Novo will prepare written Findings of Fact, pursuant to Section 15091 of the CEQA Guidelines and in the City's format, to support final City actions on the project site. The Findings will include a specific finding for each significant impact of the project, describing the nature and significance of the impact, the status of mitigation, and the rationale for any mitigation that is to be rejected or that lies in the authority of another jurisdiction.

Assuming that one or more impacts are found to be significant and unavoidable, consistent with the requirements of Section 15093 of the CEQA Guidelines, De Novo will prepare a Statement of Overriding Considerations (SOC) for the proposed project that describes the reasons for project approval despite the occurrence of such impacts. It is anticipated that the SOC will identify a range of economic, employment, and social considerations. Since CEQA requires that the SOC be based on substantial evidence, De Novo assumes that the basis for the SOC will be found in financial, fiscal, and other economic studies undertaken by the applicant team, and provided to De Novo.

The Findings of Fact and the SOC will be drafted as companions to other "decision" documents developed for the project approval process, such as the City Staff Report, draft resolutions, and the like.

De Novo will prepare a draft version of the Findings of Fact and SOC for submittal to the City and the applicant team for review. Based on one set of comments, De Novo will revise the document and prepare a final version of the Findings of Fact and SOC.

*Deliverables:*

- *One (1) electronic copy of the draft Findings*

TASK 11 – ATTENDANCE AT PLANNING COMMISSION/CITY COUNCIL MEETINGS

De Novo will attend up to four (4) public hearings, which is anticipated to include a combination of Planning Commission hearings and City Council hearings. De Novo will be responsible for

preparing exhibits that may be necessary for display at these meetings, presentations, and responses to public comment. We anticipate that the Project Manager will be required for each meeting. Technical support from other members may be required on occasion and will be accommodated as necessary.

*Deliverables:*

- *Attend up to four (4) Planning Commission hearings and/or City Council hearings, and prepare relevant materials*

**TASK 12–NOTICE OF DETERMINATION**

Upon certification of the EIR, De Novo will prepare a Notice of Determination for filing with the State Clearinghouse and the Merced County Clerk. The applicant team will be responsible for the fees (County Clerk’s filing fee and CDFW State fee) associated with filing of the NOD, and shall be paid directly to the City or Clerk.

*Deliverables:*

- *One (1) electronic copy of the NOD*

**PROJECT SCHEDULE**

The following schedule has been formulated based on De Novo’s experience and understanding of the CEQA process, as well as timeframes and review periods for various components of this EIR in order to meet established deadlines. Factors that could lengthen or shorten the schedule include dates of receipt of project information, length of administrative document review, and unanticipated issues arising from internal or public review of the environmental document. A tentative schedule for the EIR is below.

In developing the draft schedule, we have assumed the following:

- Project team and City will be available as necessary for review meetings on the ADEIR, Screencheck Draft EIR, Draft EIR, and Administrative Final EIR; and
- No new issues are raised in late comments on the NOP or the ADEIR.

UC Villages EIR – Preliminary Schedule (as of April 19, 2023)			
Task		Duration	Tentative Completion Date
1	Project Management	12 months	June 2024
2	Kickoff Meeting	TBD	May 2023
	Weekly Coordination Meetings	Bi-weekly	Ongoing
3	Prepare Project Description	2 weeks	June 2023
	City/Applicant Review of Project Description	1 week	June 2023
4	Prepare Notice of Preparation (NOP)	Concurrent with PD prep	June 2023
	City/Applicant Review of Draft NOP	Concurrent with PD review	June 2023
	Prepare and Publish Final NOP	2 weeks	late June 2023
	NOP public review	30 days	late July 2023
	Scoping Meeting	TBD	July 2023
5	Prepare Technical Studies	16 weeks	September 2023
	Air Quality/GHG (requires traffic data)	16 weeks	September 2023
	Biological Resources	8 weeks	July 2023
	Cultural Resources	12 weeks	August 2023
	Noise Study	16 weeks	September 2023
	Transportation	16 weeks	September 2023
	Water Supply Assessment	9 weeks	August 2023
6	Prepare ADEIR	20 weeks	October 2023
	City/Applicant Review of ADEIR	3 weeks	November 2023
7	Prepare Screencheck Draft EIR	3 weeks	December 2023
	City/Applicant Review of Screencheck Draft EIR	2 weeks	December 2023
	Prepare and Publish Draft EIR	2 weeks	January 2024
	DEIR public review	45 days	March 2024
8	Prepare AFEIR	5 weeks	April 2024
	City/Applicant Review of AFEIR	2 weeks	April 2024
9	Revise and Publish FEIR	2 weeks	May 2024
10	Prepare Draft Findings of Fact and SOC	Concurrent with Task 8	April 2024
	City/Applicant Review of Draft Findings of Fact and SOC	1 week	April 2024
	Prepare Final Findings of Fact and SOC	1 week	April 2024
11	Planning Commission Hearing	TBD	June 2024
	City Council Hearing	TBD	June 2024
12	Notice of Determination	TBD	June 2024

## BUDGET

De Novo's cost estimate for performing the work described above is \$308,774, as delineated in the attached spreadsheet. This cost estimate includes scoped subconsultants, document printing, attendance at meetings, project management, QA/QC, and overall coordination of the EIR preparation.





**Automatic Additional Insured – Owners, Lessees or Contractors**

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This endorsement, effective 04/29/2023, attaches to and forms a part of  
Policy Number FEI-ECC-14846-10.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

---

In consideration of an additional premium of \$Applied, this endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY  
CONTRACTORS POLLUTION LIABILITY**

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

The person or organization shown in this Schedule is included as an insured, but only with respect to that person's or organization's vicarious liability arising out of your ongoing operations performed for that insured.

## Automatic Waiver of Subrogation Endorsement

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This endorsement, effective 04/29/2023, attaches to and forms a part of  
Policy Number FEI-ECC-14846-10.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

---

This endorsement modifies coverage provided under the following coverage part(s):

**COMMERCIAL GENERAL LIABILITY  
CONTRACTORS POLLUTION LIABILITY**

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) to whom the *Named Insured* agrees, in a written contract, to provide a waiver of subrogation. However, this status exists only for the project specified in that contract.

The Company waives any right of recovery it may have against the person or organization shown in the above Schedule because of payments the Company makes for injury or damage arising out of the *insured's* work done under a contract with that person or organization. The waiver applies only to the person or organization in the above Schedule.

Under no circumstances shall this endorsement act to extend the policy period, change the scope of coverage or increase the Aggregate Limits of Insurance shown in the Declarations.

**Automatic Primary and Non-Contributory Insurance Endorsement  
Designated Work Or Project(s)**

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This endorsement, effective 04/29/2023, attaches to and forms a part of  
Policy Number FEI-ECC-14846-10.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

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This endorsement modifies insurance provided under the Coverage Part(s) indicated below:

**COMMERCIAL GENERAL LIABILITY  
CONTRACTORS POLLUTION LIABILITY  
PROFESSIONAL LIABILITY**

**SCHEDULE**

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to provide Primary and/or Non-contributory status of this insurance. However, this status exists only for the project specified in that contract.

In consideration of an additional premium of \$Applied, and notwithstanding anything contained in this policy to the contrary, it is hereby agreed that this policy shall be considered primary to any similar insurance held by third parties in respect to work performed by you under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and non-contributory to this insurance.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF OUR RIGHT TO RECOVER FROM  
OTHERS ENDORSEMENT - CALIFORNIA**

**Policy Number:** 57 WEC ZO3688

**Endorsement Number:**

**Effective Date:** 04/29/23

Effective hour is the same as stated on the Information Page of the policy.

**Named Insured and Address:** DE NOVO PLANNING GROUP, INC.

1020 SUNCAST LN STE 106  
EL DORADO HILLS CA 95762

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2 % of the California workers' compensation premium otherwise due on such remuneration.

**SCHEDULE**

**Person or Organization**

**Job Description**

Any person or organization for whom you are required by written contract or agreement to obtain this waiver of rights from us

Countersigned by \_\_\_\_\_

Authorized Representative

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BUSINESS AUTO PROTECTION - GOLD**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

### **SUMMARY OF COVERAGES**

- A. Effect of This Endorsement
- B. Newly Acquired or Formed Entities
- C. Employees as Insureds – Nonowned Autos
- D. Additional Insured by Contract, Permit or Agreement
- E. Supplementary Payments – Bail Bonds
- F. Supplementary Payments – Loss of Earnings
- G. Personal Effects and Property of Others Extension
- H. Prejudgment Interest Coverage
- I. Fellow Employee – Officer, Managers and Supervisors
- J. Hired Auto Physical Damage
- K. Temporary Substitute Autos – Physical Damage Coverage
- L. Expanded Towing Coverage
- M. Auto Loan or Lease Coverage
- N. Original Equipment Manufacturer Parts – Leased Private Passenger Types
- O. Deductible Amendments
- P. Rental Reimbursement Coverage
- Q. Expanded Transportation Expense
- R. Extra Expense – Stolen Autos
- S. Physical Damage Limit of Insurance
- T. New Vehicle Replacement Cost
- U. Physical Damage Coverage Extension
- V. Transfer of Rights of Recovery Against Others To Us
- W. Section IV – Business Auto Conditions – Notice of and Knowledge of Occurrence
- X. Hired Car Coverage Territory
- Y. Emergency Lock Out
- Z. Cancellation Condition

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**A. EFFECT OF THIS ENDORSEMENT**

Coverage provided under this policy is modified by the provisions of this endorsement. If there is any conflict between the provisions of this endorsement and the provision(s) of any state-specific endorsement also attached to this policy, then the provision(s) of the state-specific endorsement shall apply instead of the provisions of this endorsement that are in conflict, but only to the extent of the conflict, and only to the extent necessary to bring such provisions into conformance with the state requirement(s) contained in the provision(s) of the state-specific endorsement.

**B. NEWLY ACQUIRED OR FORMED ENTITIES**

The Named Insured shown in the Declarations is amended to include any organization you newly acquire or form, other than a partnership, joint venture, or limited liability company, and over which you maintain ownership or majority (more than 50%) interest; if there is no other similar insurance available to that organization. Coverage under this provision is afforded until the 180<sup>th</sup> day after you acquire or form the organization or the end of the policy period, whichever is later.

**C. EMPLOYEES AS INSUREDS – NONOWNED AUTOS**

The following is added to paragraph A.1. Who Is An Insured of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

- d. Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

**D. ADDITIONAL INSURED BY CONTRACT, PERMIT OR AGREEMENT**

The following is added to A.1. Who Is An Insured of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any person or organization that you are required to name as an additional insured in a written contract or agreement that is executed or signed by you prior to a "bodily injury" or "property damage" occurrence is an "insured" for Covered Auto Liability coverage. However, with respect to covered "autos", such person or organization is an insured only to the extent that person or organization qualifies as an "insured" under A.1. Who is an Insured of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

If specifically required by the written contract or agreement referenced in the paragraph above, any coverage provided by this endorsement to an additional insured shall be primary and any other valid and collectible insurance available to the additional insured shall be non-contributory with this insurance. If the written contract does not require this coverage to be primary and the additional insured's coverage to be non-contributory, then this insurance will be excess over any other valid and collectible insurance available to the additional insured.

**E. SUPPLEMENTARY PAYMENTS – BAIL BONDS**

Supplementary Payments of SECTION II – COVERED AUTOS LIABILITY COVERAGE is revised as follows:

- (2) Up to \$2,500 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

**F. SUPPLEMENTARY PAYMENTS – LOSS OF EARNINGS**

Supplementary Payments of the SECTION II – COVERED AUTOS LIABILITY COVERAGE is revised as follows:

- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

**G. PERSONAL EFFECTS AND PROPERTY OF OTHERS EXTENSION**

1. The Care, Custody or Control Exclusion of SECTION II – COVERED AUTOS LIABILITY COVERAGE, does not apply to "property damage" to property, other than your property, up to an amount not exceeding \$250 in any one "accident". Coverage is excess over any other valid and collectible insurance.

2. The following paragraph is added to A.4. Coverage Extensions of SECTION III – PHYSICAL DAMAGE COVERAGE:

- c. We will pay up to \$500 for your property that is lost or damaged as a result of a covered "loss", without applying a deductible. Coverage is excess over any other valid and collectible insurance.

**H. PREJUDGMENT INTEREST COVERAGE**

The following paragraph is added to SECTION II – COVERED AUTOS LIABILITY COVERAGE, 2. Coverage Extensions, a. Supplementary Payments:

- (7) Prejudgment interest awarded against the "insured" on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

**I. FELLOW EMPLOYEE – OFFICERS, MANAGERS, AND SUPERVISORS**

The Fellow Employee Exclusion in SECTION II – COVERED AUTOS LIABILITY COVERAGE is replaced as follows:

- A. "Bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business. This exclusion does not apply to an "insured" who occupies a position as an officer, manager, or supervisor.

**J. HIRED AUTO PHYSICAL DAMAGE**

If covered "auto" designation symbols 1 or 8 apply to Liability Coverage and if at least one "auto" you own is covered by this policy for Comprehensive, Specified Causes of Loss, or Collision coverages, then the Physical Damage coverages provided are extended to "autos" you lease, hire, rent or borrow without a driver; and provisions in the Business Auto Coverage Form applicable to Hired Auto Physical Damage apply up to a limit of \$100,000. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. Any Comprehensive deductible does not apply to fire or lightning.

**K. TEMPORARY SUBSTITUTE AUTOS – PHYSICAL DAMAGE COVERAGE**

The following is added to paragraph C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos of SECTION I - COVERED AUTOS:

If Physical Damage Coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own while used with the permission of its owner as a temporary

substitute for a covered "auto" you own that is out of service because of its:

- a. Breakdown;
- b. Repair;
- c. Servicing;
- d. "Loss"; or
- e. Destruction

The coverage that applies is the same as the coverage provided for the vehicle being replaced.

**L. EXPANDED TOWING COVERAGE**

- 1. We will pay up to:
  - a. \$100 for a covered "auto" you own of the private passenger type, or
  - b. \$500 for a covered "auto" you own that is not of the private passenger type,for towing and labor costs incurred each time the covered "auto" is disabled. However, the labor must be performed at the place of disablement.
- 2. This coverage applies only for an "auto" covered on this policy for Comprehensive or Specified Causes of Loss Coverage and Collision Coverages.
- 3. Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto".

**M. AUTO LOAN OR LEASE COVERAGE**

- 1. In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the loan or lease, including up to a maximum of \$500 for early termination fees or penalties, for your covered "auto" less:
  - a. The amount paid under SECTION III – PHYSICAL DAMAGE COVERAGE of this policy; and
  - b. Any:
    - 1) Overdue lease/loan payments at the time of the "loss";
    - 2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
    - 3) Security deposits not refunded by a lessor;
    - 4) Costs of extended warranties, Credit Life insurance, Health, Accident, or Disability insurance purchased with the lease; and

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- 5) Carry-over balances from previous leases.
2. This coverage only applies to a "loss" which is also covered under this policy for Comprehensive, Specified Causes of Loss, or Collision coverage.
3. Coverage does not apply to any unpaid amount due on a loan for which the covered "auto" is not the sole collateral.

**N. ORIGINAL EQUIPMENT MANUFACTURER PARTS – LEASED PRIVATE PASSENGER TYPES**

Under Paragraph C. Limit of Insurance of SECTION III – PHYSICAL DAMAGE COVERAGE, Section 4 is added as follows:

4. We will use new original equipment vehicle manufacturer parts for any private passenger type covered "auto" where required by the lease agreement which has a term of at least six months. If a new original equipment vehicle manufacturer part is not in production or distribution we may use a like, kind and quality replacement part.

**O. DEDUCTIBLE AMENDMENTS**

The following are added to the Deductible provision of SECTION III – PHYSICAL DAMAGE COVERAGE:

If another policy or coverage form that is not an automobile policy or coverage form issued by this company applies to the same "accident", the following applies:

1. If the deductible under this coverage is the smaller (or smallest) deductible, it will be waived:
2. If the deductible under this coverage is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

If a Comprehensive or Specified Causes of Loss Coverage "loss" from one "accident" involves two or more covered "autos", only the highest deductible applicable to those coverages will be applied to the "accident," if the cause of the loss is covered for those vehicles. This provision only applies if you carry Comprehensive or Specified Causes of Loss Coverage for those vehicles, and does not extend coverage to any covered "autos" for which you do not carry such coverage.

No deductible applies to glass if the glass is repaired, in a manner acceptable to us, rather than replaced.

**P. RENTAL REIMBURSEMENT COVERAGE**

1. This coverage applies only to a covered "auto" for which Physical Damage Coverage is provided on this policy.
2. We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto". Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto." No deductibles apply to this coverage.
3. We will pay only for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:
  - a. The number of days reasonably required to repair or replace the covered "auto". If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered "auto" and return it to you.
  - b. The number of days shown in the Schedule.
4. Our payment is limited to the lesser of the following amounts:
  - a. Necessary and actual expenses incurred.
  - b. \$75 for any one day or for a maximum of 30 days.
5. This coverage does not apply while there are spare or reserve "autos" available to you for your operations.
6. If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under SECTION III – PHYSICAL DAMAGE COVERAGE Coverage Extension.

**Q. EXPANDED TRANSPORTATION EXPENSE**

Paragraph A.4.a. of SECTION III – PHYSICAL DAMAGE COVERAGE is replaced by the following:

We will pay up to \$50 per day to a maximum of \$1500 for temporary transportation expense incurred by you because of the total theft of a

covered "auto" of the private passenger type. We will only pay for those covered "autos" for which you carry Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 24 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

**R. EXTRA EXPENSE – STOLEN AUTOS**

The following paragraph is added to Coverage Extensions of SECTION III – PHYSICAL DAMAGE COVERAGE:

- c. We will pay for up to \$5,000 for the expense of returning a stolen covered "auto" to you. We will pay only for those covered "autos" for which you carry Comprehensive or Specified Causes of Loss Coverage

**S. PHYSICAL DAMAGE LIMIT OF INSURANCE**

Under SECTION III – PHYSICAL DAMAGE COVERAGE, Paragraph C., Limit of Insurance is replaced by the following:

**C. Limit Of Insurance**

- 1. The most we will pay for "loss" in any one "accident" is the lesser of:
  - a. The actual cash value of the damaged or stolen property as of the time of the "loss", or
  - b. The cost of repairing or replacing the damaged or stolen property.
- 2. \$1500 is the most we will pay for "loss" in any one "accident" to all electronic equipment that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:
  - a. Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment.
  - b. Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
  - c. An integral part of such equipment.
- 3. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".
- 4. The cost of repairing or replacing may:
  - a. Be based on an estimate which includes parts furnished by the original equip-

ment manufacturer or other sources including non-original equipment manufacturers and

- b. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the net improvement.
5. If we offer to pay the actual cash value of the damaged or stolen property, we will value auto advertising wraps, paint customization, and similar business related advertising modifications, in addition to the actual cash value of the property. Auto advertising wraps, paint customization, and similar business related advertising modifications will be valued at the cost to replace them with an adjustment made for depreciation and physical condition.

**T. NEW VEHICLE REPLACEMENT COST**

The following is added to the Limit of Insurance provision of SECTION III – PHYSICAL DAMAGE COVERAGE:

- 5. The provisions of paragraphs 1. and 3. do not apply to a covered "auto" of the private passenger type or a vehicle with a gross vehicle weight rating of 20,000 pounds or less which is a "new vehicle."

In the event of a total "loss" to your new vehicle to which this coverage applies, we will pay at your option:

- a. The verifiable "new vehicle" purchase price you paid for your damaged vehicle, not including any insurance or warranties purchased;
- b. If it is available, the purchase price, as negotiated by us, of a "new vehicle" of the same make, model, and equipment or the most similar model available, not including any furnishings, parts, or equipment not installed by the manufacturer or manufacturers' dealership; or .
- c. The market value of your damaged vehicle, not including any furnishings, parts, or equipment not installed by the manufacturer or manufacturer's dealership.

We will not pay for initiation or set up costs associated with loans or leases

As used in this endorsement, a "new vehicle" means an "auto" of which you are the original owner that has not been previ-

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ously titled and which you purchased less than 365 days before the date of the "loss".

**U. PHYSICAL DAMAGE COVERAGE EXTENSIONS**

Under SECTION III – PHYSICAL DAMAGE COVERAGE, A. Coverage, Coverage Extensions, b. Loss of Use Expenses is replaced by the following:

**b. Loss of Use Expenses**

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
- (2) Specified Causes of Loss only if the Declarations indicate that Specified Causes of Loss Coverage is provided for any covered "auto"; or
- (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto."

However, the most we will pay for any expenses for loss of use is \$50 per day, to a maximum of \$1,500. The insurance provided by this provision is excess over any other collectible insurance.

**V. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

The following is added to the Transfer Of Rights Of Recovery Against Others To Us Condition:

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" because of payments we make for damages under this coverage form.

**W. NOTICE OF AND KNOWLEDGE OF OCCURRENCE**

SECTION IV – BUSINESS AUTO CONDITIONS, Paragraph A is amended as follows:

**6. NOTICE OF AND KNOWLEDGE OF OCCURRENCE**

a. Your obligation in the Duties in the Event of Accident, Claim, Suit or Loss Condition relative to notification requirements applies only when the "accident" or "loss" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

b. Your obligation in the Duties in the Event of Accident, Claim, Suit or Loss Condition relative to providing us with documents concerning a claim or "suit" will not be considered breached unless the breach occurs after such claim or "suit" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

**X. HIRED CAR – COVERAGE TERRITORY**

Item (5) of the Policy Period, Coverage Territory General Conditions replaced by the following:

- (5) Anywhere in the world if a covered "auto" is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and

**Y. EMERGENCY LOCKOUT**

We will reimburse you up to \$100 for reasonable expense incurred for the services of a locksmith to gain entry into your covered "auto" subject to these provisions:

1. Your door key, electronic key or key entry pad has been lost, stolen or locked in your covered "auto" and you are unable to enter such "auto", or
2. Your keyless entry device battery dies and you are unable to enter such "auto" as a result,
3. Your key, electronic key or key entry pad has been lost or stolen and you have changed the lock to prevent an unauthorized entry; and

**COMMERCIAL AUTO  
AC 70 05 03 16**

4. Original copies of receipts for services of a locksmith must be provided before reimbursement is payable.

**Z. CANCELLATION CONDITION**

Paragraph A.2. of the COMMON POLICY CONDITION – CANCELLATION applies except as follows:

If we cancel for any reason other than non-payment of premium, we will mail or deliver to the First Named Insured written notice of cancellation at least 60 days before the effective date of cancellation. This provision does not apply in those states that require more than 60 days prior notice of cancellation.



# CITY OF MERCED

Merced Civic Center  
678 W. 18th Street  
Merced, CA 95340

## ADMINISTRATIVE REPORT

File #: 23-937

Meeting Date: 11/6/2023

*Report Prepared by: Julie Nelson, Acting Planning Manager, Development Services Department*

**SUBJECT:** Approval of a Professional Services Agreement with De Novo Planning Group and a Deposit and Reimbursement Agreement with UC Village, LLC, Relating to the Annexation of the Approximately 37.2 Acres of Land at the Southwest Corner of Bellevue and Lake Roads (UC Villages Annexation)

### REPORT IN BRIEF

Considers approving a Professional Services Agreement with De Novo Planning Group, in the amount of \$308,774.00 to perform environmental services for the annexation of approximately 37.2 acres at the southwest corner of Bellevue and Lake Roads (UC Villages Annexation) to the City of Merced and entering into a Deposit and Reimbursement Agreement with UC Villages, LLC, in the amount of \$339,651.40 to fund the De Novo Planning Group contract and to reimburse for City staff time to manage the contract.

### RECOMMENDATION

**City Council** - Adopt a motion:

- A. Approving an Agreement for Services with De Novo Planning Group, in the amount of \$308,774 to perform environmental services for the annexation of the UC Villages project to the City of Merced; and,
- B. Approving a Deposit and Reimbursement Agreement with UC Villages, LLC, in the amount of \$339,651.40 to cover the cost of the consultant contract (\$308,774) and staff time (\$30,877.40) for the administration of the environmental review process and contract; and,
- C. Approving an increase of revenue in the amount of \$308,774 to Fund 3000-Development Services, Developer Capital Fees account and appropriating the same to Fund 3000-Development Services, Professional Services account for payment to Environmental Science Associates; and,
- D. Approving an increase in revenue in the amount of \$30,877.40 to Fund 3000-Development Services, Cost Recovery account; and,
- E. Authorizing the City Manager or Deputy City Manager to execute the agreements.

### ALTERNATIVES

1. Approving the Services and Reimbursement Agreements as recommended by staff; or,
2. Amending the Services and Reimbursement Agreements (with specific amendments to be

- specified in Council motion); or,
3. Direct staff to make changes and return to Council at a later date; or,
  4. Deny; or,
  5. Continue the matter to a future Council meeting (date and time to be specified in motion).

## **AUTHORITY**

The Cortese-Knox-Hertzberg Act of 2000 establishes procedures for city annexations and other local government changes in organization. Merced Municipal Code Title 19 spells out environmental review procedures for the City.

## **CITY COUNCIL PRIORITIES**

On August 18, 2022, the City Council indicated general support for moving forward with the proposed annexation at the southwest corner of Bellevue and Lake Roads.

## **DISCUSSION**

### Background

A Pre-annexation application for the southwest corner of Bellevue and Lake Roads was submitted in 2022. On August 18, 2022, the City Council reviewed the Preliminary application and indicated general support for the annexation. However, per the provisions of AB 3312, this property was not eligible for annexation until the UC Merced Campus is annexed. Now that the UC Merced annexation is moving forward and was approved by City Council on October 16, 2023, this application is ready to move forward as well. Although the annexation cannot be approved until the UC Campus is fully annexed (it is still pending approval from LAFCO), it is appropriate to move forward with the Environmental Review process for this proposed annexation.

### Proposed Annexation

The proposed annexation consists of approximately 37 acres at the southwest corner of Bellevue and Lake Roads (Attachment 1). Based on the preliminary application, the proposed UC Villages annexation would consist of a mixed-use development providing an estimated 922 dwelling units comprised of 852 5-story apartments, 51 2-story apartments, and 49 4-story apartments geared toward student housing. Additionally, the project would provide over one-million square feet of retail and hospitality uses such as a hotel. The formal annexation application may vary slightly from the pre-application, in the total number of units provided, number of stories for the proposed buildings, and the total square feet dedicated to retail and hospitality uses. The developer is still finalizing the plans, but he is ready to move forward with the environmental review process.

### Recommended Consultant Selection

De Novo Planning Group was the environmental consultant selected to do the environmental review work for this annexation. The developer has worked with the De Novo Planning Group in the past and indicated they had the skills and experience to handle this project. City Staff reviewed De Novo's qualifications and concur with that opinion. After discussing the project with the developer and City staff, De Novo Planning Group prepared a scope of work (Exhibit A of the Agreement for Professional

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Services at Attachment 2) for the preparation of an Environmental Impact Report (EIR) for the UC Villages annexation.

The scope of work includes project management, preparation of an initial study, the preparation of Notice of Preparation (NOP), the preparation of the Draft EIR for circulation for public review, the preparation of the Final EIR and Responses to Comments on the Draft EIR, and participation in public hearings on the project. The budget for the scope of services is \$308,774 and the work is expected to take approximately 12 months to complete. The developer will enter into a Deposit and Reimbursement Agreement to pay for De Novo Planning Group's services. The City is not responsible for the cost of preparing the EIR document.

The City Attorney's office has prepared an Agreement for Professional Services with De Novo Planning Group at Attachment 2 for \$308,774 and a Deposit and Reimbursement Agreement with UC Villages, LLC, at Attachment 3 for a total of \$339,651.40. The \$308,774 for the consultant contract will be paid in four installments within 30 days, 120 days, 180 days, and 270 days of execution of the contract respectively; and the \$30,877.40 for staff time will be paid in one installment within 30 days of execution. The developer has already provided a check for the first installment of \$69,122.60.

#### City Council Action

City staff is recommending that the City Council award the contract at Attachment 2 in the amount of \$308,774 to De Novo Planning Group to perform the environmental services for the UC Villages Annexation to the City of Merced. The City Council should also approve the Deposit and Reimbursement Agreement at Attachment 3 with UC Villages, LLC, to cover the costs of the contract (\$308,774) as well as City staff time involved in managing the contract (\$30,877.40).

#### **IMPACT ON CITY RESOURCES**

UC Villages, LLC, through the Deposit and Reimbursement Agreement at Attachment 3 will fund the entire cost of De Novo Planning Group's contract (\$308,774) as well as paying for City staff time to manage the contract (\$30,877.40) or ten percent of the contract amount per the Planning and Development Fee Schedule).

#### **ATTACHMENTS**

1. Location Map
2. Agreement for Services with De Novo Planning Group
3. Deposit and Reimbursement Agreement with UC Villages, LLC