



Think Inside the Triangle™

NOTICE OF SPECIAL MEETING

Pursuant to Section 54956 of the Government Code of the State of California, a Special meeting of the **Tracy City Council** is hereby called for:

Date/Time: **Friday, December 20, 2024, 5:15 p.m.**
(or as soon thereafter as possible)

Location: **Tracy City Hall, Council Chambers**
333 Civic Center Plaza, Tracy, CA. 95376

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Tracy City Council on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

This meeting will be open to the public for in-person and remote participation pursuant to Government Code Section 54953(e)

For Remote Public Comment:

During the Items from the Audience, public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:

- *Comments via:*
 - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following Event Number: **2558 798 3250** and Event Password: **TracyCC**
 - **If you would like to participate in the public comment anonymously**, you may submit your comment via phone or in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - **Join by phone by dialing** +1-408-418-9388, enter 25587983250#8722922# Press *3 to raise the hand icon to speak on an item.
- *Protocols for commenting via WebEx:*
 - *If you wish to comment under "Items from the Audience/Public Comment" portion of the agenda:*
 - *Listen for the Mayor to open "Items from the Audience/Public Comment", then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
 - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
 - *Comments for the "Items from the Audience/Public Comment" will be accepted until the public comment period is closed.*

1. Call to Order
2. Actions, by Motion, of City Council pursuant to AB 2449, if any
3. Roll Call and Declaration of Conflicts
4. Items from the audience - *In accordance with Council Meeting Protocols and Rules of Procedure*, adopted by Resolution No. 2019-240, and last amended by Resolution No. 2021-049, a five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council.
5. **CONSENT ITEMS**
 - 5.A. AUTHORIZE THE EXECUTION OF A NEW SCOPE OF SERVICES TO THE EXISTING LEGAL SERVICES AGREEMENT WITH COLANTUONO HIGHSMITH & WHATLEY, PC FOR INTERIM ASSISTANT CITY ATTORNEY SERVICES FOR A NOT TO EXCEED AMOUNT OF \$450,000.
6. **DISCUSSION ITEMS**
 - 6.A. APPOINT ANDREW SHEN TO SERVE AS INTERIM CITY ATTORNEY AND APPROVE A SCOPE OF SERVICES TO THE EXISTING LEGAL SERVICES AGREEMENT WITH THE RENNE PUBLIC LAW GROUP FOR INTERIM CITY ATTORNEY SERVICES FOR A NOT TO EXCEED AMOUNT OF \$250,000.
7. Council Items and Comments
8. Adjournment

Posting Date: December 19, 2024

The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled to participate in employment, programs and facilities. Persons requiring assistance or auxiliary aids in order to participate, should contact the City Manager's Office at (209) 831-6000 at least 24 hours prior to the meeting.

December 20, 2024

AGENDA ITEM 5.A

REQUEST

**AUTHORIZE THE EXECUTION OF A NEW SCOPE OF SERVICES TO THE EXISTING
LEGAL SERVICES AGREEMENT WITH COLANTUONO HIGHSMITH & WHATLEY, PC FOR
INTERIM ASSISTANT CITY ATTORNEY SERVICES FOR A NOT TO EXCEED AMOUNT OF
\$450,000**

EXECUTIVE SUMMARY

On December 3, 2024, the City Council approved an On Call List for legal services, which included services of an Interim Assistant City Attorney. The Assistant City Attorney position has been vacant since June 2024, and while the City has initiated the procurement process for a new in-house Assistant City Attorney, a contract firm is best suited to provide those services until the position is filled. While the Assistant City Attorney is appointed by the City Attorney, the budget for the proposed Scope of Services exceeds the authority granted to the City Attorney under the Tracy Municipal Code and requires City Council approval.

This item requests that the City Council authorize the execution of a new Scope of Services to the existing Legal Services Agreement with Colantuono Highsmith & Whatley, PC for Interim Assistant City Attorney services in a not to exceed amount of \$450,000. No budget appropriation is needed as there are cost savings from the vacant position as well as already approved legal service budgetary funds available to cover the contract cost.

DISCUSSION

On December 3, 2024, the City Council approved an On Call List for legal services, which included services of an Interim Assistant City Attorney. The Assistant City Attorney position has been vacant since June 2024, and while the City has initiated the recruitment process for a new in-house Assistant City Attorney, a contract firm is best suited to provide those services until the position is filled.

An informal request for proposals was conducted with multiple firms approved on the On Call List to provide Interim Assistant City Attorney Services. The City's current City Attorney, Bijal Patel, has tendered her resignation, with a planned departure on December 31, 2024, and by separate action on this agenda, the City Council will consider appointment of an Interim City Attorney. Given this imminent departure, a firm who could offer a dedicated senior attorney to perform the routine legal functions of the City Attorney's Office was sought.

The Interim Assistant City Attorney is anticipated to supervise the Deputy City Attorney, Legal Secretary, and Paralegal and will report directly to the Interim City Attorney, once appointed by the City Council. Department Heads will directly communicate to the Interim Assistant City Attorney, as that individual will be handling the daily, routine legal matters of the City with the in-house team, while the overall coordination of legal services, communications with the City Council and the City Manager's Office will be handled by the Interim City Attorney. No one individual was available to perform the functions of both roles.

The attached proposed Scope of Services provides that:

- Effective December 20, 2024, Matthew Summers shall serve as the Interim Assistant City Attorney for an indefinite period, which period shall be based on the future permanent City Attorney's needs.
- Mr. Summers will be available to attend all Planning Commission meetings in person, review all items in Granicus, along with the Deputy City Attorney, and will be the direct legal point of contact for Department Heads.
- Mr. Summers will supervise the Legal Secretary, Paralegal and the Deputy City Attorney, work in person at least one day a week, and be available to perform other duties of the Assistant City Attorney job classification, as needed by phone, email and video call meetings, for an anticipated 1/3 FTE capacity.
- Compensation for the Interim City Attorney services shall be billed at an hourly rate of \$450.00 and shall not exceed \$450,000.
- No travel costs will be paid.

STRATEGIC PLAN

This agenda item is a routine operation item and is not related to the City Council's Strategic Plans.

FISCAL IMPACT

The fiscal impact of this action is offset by the savings realized by the vacant permanent Assistant City Attorney position, and no additional budgetary appropriation is required.

RECOMMENDATION

Authorize the execution of a new scope of services to the existing Legal Services Agreement with Colantuono Highsmith & Whatley, PC for interim Assistant City Attorney Services for a not to exceed amount of \$450,000.

Prepared by: Bijal Patel, City Attorney

Reviewed by: Sara Castro, Finance Director

Approved by: Midori Lichtwardt, City Manager

ATTACHMENT:

A - Proposed Scope of Services to the Legal Services Agreement with Colantuono Highsmith & Whatley, PC for Interim Assistant City Attorney Services

ATTACHMENT A TO STAFF REPORT

ATTACHMENT A-2

Interim Assistant City Attorney Scope of Services

Serve, as needed, the functions of an Assistant City Attorney to provide direct support to the City Attorney. Such duties include:

- Assists in the development and implementation of goals, objectives, policies, procedures, and work standards for the City Attorney's office.
- Provides technical advice to attorneys in the office; handles the more complex and difficult litigation and situations.
- Confers with and advises City departments, and prepares legal opinions concerning their respective duties, powers, functions, and obligations.
- Evaluates legal claims filed against the City and recommends appropriate action; represents the City in collection of claims.
- Renders legal opinions for City Staff, Planning Commission, and other boards.
- Prepares and reviews for legal sufficiency pleadings, motions, ordinances, resolutions, contracts, leases, deeds, permits, and other legal documents.
- Represents the City Attorney at City Council, board, commission, and committee meetings.
- Acts as the City Attorney on a relief basis.
- Performs other related duties as assigned.

In addition to above, the following shall apply:

- Effective December 20, 2024, Matthew Summers shall serve as the Interim Assistant City Attorney for an indefinite period, which period shall be based on the future permanent City Attorney's needs.
- Mr. Summers will be available to attend all Planning Commission meetings in person, review all items in Granicus, along with the Deputy City Attorney, and will be the direct legal point of contact for Department Heads.
- Mr. Summers will supervise the Paralegal and the Deputy City Attorney, work in person at least one day a week, and be available to perform other duties of the Assistant City Attorney job classification, as needed by phone, email and video call meetings, for an anticipated 1/3 FTE capacity.

Not to exceed Budget: \$450,000

Approved Hourly Rate: \$450.00

No Travel Costs Allowed. This Scope of Services does not include representing the City as counsel of record in any litigation. Litigation services may be provided as an additional, separate scope as may be assigned by the City and agreed by Attorney.

Date: _____

BIJAL PATEL
CITY ATTORNEY


MATTHEW SUMMERS
COLANTUONO HIGHSMITH & WHATLEY, PC

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

AUTHORIZING THE EXECUTION OF A NEW SCOPE OF SERVICES TO THE EXISTING LEGAL SERVICES AGREEMENT WITH COLANTUONO HIGHSMITH & WHATLEY, PC FOR INTERIM ASSISTANT CITY ATTORNEY SERVICES FOR A NOT TO EXCEED AMOUNT OF \$450,000

WHEREAS The Assistant City Attorney position has been vacant since June 2024, and while the City has initiated the procurement process for a new in-house Assistant City Attorney, a contract firm is best suited to provide those services until the position is filled; and

WHEREAS, The City's current City Attorney, Bijal Patel, has tendered her resignation, with a planned departure on December 31, 2024, and by separate action on this agenda, the City Council will consider appointment of an Interim City Attorney; and

WHEREAS, Given this imminent departure, a firm who could offer a dedicated senior attorney to perform the routine legal functions of the City Attorney's Office was sought; and

WHEREAS, On August 30, 2024, the City Attorney's office, following established procedures pursuant to Tracy Municipal Code section 2.20.140, posted a Request for Proposals for experienced and specialized legal professionals; and

WHEREAS, On December 3, 2024, the City Council approved an On Call List for legal services, which included services of an Interim Assistant City Attorney; and

WHEREAS, the City Attorney has determined that based on the experience, skills, and availability, Matthew Summers of Colantuono Highsmith & Whatley, is best suited for the Interim Assistant City Attorney position; and now therefore be it

RESOLVED: That the City Council of the City of Tracy authorizes the City Attorney to execute a new scope of services (Exhibit 1) to the existing legal services agreement with Colantuono Highsmith & Whatley, PC for Interim Assistant City Attorney services for a not to exceed amount of \$450,000; and be it

FURTHER RESOLVED: Matthew Summers shall serve as the Interim Assistant City Attorney for an indefinite period, which period shall be based on the future permanent City Attorney's needs.

* * * * *

The foregoing Resolution 2024- _____ was adopted by the Tracy City Council on December 20, 2024 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

DAN ARRIOLA, Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Exhibit 1 - Scope of Services to existing Legal Agreement

EXHIBIT 1 TO RESOLUTION

ATTACHMENT A-2

Interim Assistant City Attorney Scope of Services

Serve, as needed, the functions of an Assistant City Attorney to provide direct support to the City Attorney. Such duties include:

- Assists in the development and implementation of goals, objectives, policies, procedures, and work standards for the City Attorney's office.
- Provides technical advice to attorneys in the office; handles the more complex and difficult litigation and situations.
- Confers with and advises City departments, and prepares legal opinions concerning their respective duties, powers, functions, and obligations.
- Evaluates legal claims filed against the City and recommends appropriate action; represents the City in collection of claims.
- Renders legal opinions for City Staff, Planning Commission, and other boards.
- Prepares and reviews for legal sufficiency pleadings, motions, ordinances, resolutions, contracts, leases, deeds, permits, and other legal documents.
- Represents the City Attorney at City Council, board, commission, and committee meetings.
- Acts as the City Attorney on a relief basis.
- Performs other related duties as assigned.

In addition to above, the following shall apply:

- Effective December 20, 2024, Matthew Summers shall serve as the Interim Assistant City Attorney for an indefinite period, which period shall be based on the future permanent City Attorney's needs.
- Mr. Summers will be available to attend all Planning Commission meetings in person, review all items in Granicus, along with the Deputy City Attorney, and will be the direct legal point of contact for Department Heads.
- Mr. Summers will supervise the Paralegal and the Deputy City Attorney, work in person at least one day a week, and be available to perform other duties of the Assistant City Attorney job classification, as needed by phone, email and video call meetings, for an anticipated 1/3 FTE capacity.

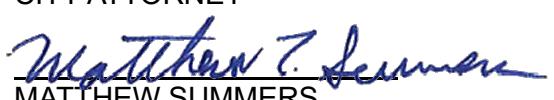
Not to exceed Budget: \$450,000

Approved Hourly Rate: \$450.00

No Travel Costs Allowed. This Scope of Services does not include representing the City as counsel of record in any litigation. Litigation services may be provided as an additional, separate scope as may be assigned by the City and agreed by Attorney.

Date: _____

BIJAL PATEL
CITY ATTORNEY


MATTHEW SUMMERS
COLANTUONO HIGHSMITH & WHATLEY, PC

December 20, 2024

AGENDA ITEM 6.A

REQUEST

APPOINT ANDREW SHEN TO SERVE AS INTERIM CITY ATTORNEY AND APPROVE A SCOPE OF SERVICES TO THE EXISTING LEGAL SERVICES AGREEMENT WITH THE RENNE PUBLIC LAW GROUP FOR INTERIM CITY ATTORNEY SERVICES FOR A NOT TO EXCEED AMOUNT OF \$250,000

EXECUTIVE SUMMARY

City Attorney Bijal Patel announced her final day with the City would be December 31, 2024. The recruitment process to select the next permanent City Attorney can take up to six months. Based upon this timing, there is a need for the City Council to hire an Interim City Attorney to provide professional legal services until a permanent City Attorney is appointed.

This item requests that City Council appoint Andrew Shen to serve as Interim City Attorney and approve a new Scope of Services to the existing Legal Services Agreement with Renne Public Law Group for such Interim City Attorney services.

DISCUSSION

The City's current City Attorney, Bijal Patel, has tendered her resignation, with a planned departure on December 31, 2024. The appointment of an Interim City Attorney is crucial to ensure that the City can obtain adequate professional legal services while the process to appointment a permanent City Attorney is initiated and completed. The Interim City Attorney will serve as the primary contact for the City Council and the City Manager's Office and will coordinate all legal services provided to the City.

On December 3, 2024, the City Council approved an On Call List for legal services, which included services of an Interim Assistant City Attorney. The Assistant City Attorney position has been vacant since June 2024, and while the City has initiated the recruitment process for a new in-house Assistant City Attorney, a contract firm is best suited to provide those services until the position is filled. By separate action on this agenda, the City Council will consider the authorization to execute a Scope of Services for the Interim Assistant City Attorney.

The Assistant City Attorney classification includes performing the duties of a City Attorney, as needed, when the City Attorney is not available. Accordingly, an informal procurement process for Interim City Attorney services was conducted with the firms approved on this On Call List, potentially, to serve as an Interim Assistant City Attorney.

As the City Attorney's departure is imminent, and the timeframe to appoint a permanent City Attorney is uncertain, the City Attorney conducted interviews to evaluate candidate's based on ability to start on January 1, 2025, dedicate a certain percentage of time on City matters (including regular in person attendance), flexibility to stay in the position for an indefinite period of time, and overall expertise in providing the services of a City Attorney. Andrew Shen from the Renne Public Law Group was selected as the best suited to meet the City's needs during this transition period.

The Interim Assistant City Attorney is anticipated to supervise the Deputy City Attorney, Legal Secretary, and Paralegal and will report directly to Andrew Shen, as the Interim City Attorney. Department Heads will directly communicate to the Interim Assistant City Attorney, as that individual will be handling the daily, routine legal matters of the City with the in-house team, while the overall coordination of legal services, communications with the City Council and the City Manager's Office will be handled by the Interim City Attorney. No one individual was available to perform the functions of both roles.

The attached proposed Scope of Services provides that:

- Effective January 1, 2025, Andrew Shen shall serve as the Interim City Attorney until the effective date of the appointment of a permanent City Attorney by the City Council.
- Mr. Shen will be available to attend all City Council meetings, including Council Standing Committee meetings, in person.
- Mr. Shen will be available to perform other duties as needed by phone, email and video call meetings, for an anticipated 1/3 FTE capacity.
- Compensation for the Interim City Attorney services shall be billed at an hourly rate of \$450.00 and shall not exceed \$250,000.
- No travel costs will be paid.

STRATEGIC PLAN

This agenda item is a routine operational item and is not related to the City Council's Strategic Plans.

FISCAL IMPACT

The fiscal impact of this action is offset by the savings realized by the upcoming vacant permanent City Attorney position, and no additional budgetary appropriation is required.

RECOMMENDATION

Appoint Andrew Shen to serve as Interim City Attorney and approve a scope of services to the existing Legal Services Agreement with Renne Public Law Group for Interim City Attorney services for a not to exceed amount of \$250,000

Prepared by: Bijal Patel, City Attorney

Reviewed by: Sara Castro, Finance Director
Midori Lichtwardt, City Manager

ATTACHMENT:

A - Proposed Scope of Services to the Legal Services Agreement with Renne Public Law Group for Interim City Attorney Services

ATTACHMENT A TO STAFF REPORT

ATTACHMENT A-1 INTERIM CITY ATTORNEY SCOPE OF SERVICES

- Effective January 1, 2025, Andrew Shen shall serve as the Interim City Attorney of the City of Tracy until the effective date of the appointment of a permanent City Attorney by the City Council.
- Mr. Shen will be available to attend all City Council meetings, including Council Standing Committee meetings, in person.
- Mr. Shen will be available to perform other duties as needed by phone, email and video call meetings, for an anticipated 1/3 FTE capacity.
- Mr. Shen will serve as the primary contact for the City Council and the City Manager's Office and will coordinate all legal services provided to the City, including supervision of the Interim Assistant City Attorney and outside counsel on various litigation matters.

APPROVED BUDGET: \$250,000

HOURLY RATE: \$450.00

NO TRAVEL COSTS ALLOWED

SCOPE SHALL NOT INCLUDE ANY LITIGATION SERVICES

CITY OF TRACY

DATED: _____

By: _____
Dan Arriola, Mayor

RENNÉ PUBLIC LAW GROUP

DATED: 12/19/24

By: 
Jonathan V. Holtzman, Managing Attorney

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPOINTING ANDREW SHEN TO SERVE AS INTERIM CITY ATTORNEY AND APPROVE A SCOPE OF SERVICES TO THE EXISTING LEGAL SERVICES AGREEMENT WITH THE RENNE PUBLIC LAW GROUP FOR INTERIM CITY ATTORNEY SERVICES FOR A NOT TO EXCEED AMOUNT OF \$250,000

WHEREAS, the City's current City Attorney, Bijal Patel, has tendered her resignation, with a planned departure on December 31, 2024; and

WHEREAS, given this imminent departure, a firm who could offer a dedicated senior attorney to perform the routine legal functions of the City Attorney's Office was sought; and

WHEREAS, on August 30, 2024, the City Attorney's Office, following established procedures pursuant to Tracy Municipal Code section 2.20.140, posted a Request for Proposals for experienced and specialized legal professionals; and

WHEREAS, On December 3, 2024, the City Council approved an On Call List for legal services, which included services of an Interim Assistant City Attorney; and

WHEREAS, The Assistant City Attorney classification includes performing the duties of a City Attorney, as needed, when the City Attorney is not available; accordingly, an informal procurement process for Interim City Attorney services was conducted with the firms approved on this On Call List, potentially, to serve as an Interim City Attorney; and

WHEREAS, As the City Attorney's departure is imminent, and the timeframe to appoint a permanent City Attorney is uncertain, the interview process was based on the candidate's ability to start on January 1, 2025, dedicate a certain percentage of time on City matters (including regular in person attendance), flexibility to stay in the position for an indefinite period of time, and overall expertise in providing the services of a City Attorney; and

WHEREAS, Andrew Shen from the Renne Public Law Group was determined to be the best suited to meet the City's needs during this transition period; and now therefore be it

RESOLVED, That the City Council of the City of Tracy hereby appoints Andrew Shen to serve as Interim City Attorney, until such time that a permanent City Attorney has been appointed by the City Council; and be it

FURTHER RESOLVED: To effectuate the interim appointment, the City Council authorizes the Mayor to execute a new Scope of Services to the existing Legal Services Agreement with Renne Public Law Group for such Interim City Attorney services, attached hereto as Exhibit 1.

The foregoing Resolution 2024- _____ was adopted by the Tracy City Council on
_____, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST: _____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

Exhibit 1 - Interim City Attorney Scope of Services:

EXHIBIT 1 TO RESOLUTION

ATTACHMENT A-1 INTERIM CITY ATTORNEY SCOPE OF SERVICES

- Effective January 1, 2025, Andrew Shen shall serve as the Interim City Attorney of the City of Tracy until the effective date of the appointment of a permanent City Attorney by the City Council.
- Mr. Shen will be available to attend all City Council meetings, including Council Standing Committee meetings, in person.
- Mr. Shen will be available to perform other duties as needed by phone, email and video call meetings, for an anticipated 1/3 FTE capacity.
- Mr. Shen will serve as the primary contact for the City Council and the City Manager's Office
- and will coordinate all legal services provided to the City, including supervision of the Interim Assistant City Attorney and outside counsel on various litigation matters.

APPROVED BUDGET: \$250,000

HOURLY RATE: \$450.00

NO TRAVEL COSTS ALLOWED

SCOPE SHALL NOT INCLUDE ANY LITIGATION SERVICES

CITY OF TRACY

DATED: _____

By : _____

Dan Arriola, Mayor

RENNÉ PUBLIC LAW GROUP

DATED: 12/19/24

By : _____

Jonathan V. Holtzman, Managing Attorney