



**CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
FEBRUARY 15, 2022, 5:30 PM**

Pursuant to the provisions of Assembly Bill 361, signed into law by Governor Newsom on September 16, 2021, and in an effort to protect public health and slow the rate of transmission of COVID-19, the City of Porterville is allowing for and encouraging electronic participation at City Council Meetings. Until further notice, Porterville City Council Meetings will be live streamed on YouTube at <https://www.youtube.com/channel/UC5KuhSrNMNL9nwHJVtnJvA>

Alternatively, this meeting will also be available via Zoom using the following information

Topic: City of Porterville - City Council Meeting of February 15, 2022

Please use the following link below to join the webinar:

<https://us06web.zoom.us/j/88906087918?pwd=TEh6S3JBWxWUzEwWTBFCGxpdlZz09>

Or via Telephone: **1-669-900-6833** Webinar ID: **889 0608 7918** Passcode: **719455**

Call to Order

Roll Call

ORAL COMMUNICATIONS

This is the opportunity to address the City Council on any matter scheduled for Closed Session. Unless additional time is authorized by the Council, all commentary shall be limited to three minutes.

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

1 - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 302-130-030 and 302-130-010. Agency Negotiator: John Lollis and Michael Knight. Negotiating Parties: City of Porterville and Marck C. and Virginia Jagers. Under Negotiation: Terms and Price.

2 - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis and Patrice Hildreth. Employee Organizations: Porterville City Employees Association, Management & Confidential Series, Public Safety Support Unit, Porterville Peace Officers Association, Porterville City Firefighters Association, Fire Officer Series, and all unrepresented management employees.

3 - Government Code Section 54956.95 – Liability Claim: Claimant: Kimberly Cavazos. Agency claimed against: City of Porterville.

4 - Government Code Section 54956.9(d)(3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: Five (5) cases in which facts are not yet known to potential plaintiff.

5 - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One (1) case.

6:30 P.M. RECONVENE OPEN SESSION AND REPORT ON REPORTABLE ACTION TAKEN IN CLOSED SESSION:

Pledge of Allegiance Led by Council Member Tate

Invocation

ORAL COMMUNICATIONS

This is the opportunity to address the Council on any matter of interest, whether on the agenda or not. Please address all items not scheduled for public hearing at this time. Unless additional time is authorized by the Council, all commentary shall be limited to three minutes.

SCHEDULED MATTERS

1. Reorganization of City Council

Re: Appointment of Mayor by the Council.

AB 1234 REPORTS

This is the time for all AB 1234 reports required pursuant to Government Code § 53232.3.

1. Tulare County Association of Governments (TCAG)/Tulare County Transportation Authority (TCTA) - January 24, 2022
2. San Joaquin Valley Air Pollution Control District (SJVAPCD) Governing Board - January 20, 2022
3. Tulare County Regional Transit Agency (TCRTA) Board - January 24, 2022
4. Local Initiatives Navigation Center Committee (LINC) - February 2, 2022
5. Eastern Tulare Groundwater Sustainability Agency (ETGSA) - February 3, 2022
6. Internal City Audit Committee - February 3, 2022
7. Tulare County Regional Transit Agency - Technical Advisory Committee - February 7, 2022
8. COVID-19 Ad Hoc Committee - February 8, 2022
9. Cal Cities Policy Committee - February 10, 2022
10. Tulare County Water Commission - February 14, 2022

REPORTS

This is the time for all committee/commission/board reports; subcommittee reports; and staff informational items.

- I. City Commission and Committee Meetings
 - 1. Parks & Leisure Services Commission - February 3, 2022
 - 2. Library & Literacy Commission - February 8, 2022
 - 3. Arts Commission - January 25, 2022
 - 4. Animal Control Commission
 - 5. Youth Commission - February 9, 2022
 - 6. Transactions and Use Tax Oversight Committee (TUTOC)
- II. Staff Informational Reports
 - 1. Wall of Fame
 - 2. Water Conservation Phase IV Status Update - January 2022
 - 3. Confirmation of Zoning Administrator Determination 2022-02

CONSENT CALENDAR

All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar. All items removed from the Consent Calendar for further discussion will be heard at the end of Scheduled Matters.

- 2. **Authorization to Advertise for Bids- Murry Park Pavilion Renovation**
Re: Consider authorization to advertise for bids for the Murray Park Pavilion #2 Renovation Project.
- 3. **Authorization to Distribute a Request for Qualifications - Engineering and Surveying Services**
Re: Consider authorizing staff to distribute a Request for Qualifications for On-call Engineering and Surveying Services.
- 4. **Acceptance of Project - Well No. 35 Project (Phase 2 - Pumping Plant)**
Re: Consideration to accept the Well No. 35 Project, located on the west side of Westwood Street, just north of the North Creek Subdivision, which is located near the intersection of Westwood Street and Westfield Avenue, as complete.
- 5. **Approval of 2X Promotions OHV Park Races with Overnight Camping**
Re: Consider approval of the OHV Park Races on March 12-13 and April 2-3, 2022; and approve overnight camping for both weekends.
- 6. **Authorization to Perform Water Storage Reservoir Inspections**
Re: Consideration to initiate a purchase order to Inland Potable Services Inc. for an amount not to exceed \$12,481 for the complete inspection of the City's seven water storage reservoirs.
- 7. **Reclamation Area Lease Agreement - Field 10 & 46C Compensation and Amendment No. 4**
Re: Consideration to approve a credit of \$18,758 to Perigo Roadsiding for alfalfa cultivation costs incurred on field 10 (\$16,832) and the field 46C credit which includes one-year rental pre-payment (\$742.50) and cultivation costs incurred (\$1,183.50) on 2.25 acres; and approve

Amendment No.4 to the agreement between the City of Porterville and Rick Perigo Roadsiding,

8. Community Clean-Up Events

Re: Considering approval of a "Spring Clean-up Day" on Saturday, April 23, 2022, and "Fall Clean-Up Day" on Saturday, October 15, 2022.

9. Authorization of Street Closure

Re: Authorization for the Fire and Police Departments to close city streets in the vicinity of Fire Station 71 as deemed necessary on February 18, 2022.

10. City Council Member Requested Agenda Item - Consider Municipal Code Dog Leash Requirements

Re: Consider Vice Mayor Flores' request to consider and review the City's Code for dog leash requirements.

11. Status and Review of Local Emergency: Drought

Re: Considering approval of the continuance of the Declaration of Local Emergency.

A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible

PUBLIC HEARINGS

12. Consideration of Revised City Council District Electoral Boundaries as Required by Elections Code Section 21621 - Public Hearing No. 4

Re: Public Hearing No. 4 for consideration of a draft map to revise City Council District boundaries as required pursuant to Elections Code Section 21621.

13. Consideration of Solid Waste Ordinance Revisions and SB 1383 Additions

Re: Consideration of amendments to Chapter 13 to include Senate Bill 1383 and other updated terminology and corresponding definitions.

SCHEDULED MATTERS (Cont.)

14. Approval for Community Civic Event - Porterville Breakfast Rotary - Run for Life - May 7, 2022

Re: Consideration to approve the Porterville Breakfast Rotary application for a Community Civic Event to hold the "Run for Life" event on May 7, 2022, that will utilize the sidewalks along Putnam Avenue, Olive Avenue, Crestview Street, Morton Avenue and Conner Street.

15. Consideration of City Fireworks Ordinance

Re: Consideration of the City's Fireworks Ordinance for potential amendments.

16. Consideration of Litter Abatement Program

Re: Consider approval of the State of California Department of Transportation Delegated Maintenance Agreement; approval of the agreement with CSET for the execution of the Litter Abatement Program; and appropriation of up to \$50,000 of funds for three years to support the Litter Abatement Program.

17. Consideration of City Council Member Appointments to Boards and Committees

Re: Considering appointments of Council Members to various Boards and Committees

18. Status and Review of Proclamation of Local Emergency: COVID-19

Re: Considering approval of the continuation of the Proclamation of Local Emergency due to COVID-19.

ORAL COMMUNICATIONS

OTHER MATTERS

CLOSED SESSION

Any Closed Session Items not completed prior to 6:30 p.m. will be considered at this time.

ADJOURNMENT - to the meeting of March 1, 2022

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Office of City Clerk at (559) 782-7464. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet are available for public inspection during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City's website at www.ci.porterville.ca.us.



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Reorganization of City Council

SOURCE: City Manager's Office

COMMENT: Mayor Reyes has respectfully requested that the City Council consider reorganization of the Council and the appointment of Mayor.

RECOMMENDATION: That the City Council consider reorganization of the Council and the appointment of Mayor.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: 1. Wall of Fame

SOURCE: Parks and Leisure Services

COMMENT: On an annual basis, the City of Porterville's Wall of Fame selections are announced. The Wall of Fame is a dedicated section of the east hallway in City Hall to honor and recognize individuals for their significant efforts and service to the Porterville community. The Wall of Fame was formerly located at the Heritage Center.

Each Member of the City Council may select one honoree annually. Honorees must have lived in the Porterville area for a minimum of fifteen (15) years. The honoree may not currently be serving as an elected official. The Wall of Fame honorees for 2022 are as follows:

Mayor Reyes: George Tanimoto
Vice Mayor Flores: Cynthia Garcia Brown
Council Member Carrillo: Daniel Hackey
Council Member Stowe: Barbara Sue
Council Member Tate: Nicki Edwards

The 2022 honorees will be inducted into the Wall of Fame at a ceremony tentatively scheduled to be held on March 11, 2022, at 3:00 PM, located at Centennial Park. Due to COVID-19 restrictions, honorees for 2020 and 2021 have not been formally inducted and will also be honored at the same ceremony on March 11, 2022.

RECOMMENDATION: Information Only

ATTACHMENTS: 1. Wall of Fame Honorees

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager

City of Porterville Wall of Fame Honorees

<i>Carmen Martinez Eoff</i>	2007	<i>Michael R. Garcia</i>	2017
<i>Frank "Buck" Shaffer</i>	2007	<i>Bob Perez</i>	2017
<i>Edward B. "Ted" Cornell</i>	2008	<i>Jim Winton</i>	2017
<i>Jim Maples</i>	2010	<i>Richard B. Hatfield</i>	2018
<i>Roy Rockholt</i>	2010	<i>Todd 'Hoss' McNutt</i>	2018
<i>James Cone</i>	2011	<i>Teddy Wong</i>	2018
<i>Mona Gauger</i>	2011	<i>Denise Howell Marchant</i>	2019
<i>Brett Land</i>	2011	<i>Raymond Camarena</i>	2019
<i>Forrest 'Doc' Mock</i>	2011	<i>Doug Webb</i>	2019
<i>Alice Seal</i>	2011	<i>Grace Muñoz Rios</i>	2019
<i>Estha Mae Hinton</i>	2012	<i>James Kusserow</i>	2019
<i>Teresa Jackson</i>	2012	<i>Linda Camarena</i>	2020
<i>William Rogers</i>	2012	<i>Joe Carrillo</i>	2020
<i>Orlin and Louise Shires</i>	2012	<i>Roberto da la Rosa, Sr.</i>	2020
<i>Waltraut Wilson</i>	2012	<i>Jim Holly</i>	2020
<i>Mary Hamner Baker</i>	2013	<i>Joe Ruiz, Jr.</i>	2020
<i>Robert Decker Christenson</i>	2013	<i>Janice Castle</i>	2021
<i>Cyrille Faure</i>	2013	<i>Teresa A. de la Rosa-Garcia</i>	2021
<i>Vivian Josten Lucey</i>	2013	<i>Jeff Edwards</i>	2021
<i>Emogene McCullar</i>	2013	<i>Virginia Gurrola</i>	2021
<i>George Overcash</i>	2013	<i>Gang Sue</i>	2021
<i>Clara Wilcox Rutherford</i>	2013		
<i>Lester James Hamilton</i>	2014		
<i>William 'Bill' Horst</i>	2014		
<i>Guy Huffaker</i>	2014		
<i>Marlene Marquez</i>	2014		
<i>Monte Moore</i>	2014		
<i>Theodore Ensslin</i>	2015		
<i>Pete V. McCracken</i>	2015		
<i>Myron Wilcox</i>	2015		
<i>Gilbert Yniguez</i>	2015		
<i>Judith A. Gibbons</i>	2016		
<i>James E. Howell</i>	2016		
<i>Philip D. Hunter</i>	2016		
<i>Judge Glade F. Roper</i>	2016		
<i>Steven E. Tree</i>	2016		
<i>Elva Beltran</i>	2017		
<i>Joseph Faure, Jr.</i>	2017		



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: 2. Water Conservation Phase IV Status Update - January 2022

SOURCE: Public Works

COMMENT: The City has continued to implement an active water conservation approach, both conserving and providing flexibility to the community. The City transitioned from Phase III to Phase IV of the City's Water Conservation Plan as of December 1, 2021. The Water Conservation Plan applies to all municipal water users within or outside city limits.

The Phase III plan limits outdoor watering to two days per week, with "odd" addresses allowed watering on Tuesday and Saturday and "even" addresses allowed watering on Wednesday and Sunday. Outdoor watering is prohibited between the hours of 5 a.m. to 10 a.m. and 5 p.m. to 10 p.m., with no watering allowed Monday, Thursday or Friday. Watering of outdoor landscaping is prohibited during and within forty-eight (48) hours after measurable rainfall, which is now defined as greater than 0.01 of an inch.

The Phase IV plan limits outdoor watering to one day per week, with "odd" addresses allowed watering on Saturday and "even" addresses allowed watering on Sunday. Outdoor watering is prohibited between the hours of 5 a.m. to 10 a.m. and 5 p.m. to 10 p.m., with no watering allowed Monday through Friday. Watering of outdoor landscaping is prohibited during and within forty-eight (48) hours after measurable rainfall, which is now defined as greater than 0.01 of an inch.

Violations of prohibited activities are considered infractions and are punishable by fines of up to \$500 for each day in which the violation occurs. Any peace officer or employee of a public agency charged with enforcing laws and authorized to do so by ordinance may issue a citation to the violator. The City will be responding to enforcement by issuing a Notice of Violation for all witnessed occurrences and staff will be processing all reported issues. Enforcement statistics for the month of January 2022 show that a total of three notices of violation were issued for water wasting, and two Administrative Citations were issued.

Water production for January 2022 shows a one percent (1%) increase from the 5-year average. The monthly production for January was 201 million gallons, which is a 0.42% increase in comparison to the monthly production for January 2013 of 200 million gallons. Residential consumption for January 2022 was 75 gallons per capita per day (GPCD).

Compliance with individual water supplier conservation requirements is based on cumulative savings. Cumulative tracking means that conservation savings

will be added together from one month to the next and compared to the amount of water used during the same months in 2013. City Staff will be evaluating conservation totals in two formats: 1) Calculate the cumulative conservation totals for production as compared to production in 2013; and 2) Calculate cumulative conservation totals in relation to GPCD, in efforts to evaluate population growth impacts on production as compared to 2013. The cumulative total of production for the City of Porterville's conservation efforts will reflect June 2015 through January 2022. Porterville's cumulative total production conservation through January 2022 is twenty percent (20%). The cumulative total of GPCD for the City of Porterville's conservation efforts will reflect June 2015 through January 2022. Porterville's cumulative total GPCD conservation through January 2022 is twenty-five percent (25%).

Under the February 2, 2016, emergency regulation, the City of Porterville received a revised conservation standard of twenty-eight percent (28%) with an additional two percent (2%) reduction for climate adjustment, making the City's conservation standard twenty-six percent (26%). After reviewing the Water Board's Self-Certification criteria for drought impacts to water supplies, the City of Porterville Council approved maintaining a self-imposed standard of twenty-six percent (26%). The continuation of the current conservation goal keeps a standardized message that the City has worked to develop in public outreach, provides resiliency and capacity to ensure three years of supply under drought conditions, meet the minimum twenty percent (20%) conservation standard defined in the City's Urban Water Management Plan, and assists the City in meeting the requirements of the Sustainable Groundwater Management Act (SGMA).

The State Water Board continues to require monthly reporting to track what agencies are doing and how they perform throughout the year. Proposed permanent regulations will require agency reporting to continue monitoring the performance of urban water conservation with a preparedness to implement conservation standards as necessary. California Governor Gavin Newsom signed into effect Executive Order N-10-21 on July 8, 2021, urging all Californians to voluntarily reduce their water use by fifteen percent (15%) compared to their prior-year levels due to extended excessive drought conditions. Water production for the city system shows a nine percent (9%) decrease from January 2021 to January 2022.

RECOMMENDATION: Information Only

ATTACHMENTS:

1. Monthly Production Status January 2022
2. Monthly Production Status GPCD January 2022
3. Drought Response Phase IV Flyer

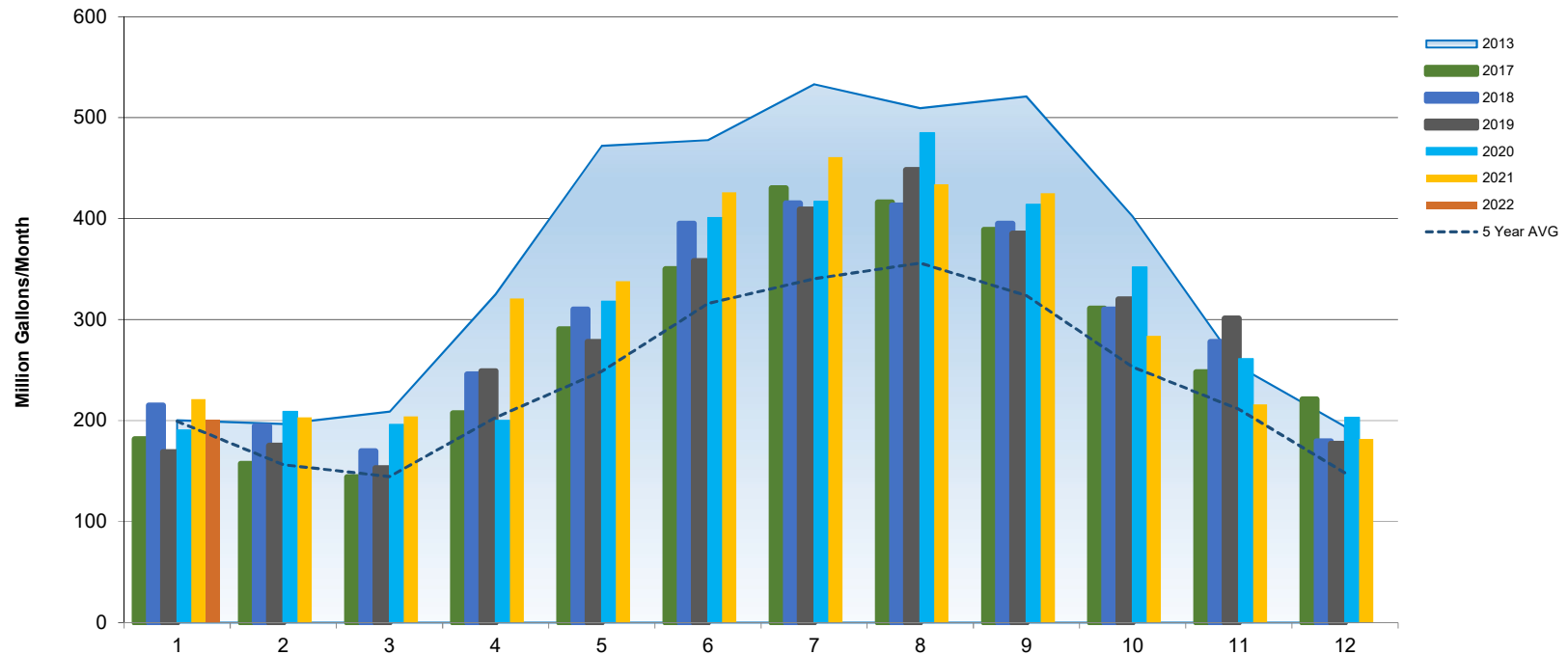
Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

**Monthly Production Status & Cumulative Total June 2015 Through
January 2022 Production Comparison to 2013 & 5 Year Average**

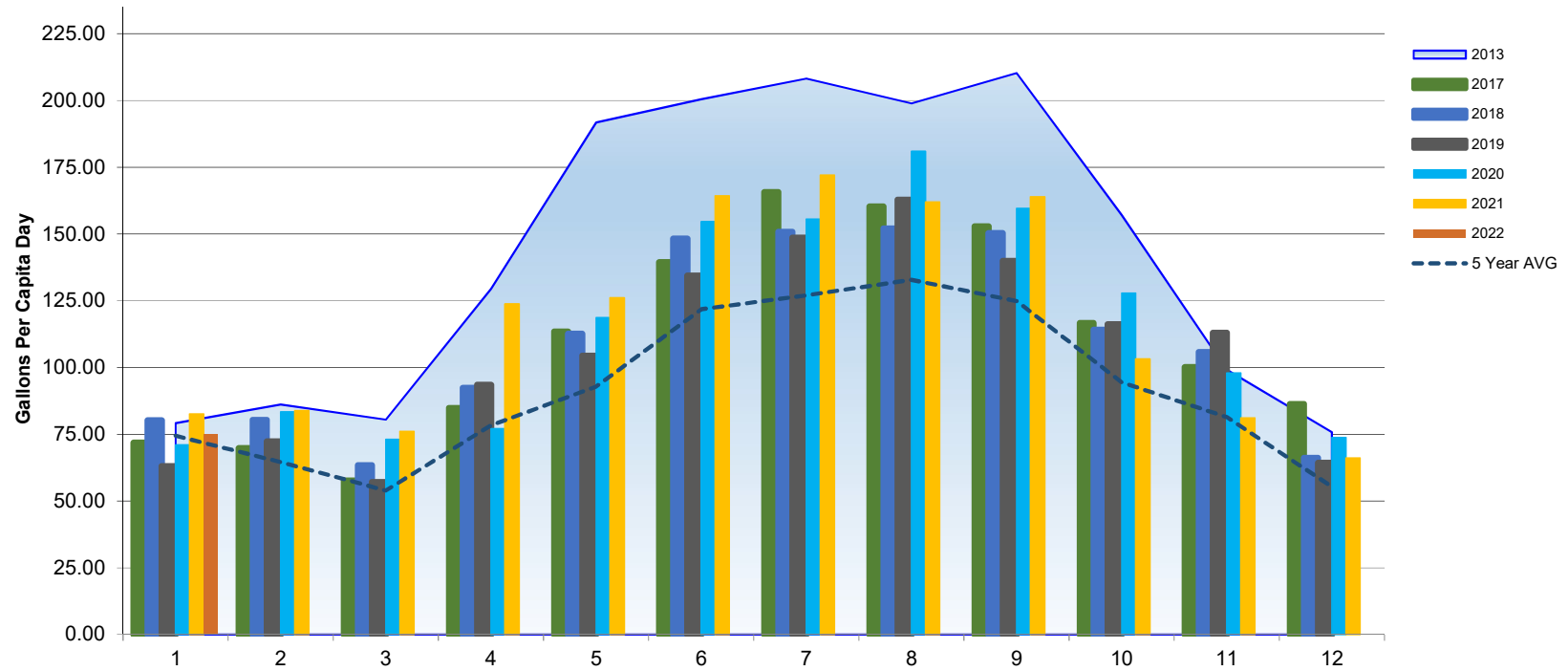


Production Cumulative Total 20.3%

	1	2	3	4	5	6	7	8	9	10	11	12
2017	-9%	-20%	-31%	-36%	-38%	-27%	-19%	-18%	-25%	-23%	-2%	14%
2018	1%	-7%	-13%	-29%	-39%	-26%	-25%	-24%	-29%	-27%	7%	-13%
2019	-16%	-11%	-27%	-23%	-41%	-25%	-23%	-12%	-26%	-20%	19%	-9%
2020	-5%	6%	-6%	-38%	-33%	-16%	-22%	-5%	-21%	-13%	3%	5%
2021	11%	3%	-2%	-1%	-28%	-11%	-14%	-15%	-18%	-29%	-15%	-6%
2022	-16%											

Percent Comparison to 2013 Production

Monthly Production Status & Cumulative Total June 2015 Through January 2022 Gallon Per Capita Day Comparison to 2013 & 5 Year Average



GPCD

Cumulative Total 24.5%

2017	0%	-9%	-19%	-28%	-34%	-41%	-30%	-20%	-19%	-27%	-26%	1%
2018	0%	1%	-7%	-29%	-29%	-41%	-26%	-28%	-24%	-29%	-27%	7%
2019	-20%	-16%	-29%	-28%	-46%	-33%	-29%	-18%	-33%	-26%	14%	-15%
2020	0%	-10%	-3%	-9%	-40%	-38%	-23%	-25%	-9%	-24%	-19%	-1%
2021	0%	4%	-3%	-5.4%	-4%	-34%	-18%	-17%	-19%	-22%	-34%	-18%
2022	-17%											

Percent Comparison to 2013 Production



DROUGHT RESPONSE Phase IV

Mandatory Odd/Even Watering Schedule, based on address. Residents will be allowed ONE day a week to water lawns and landscapes. No watering allowed Monday through Fridays.

Watering is prohibited between the hours of 5:00 AM to 10:00 AM and 5:00 PM to 10:00 PM.

No watering outdoor landscapes during and within 48 hours after measurable rainfall (>0.01 inches).

Excessive water runoff is prohibited.

The washing of sidewalks and driveways is prohibited.

Vehicles shall only be washed on designated watering days and with a hose equipped with a shut-off nozzle.

The operation of ornamental water features is prohibited unless the fountain uses a recycling system.

Non-compliance with Phase IV water conservation regulations could result in citations with fines up to \$500.

DROUGHT RESPONSE PHASE IV

The City of Porterville has adopted Phase IV of its Drought Response Plan. As part of the Phase IV plan, the City has restricted watering days to one day per week, based on address.

Mandatory Odd/Even Watering Schedule

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
DO NOT WATER	DO NOT WATER	DO NOT WATER	DO NOT WATER	DO NOT WATER	OK TO WATER	OK TO WATER
---	---	---	---	---	ODD	EVEN

- Odd Address
- Even Address
- Outdoor Watering is Prohibited

ODD NUMBER ADDRESSES

If your address ends with an “odd” number, 1, 3, 5, 7, or 9, your watering day is Saturday *only*.

OR

EVEN NUMBER ADDRESSES

If your address ends with an “even” number, 0, 2, 4, 6, or 8, your watering day is Sunday *only*.

Violation Level	Citation Amount
First Violation	Warning Only
Second Violation	\$100 Fine
Third Violation	\$200 Fine
Fourth Violation	\$500 Fine

**Mandatory
Odd/Even Watering
Schedule**

**Excessive water
runoff prohibited**

**The washing of
sidewalks and driveways
is prohibited**

**Vehicles shall only be
washed on designated
watering days and with
hoses equipped with a
shut-off nozzle**

**Ornamental water
features are prohibited
unless the fountain uses
a recycling system**

**WATERING PROHIBITED
BETWEEN THE HOURS OF
5:00 – 10:00 AM
5:00 – 10:00 PM**

**NO WATERING
MONDAY THROUGH
FRIDAY.**



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: 3. Confirmation of Zoning Administrator Determination 2022-02

SOURCE: Community Development

COMMENT: The purpose of the Porterville Development Ordinance (PDO), Chapter 21 of the Porterville Municipal Code, is to implement the City's General Plan and to provide a precise guide for the physical development of the City. The PDO is currently over 500 pages. As it would be impossible to include every scenario of development, there are times when a situation is not described or a land use not defined. In those cases, Section 102.03 provides for Rules of Interpretation that state, "The Zoning Administrator shall make the interpretation for any definition not expressly identified in this section or provide clarification and determination of these rules." Staff has been able to locate these Zoning Administrator (ZA) interpretations dating back as far as 1984. They have taken place in the form of a ZA Determination, are typically documented in the format of a memorandum and cover a wide range of topics. These determinations are not taken lightly and staff will use past precedence, other governmental entity policies, as well as standard best planning practice.

While the PDO includes maximum number of and size limitations for accessory structures, preventing any two residential accessory structures from being cumulatively larger than 1200 sf, the PDO (301.01(b)(3)) grants the Zoning Administrator the ability to permit accessory structures larger than 1200 sf. PDO 301.01(b)(3) states "The floor area of detached accessory structures shall not exceed a cumulative floor area of one thousand two-hundred (1,200) square feet unless approved by the Zoning Administrator. In reviewing a request for additional size, the Zoning Administrator may consider neighborhood compatibility, overall lot coverage, relationship of the accessory structure to the main structure and use, and any circumstances unique to the neighborhood. In no case shall the accessory building exceed the ground floor area of the main building and in no case shall the maximum lot coverage allowed by the development standards be exceeded."

On November 29, 2021, an application was received by the Building Division for an 1800 square foot metal storage building at 1867 N. Rose Street, approx. 600 square feet larger than the City's maximum for accessory structures in residential districts. On December 7, 2021, the Planning Division required the project to be resubmitted with either a smaller structure proposed or a letter requesting Zoning Administrator review for a determination to allow the structure as proposed. On January 5, 2022, the Planning Division received a letter from the applicants at 1867 N. Rose Street requesting the Zoning

Administrator review the request for an above-maximum structure.

Upon reviewing the proposed site plan, staff determined the presence of an existing accessory structure greater than 120 square feet (275 square feet) that is utilized for pool pump equipment. As such, the PDO requires that the structure be counted as one accessory structure when determining the allowable building size for the second accessory structure. Overall, the proposed cumulative size of the accessory structures is 2,075 square feet, which is 875 square feet (72.75%) above the maximum allowed. The proposed project does not exceed the maximum allowed lot coverage in accordance with Table 201.03 of thirty percent (30%), with the proposed lot coverage being 14.9%.

In reviewing the application for neighborhood compatibility, staff reviewed previous ZA determinations of similar requests in the area. In 2017, applicants at 1932 N. Rose Street requested approval for a metal accessory structure 2,200 square feet in size with no other accessory structures existing. This request was denied. In 2020, applicants at 1814 N. Rose Street requested approval of a 1,500 square foot accessory structure on a parcel with an existing 675 square foot covered outdoor kitchen structure for a cumulative size of 2,175 square feet, which was approved by the previous Zoning Administrator. In 2021, applicants at 1808 Baker Street requested approval for a 1,600 square foot metal accessory structure on a lot with no other accessory structures. This request was also approved. The surrounding neighborhood is comprised of large lots with lots ranging from one acre to just over two acres.

The request for ZA determination is able to meet the conditions listed in PDO 301.01(b)(3) including not exceeding the maximum lot coverage of thirty percent (30%), the accessory structure is in relationship to the main structure for use by the residence, the structure is compatible with the neighborhood (other storage buildings/shops in neighborhood), and the request meets the uniqueness component of the neighborhood as the neighborhood is comprised of larger lots than is typical of urban development within the City of Porterville.

RECOMMENDATION: Information Only

ATTACHMENTS: 1. Property Owner Letter
 2. Locator Map
 3. Site Plan

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Community Development Director

Final Approver: John Lollis, City Manager

Item No.

April 27, 2020

To: Zoning Administrator

Re: Appeal for Approval of Accessory Structure

On March 18, 2020, a building permit to construct a 30'x50' steel storage building with no electrical was submitted. Results of the submission were received on April 13, 2020. The "permit snapshot report" indicates the following:

- 3/26/20 - Building Department (Cruz Anguiano), Status: Approved
- 4/10/20 - Public Works/Engineering Department (Daniel Cervantez), Status: Approved
- 4/01/20 - Planning/Zoning (Oscar Zepeda)- Status: Requires Re-Submit

This correspondence is to request a review and ultimately approval of the building permit. As stated in the comments of the permit snapshot report, "*PMC Chapter 21, § 301.01 (b)(3) The floor area of the detached accessory structures shall not exceed a cumulative floor area of 1,200 square feet unless approved by the Zoning Administrator*". The proposed permit is for a 30'x50' steel storage shed totalling 1,500 square feet, that is 300 square feet over the allotted floor area size. I am hoping that after addressing the considerations for review, you will find that a request for the additional 300 square feet of floor area is reasonable to approve. I will address each of the considerations below. The permit snapshot report states, "In reviewing a request for additional size, the Zoning Administrator may consider the following:

Neighborhood compatibility

- The neighborhood of custom homes consists of 1.0-1.5 acre lots. Due to the acreage of the homes, the majority of the homes have some type of detached structure. In addition, our home is backed up to an empty lot zoned for agriculture, with no neighbors behind.

Overall lot coverage

- The acreage of our lot approximates 1.4 acres. The proposed 30'x50' detached structure will not affect the "overall lot coverage" of our home site.

Relationship of the accessory structure to the main structure and use

- The purpose for the 30'x50' steel storage shed is to provide our family with much needed storage space. The reasoning for the requested size is to properly store our bigger items such as a travel trailer, riding lawn mower, jet skis, etc. The proposed shed would be built on an untouched area of our lot, allowing us to use our acreage more effectively. Furthermore, the structure would add to the overall aesthetics of our neighborhood by allowing us to neatly store items inside of a building.

In no case shall the accessory building exceed the ground floor area of the main building

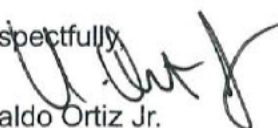
- Our family home is approximately 3,250 square feet, therefore the proposed storage shed of 1,500 square feet does not exceed the ground floor area of the main building.

In no case shall the maximum lot coverage allowed by the development standards be exceeded

- On a 1.4 acre lot, with a 3,250 sq feet home, there is ample square footage left over to construct a 30'x50' detached structure.

Thank you in advance for your time in reviewing this building permit. If you have any questions, please feel free to contact me at [REDACTED]

Respectfully,


Ubaldo Ortiz Jr.

Locator Map 1867 N Rose St



-  Project Location
-  City Limits

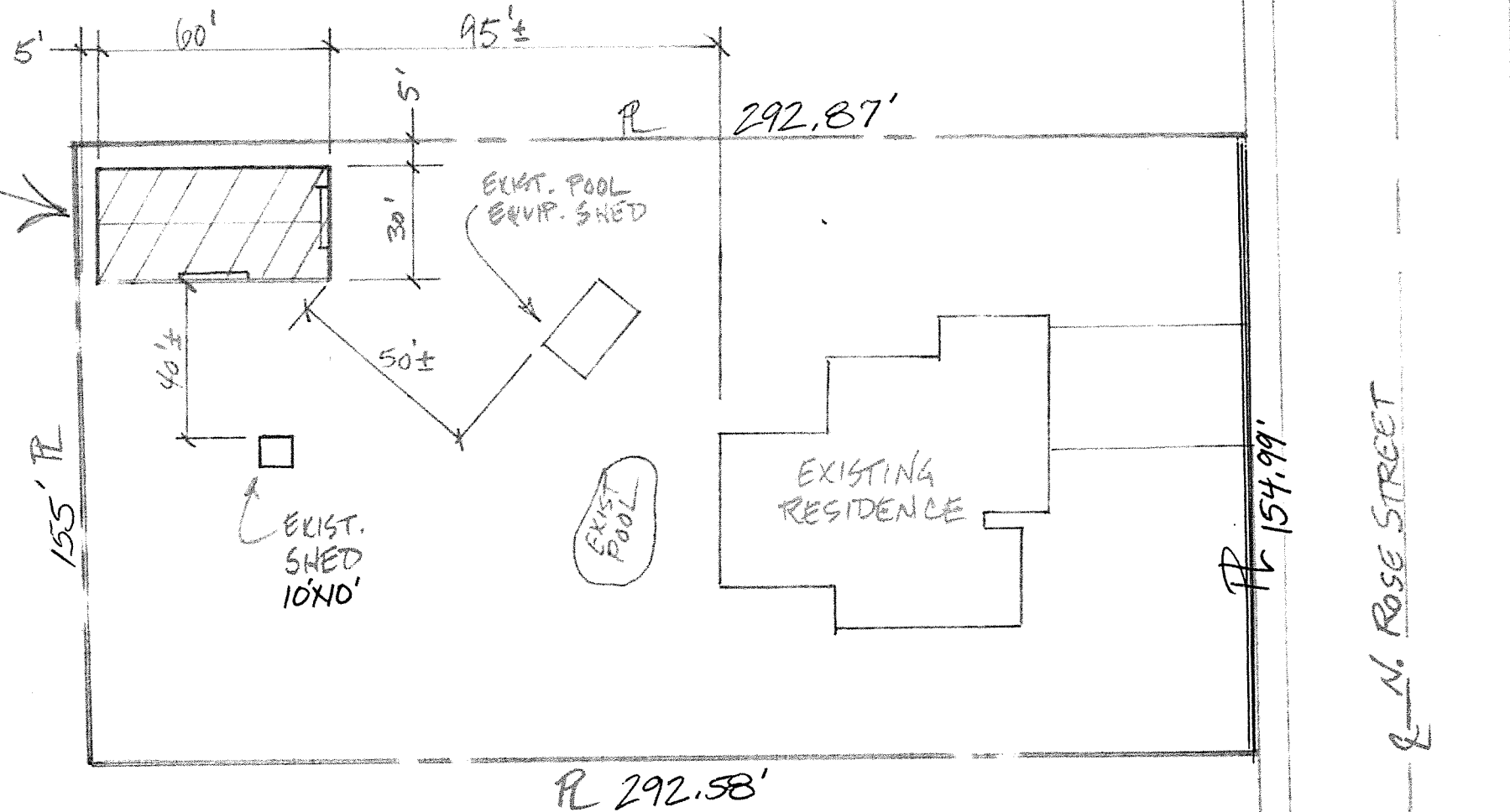
1 in = 300 feet



Date Printed: 2/10/2022 by the Community Development Department

PROPOSED 30'x60'x14'
METAL BUILDING

EXISTING CURB,
GUTTER & SW



Robert A. Avila, PE

ELECTRONICALLY SIGNED
OCTOBER 12, 2021

CONTRACTOR:
STEELEX INDUSTRIAL

Lindsay, CA

(559)562-2391

Lic. # 456976

benevidezfamil@gmail.com

A 30' x 60'x14' Metal Building for:

Isaac Benevidez

1867 N. Rose St., Porterville, CA 93257

APN: 243-310-050 (559)853-8047

Date:

Scale: As Shown

Drawn: Pfanstiel

Job

Sheet

S-1

Of

Sheets

SITE PLAN 1"=40'



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Authorization to Advertise for Bids- Murry Park Pavilion Renovation

SOURCE: Engineering and Project Management

COMMENT: Murry Park Pavilion #2 is outdated and in need of repair. The concrete slab is cracked in places and the concrete picnic tables are in need of replacement. In its 2021-2022 adopted budget, the City Council authorized \$35,000 to renovate Murry Park pavilions #1 & #2 as a priority project. Pavilion #2 is in worse shape than Pavilion #1, and the \$35,000 budgeted is no longer enough to renovate both pavilions; staff is proposing work begin with the renovation of Pavilion #2. City staff is preparing a project manual including plans and specifications for the project.

The project scope will consist of the demolition and hauling away of the existing ADA ramp and existing concrete, replacing it with a new transition piece to connect Pavilion #2 with the existing uncovered slab, and creating a new access or transition from the public way to Pavillon #2. The removal of the concrete tables and benches will also be included in the scope. The new concrete slab for the pavilion will be 27'x30' and will be poured over the existing slab to raise it to the same level as the neighboring slab for better transition. The project will be paid out of the General Fund's Facility Deferred Maintenance/ Equipment Replacement Designated Fund.

RECOMMENDATION: That the City Council authorize the advertisement for bids for the Murry Park Pavilion #2 renovation project.

ATTACHMENTS: 1. Locator Map

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager



CITY OF PORTERVILLE

ENGINEERING DIVISION

291 NORTH MAIN STREET
PORTERVILLE, CA. 93257
(559) 782-7462

MURRY PARK PAVILION #2

OWNER	
APN	
AREA	
ACRES	
SCALE	
DATE	
DRAWN BY	
CHECKED BY	



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Authorization to Distribute a Request for Qualifications - Engineering and Surveying Services

SOURCE: Engineering and Project Management

COMMENT: The City's Engineering and Project Management Department is tasked with the design and delivery of public works and building projects. The Department has a limited number of professional and technical staff members and with a robust Capital Improvement Project (CIP) workplan and continued interest in private development (residential, commercial, and industrial), the City needs assistance with a variety of municipal civil engineering and land surveying services.

In an effort to expedite the process of procuring engineering and/or land surveying services for projects when needed and to provide flexibility in this process when unknown conditions are discovered or turn around deadlines are creating undue strain on Department resources, staff has prepared a Request for Qualifications (RFQ) for these services in order to develop an on-call list of qualified professionals and/or firms that staff can readily utilize. Interested parties shall submit a statement of qualifications that complies with the RFQ that will be rated by a selection panel. Qualified individuals/firms will be asked to submit a fee schedule for their services.

Staff will present the proposed list of individuals/firms for final City Council approval once staff's review is complete.

RECOMMENDATION: That City Council authorize staff to distribute a Request for Qualifications for On-call Engineering and Surveying Services.

ATTACHMENTS: 1. Draft Request for Qualifications

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager

CITY OF PORTERVILLE, CALIFORNIA



REQUEST FOR QUALIFICATIONS

Engineering & Land Surveying Consulting Services

ON CALL SERVICES

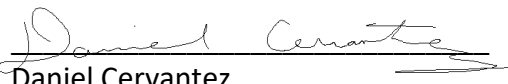
Valid for up to 5 Years from Date of Award

PREPARED BY:

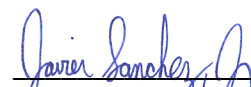
ENGINEERING & PROJECT MANAGEMENT DEPARTMENT

February 2022

REVIEWED BY:


Daniel Cervantez
City Engineer

APPROVED BY:


Javier Sanchez, Jr.
Eng. & Project Management Dir.

I Introduction and Objectives:

The City of Porterville (hereinafter referred to as "CITY") is requesting proposals to establish a list of competent consultants to provide on-call engineering and land surveying consulting services for multiple Capital Improvement Projects through task orders on an as-needed basis. The City is seeking professional on-call consultant services to assist the City in successfully completing complex Capital Improvement and Maintenance and Operations Projects, reviewing and providing recommendations on private development projects, and acting on behalf of the City (as City Surveyor) to review, approve, and professionally stamp private subdivision maps, parcels maps, lot line adjustments, easements, and other real property legal documents or to prepare real property documents (such as easements, records of survey, grants of right of way) where a Licensed Surveyor or appropriate Civil Engineering License (pre January 1992) is required.

II Examination of Proposal Documents:

By submitting a proposal, each consultant represents that it has thoroughly examined and become familiar with the work required under this RFP and that it is capable of performing quality work to achieve the objectives of CITY.

III Addenda/Clarifications:

Any CITY changes to this RFP will be made by written addendum. No verbal modification/s shall be binding.

IV Proposal Requirements:

Proposals for this project will be accepted at this office until 4:00 p.m., on Tuesday, April 5, 2022. Three (3) copies of the proposal shall be submitted in a sealed envelope, plainly marked "On-Call Engineering & Surveying Services Proposal for the City of Porterville." Cost proposals shall not be submitted until requested by the CITY. Proposals shall be addressed to:

Daniel Cervantez, City Engineer
Engineering & Project Management Department
City of Porterville
291 N. Main Street
Porterville, CA 93257

The City reserves the right to reject any and all proposals, which do not meet the requirements of this RFP and/or any portion of the requirements of this project.

V Pre-Contractual Expenses:

Pre-contractual expenses are defined as expenses incurred by the consultant in:
1) Preparing and reproducing its proposal in response to this RFP; 2) Submitting its proposal to CITY; 3) Negotiating with CITY any matter related to this RFP and

consultant's proposal; 4) Other matters prior to the date of award of a Contract.

CITY shall not be liable for any pre-contractual expenses incurred by consultants in the preparation of proposals. Pre-contractual expenses shall not be included in the fee proposal.

VI Exceptions/Deviations:

Any exceptions to the requirements of this RFP must be included in the consultant's proposal. Such exceptions must be included as a separate element of the proposal entitled "Exceptions and Deviations".

VII Consultant's Representative:

The consultant shall assign a responsible representative and an alternate, both of whom shall be identified in the proposal. The consultant's representative shall remain in responsible charge for the duration of the on-call services. Should the consultant's primary representative be unable to continue with the services, the consultant's alternate representative shall become the primary representative. No personnel changes will be acceptable without prior approval by CITY. CITY reserves the right to reject any changes in personnel at any time during the course of the on-call services. CITY also reserves the right to terminate the contract if, in the opinion of CITY, substantial changes in project management may jeopardize the successful completion of the on-call services to the satisfaction of CITY.

VIII Local Agency Representation:

Daniel Cervantez, City Engineer, shall be project manager and contact person for all communications with CITY.

Fabian Mendoza, Construction Project Manager, shall be the City's alternate representative in this matter.

IX Insurance Requirements:

The CONSULTANT shall maintain and provide current copies to CITY of the following minimum insurance coverage for the duration of this project:

- Full liability under Worker's Compensation laws of the State of California
- General comprehensive liability (*bodily injury and property damage*)*
- Professional liability insurance (*errors and omissions*)*
- Automotive liability Insurance*

*All must provide a combined single limit (CSL) of not less than \$2 million per occurrence. **The successful Proposer shall maintain the insurance for the life of the Professional Services Agreement (Agreement). Said insurance shall contain a provision that coverage afforded under the policies will not be canceled unless and until thirty (30) days prior written notice has been given to the City.**

Endorsements are to be received and approved by the City before work commences. Should Consultant cease to have insurance as required during any time, all work by

Consultant pursuant to the Agreement shall cease until insurance acceptable to the City is provided.

Original insurance certificates and endorsements are to be mailed or delivered to:

City of Porterville
Engineering Division
291 N Main Street
Porterville, CA 93257

X Indemnification:

The consultant shall indemnify, defend, and hold harmless CITY, its elected and appointed officers, employees agents from and against any and all claims, including attorney's fees and reasonable expenses for litigation or settlement, for any loss, damages, bodily injuries, and loss of property caused by negligent acts, omissions, or willful misconduct by the successful consultant and its sub-consultants arising out of performance of the requirements of the Contract.

XI Subcontracting:

Only those firms identified in the Contract as subcontractors or sub-consultants shall be allowed to perform work for the on-call services. Any amendments to this requirement shall be made in writing by prime consultant to CITY. CITY has the right to reject any requested amendments at any time during the course of the on-call services contract.

XII Federal, State, and Local Laws:

The consultant shall comply with all federal, state, and local laws, rules, regulations, ordinances, and statutes. By submitting a proposal, Consultant certifies that they will comply with all Federal laws and requirements, including but not limited to Equal Employment Opportunity, Disadvantaged Business Enterprise, Labor Protection and other laws and regulation applicable to contracts utilizing State and Federal Funds.

XIII PROPOSAL EVALUATION CRITERIA:

The Selection Committee will review the proposals submitted and establish a list of finalists based on the pre-established review criteria. If deemed necessary to clarify qualifications, an oral interview with one or more of the firms submitting proposals may be requested after written proposals have been received and reviewed by the City. The City will schedule the time and place for the interview, if determined to be necessary. Each proposer should be prepared to clarify and elaborate on the details set forth in their proposal.

The individual rating and or composite rating and evaluation forms prepared by the Selection Committee will not be revealed. The Selection Committee will review the proposals based on pre-established review criteria and determine the most qualified Proposer(s).

If during the evaluation process the City is unable to assure itself of the Proposer's ability to perform under the contract, if awarded, the City has the option of requesting

from the Proposer any information that the City deems necessary to determine the Proposer's capabilities. If such information is required, the Proposer will be notified and will be permitted seven (7) working days to submit the requested information. Evaluation criteria used to select the CONSULTANT shall include, but not be limited to, the following:

- A. Firm(s) experience with similar on-call services;
- B. Firm(s) key personnel qualifications/certifications and experience, especially the project manager and individuals performing services;
- C. Firm(s) understanding of the on-call services requirements as demonstrated by proposal thoroughness and meeting RFQ requirements;
- D. Firm(s) ability to provide the required services in a timely and cost-effective manner to meet the required schedule;
- E. Firm(s) policy in providing Equal Employment Opportunity; and
- F. Firm(s) approach to provide the best product for CITY.

The attached CITY'S Consultant Selection Rating Form shall be used to rate each firm.

XIV CONSULTANT SELECTION AND INTERVIEWS:

CITY selection committee, consisting of the Contract Administrator and at least two additional staff members familiar with the project requirements, will review all proposals and rank CONSULTANTS according to their demonstrated competence and professional qualifications as assessed by their response to this RFQ and the evaluation criteria contained in the CITY'S Consultant Selection Rating Form. The highest ranked CONSULTANT(s) may be invited for oral interviews with CITY team. Interviews, if deemed necessary by CITY, are tentatively scheduled for the third week of April 2022. Each participating firm will be contacted via telephone for verification of interview date and time. Failure to be available at the time of a scheduled interview shall be considered non-responsive and shall be cause for elimination from any further consideration. CITY reserves the right to begin negotiations and enter into a Contract without interviews or further discussion.

The process for selection shall occur in the following sequence:

- Review proposals
- Establish a "short list" of qualified firms
- Interview "short listed" firms (at the option and discretion of the City)
- Identify best qualified firm(s)
- Recommend award of Professional Services Agreement to City Council to create On-call list

Consultant selection shall be based on the information provided in the proposals received in response to the RFQ. The City intends to identify one or more consulting firms with which to enter into Professional Services Agreement for on-call services. The City reserves the right to make the selection of a Consultant(s) based on any or all factors of value, whether quantitatively identifiable or not, including, but not limited to, the anticipated initiative and ability of the Proposer to perform the services set forth herein. The City reserves the right to reject any or all proposals, to waive any informality in any proposal, to sit and act as sole judge of the merit of each response submitted, to select a consultant, and to award in any manner which is more favorable

to the City of Porterville.

XV COST PROPOSAL:

The cost proposal shall not be submitted until requested by the CITY. Negotiations with the top-ranked candidate(s) may begin immediately. If an agreement cannot be reached within ten (10) working days, CITY may begin negotiations with the next selected candidate(s) and proceed. If necessary, this process will continue until either an agreement is reached or CITY elects to re-advertise for new proposals. CITY reserves the right to reject any and all proposals prior to award of a Contract. All cost proposals not opened shall be returned to their respective firms.

XVI CONTRACTS/AGREEMENTS:

The successful CONSULTANTS shall enter into upcoming Contracts with CITY that are based on the contents of this RFQ, the CONSULTANT's proposal, and CITY Contract. Where two or more CONSULTANTS desire to submit a single proposal (joint venture), only one CONSULTANT shall be listed as prime CONSULTANT. All others shall be listed as sub-consultants. The list of chosen on-call CONSULTANTS is expected to be presented at the City Council meeting scheduled for Tuesday, April 19, 2022, or the City Council meeting scheduled for Tuesday, May 3, 2022. Issuance of this RFQ and receipt of proposals does not commit CITY to award a Contract. CITY reserves the right to postpone award of a Contract for its own convenience, accept or reject any or all proposals received in response to this RFQ, negotiate with any CONSULTANT on the chosen on-call list, and cancel any or all portions of this RFQ and resulting Contract. CITY also reserves the right to award individual or groups of projects to different firms at the sole discretion of CITY.

XVII COMPENSATION:

- A. All items of work required for completion of the projects to result from this RFQ shall be paid for following the cost proposal formats of Caltrans' LAPM Chapter 10. Costs for any and all items not specifically listed, but required to complete the work for projects (including all exceptions and deviations stated included in CONSULTANT's proposal), shall be included as part of the total cost proposed. No additional compensation shall be paid for such items. No additional compensation shall be given for any reproduction costs, except those in excess of the requirements stated in this RFQ. Only a change in scope or any significant task addition or increase shall receive consideration for additional compensation.
- B. If the CONSULTANT feels that any work it has been directed to perform is beyond the scope of the Contract and constitutes extra work, it shall notify CITY in writing within ten (10) days. CITY will review such notice and, if justified, authorize additional compensation to the CONSULTANT on a fair and equitable basis.
- C. Monthly progress payments will be made to the CONSULTANT only upon submittal of invoices to CITY. Said invoice shall indicate the percentage completion of each task, as well as the overall percentage completion of the entire project contract. In addition, an updated schedule showing tasks and their degree of completion shall be provided.

XVIII OWNERSHIP OF REPORTS AND DOCUMENTS:

Originals of all documents, letters, drawings, design calculations, estimates, specifications, and other documents and data produced under the terms of the Contract shall become the property of CITY. CITY shall retain all rights in copyright. Copies may be made and retained by the CONSULTANT for its records, but shall not be furnished to others without the written consent of CITY for a period of three (3) years from the date of acceptance, by CITY, of all requirements of this project.

XIX PROPOSAL FORMAT AND CONTENT:

Proposals shall be prepared in such a way as to provide a straightforward, concise delineation of the information requested. Proposals which contain false or misleading statements, or which do not support an attribute or condition claimed by the Proposer may be cause for rejection of said proposal. If, in the opinion of the City, such information was intended to mislead the City in its evaluation of the proposal, it will be cause for rejection of the proposal. Proposals shall be brief and include a concise address of the following information:

A. Firm Experience:

1. Five years of experience in municipal civil engineering and/or five years of experience in municipal land survey services.
 - a. A brief list of similar projects completed in the last five (5) years, indicate the specific relationship if other than principal and each firm's responsibilities. Descriptions of pertinent experience should include a summary of work performed, adherence to schedules, the duration of each project, and the name, title, and phone number of clients that may be contacted for reference.
2. Possession of current Civil Engineering and/or Land Surveying License(s) in the state of California is required. An appropriate Civil Engineer's License (pre January 1982) in lieu of a Licensed Surveyor is acceptable.
3. Knowledge of current municipal engineering and municipal land surveying practices and techniques.
4. Knowledge of methods and techniques used in the design, construction, and inspection of a variety of municipal public works projects.
5. Knowledge of California Subdivision Map Act and experience with preparing and or reviewing for Map Act conformance tentative and final subdivision and parcel maps.
6. Relevant experience working with Tulare County, Caltrans, local utility companies, and local irrigation districts is highly desirable.
7. Other information that might aid CITY in ascertaining proposing firm's

qualifications.

B. Consultant Team:

Name of prime consulting firm, sub-consultant(s), names of principals, associates, project manager, and key personnel, their proposed level and areas of responsibility, and their qualifications/certifications in those areas. The CONSULTANT's Project Manager and key personnel will be an important factor considered by CITY.

1. Any changes to personnel assigned to this project shall be made in writing to CITY. CITY reserves the right to reject any proposal with modified personnel.
2. If sub-consultants are used, names of sub-consultant key personnel for the project, their professional experience, qualifications/certifications, and training, which are applicable to this project, and the scope of services that will be provided by each sub-consultant.
3. The office location from which the CONSULTANT(s) shall operate along with telephone and/or cell number of the project manager.

C. Proposal Format:

1. Proposals shall contain no more than twenty (20) pages, excluding cover sheet, table of contents, index sheets, and resumes, double-sided, font size no less than 10 pt., and single or double-spaced. Cover letters will be counted as part of the twenty sheets. The City encourages the use of recycled materials.
2. Proposals should include, but not be limited to, the following:
 - a. Cover letter highlighting the firm/teams relevant qualifications as they relate to this RFQ
 - b. Page numbering, table of Contents, and section dividers with tabs if applicable;
 - c. Identification of offering firms, including name, address, and telephone number of each firm;
 - d. Prime CONSULTANT organizational chart, which includes sub-consultant(s) with names and titles of personnel to be used for this project;
 - e. Type of organization (individual, partnership, or corporation) and, if applicable, indicate whether you are a Small Business, Disadvantaged Business, Minority and/or Women-Owned Business and appropriate registration numbers for applicable category;
 - f. Acknowledgment of receipt of RFQ addenda, if any;
 - g. Concise, complete response to the technical aspects requested in the "On-Call Engineering & Surveying Services Consultant Qualifications and Selection Criteria";
 - h. References and Referrals – Provide public agency references

(ideally four should be included) for similar assignments directly involving the Principal-In-Charge, Project Manager, Engineer of Record, and Licensed Surveyor. Past experience should be specific to preparing construction documents (plans specifications and estimates) for typical municipal engineering and public works projects; bidding assistance, and construction support for these types of projects; and performing a variety of land surveying services in a municipal setting including acting on behalf of a City as the City Surveyor. The location and reference (agency name, contact person with email address and telephone number(s)) shall be included for each agency listed.

- i. Exceptions to or deviations from the requirements of this RFQ, separating technical exceptions from contractual exceptions. Any alternative approach proposed by the CONSULTANT shall be thoroughly explained and shall meet the objectives of CITY.

CITY OF PORTERVILLE
REQUEST FOR QUALIFICATIONS FOR ENGINEERING & LAND SURVEYING – ON CALL SERVICES

The City of Porterville (hereinafter referred to as "CITY") is requesting proposals to establish a list of competent consultants to provide on-call engineering and land surveying consulting services for multiple Capital Improvement Projects through task orders on an as-needed basis.

The City has limited professional and technical staff and with a robust Capital Improvement Project (CIP) budget and continued interest in private development (residential, commercial, retail, and industrial) the City needs assistance with a variety of municipal civil engineering and land surveying services.

This document identifies the general project scope and procedures for Consultant involvement in this process. Responding consultants must have relevant experience and the ability to provide the requisite professional services.

CONSULTANT RESPONSIBILITIES:

The City is seeking professional on-call consultant services to assist the City in successfully completing complex Capital Improvement and Maintenance and Operations Projects, reviewing and providing recommendations on private development projects, and acting on behalf of the City (as City Surveyor) to review, approve, and professionally stamp private subdivision maps, parcels maps, lot line adjustments, easements, and other real property legal documents or to prepare real property documents (such as easements, records of survey, grants of right of way) where a Licensed Surveyor or appropriate Civil Engineering License (pre January 1992) is required.

The Consultant should expect that all aspects of project specific construction document development, survey, modeling, or other technical report preparation will be to current City standards, policies, procedures, regulations, and methods. Lacking a City standard, policy, procedure, or regulation the Consultant shall rely upon and use Caltrans Standards or industry standards/methodologies for preparation of construction documents, reports, analysis, and modeling. Standards and methodologies used shall be approved by the City prior to performing any work on the project.

Task orders may vary significantly in size and scope and will be determined in greater detail as each task order is assigned. The City will discuss the scope of services with the selected Consultant prior to issuing a task order. The Consultant will be responsible for preparing a detailed scope and fee estimate for each task order. The City may accept the Consultant's scope and fee or negotiate with the Consultant, as appropriate. The City reserves the right to reject the Consultant's scope and fee and negotiate with another firm.

Survey task order requests may include, but not be limited to, review and approval of other surveyor's work (acting as the City Surveyor), office surveys, topographic surveys, boundary surveys, easement surveys, and manhole invert surveys. Collected survey data from the Consultant may be provided directly to City staff or to a separate City on-call engineering consultant. When requested as part of a task order, the surveyor will be required to provide in scalable format applicable line work of existing conditions in AutoCAD format (base map) in addition to raw survey data. Where a surface model of existing conditions is requested, the surveyor shall create the existing surface model and make any adjustments necessary to reflect

existing field conditions. The Consultant will be allowed to request a release of liability from any firm requesting use of the Consultant's AutoCAD files which shall be executed prior to releasing files.

The Consultant may be required to perform field data collection necessary to complete the requirements of a specific task order. The Consultant is solely responsible for safety of its employees including any sub-consultant employees during any field operations. With the exception of surveying, work within the City's right of way will require a no fee encroachment permit.

The Consultant shall coordinate with all utility companies during any task order that has the potential to interfere, cross, parallel (within limits of utility's concerns), or require alteration of any utility infrastructure. This requirement shall be adhered to throughout the duration of the task order. Meetings, including field meetings with utility company representatives, should be considered necessary to insure proper coordination throughout the duration of the task order. Consultant shall provide construction administration (reviewing submittals, responding to requests for information (RFI), assisting with review and making recommendation on contract change orders), and making field inspections of related public improvements when included with a task order.

Consultant shall provide project management to a level commensurate with the task order executed including clearly defined lines of communication between the City and the Consultant, coordination necessary for successful completion of the task order, timely invoicing for services rendered, and notification of tasks outside the executed task order.

The main categories of work and services to be provided will include:

1. Prepare engineering or public works reports, investigations, studies and evaluations as from time to time may be required and directed by the City Engineer. Work product would typically be expected in Microsoft Word or Excel or other appropriate Office Suite format.
2. For private development projects, review and provide written comments related to construction documents including plans and specifications for compliance with City standards, specifications, and relevant laws, rules and regulations.
3. Prepare plans, specifications, estimates and other construction documents for a variety of municipal public works projects. Provide bid assistance and construction support throughout project construction, and assist with project closeout activities as needed to comply with applicable county, state or federal funding sources reporting requirements.
4. Perform record research.
5. Check subdivision and parcel maps for compliance with California State Subdivision Map Act requirements; provide written review comments as needed. When acceptable, stamp and sign subdivision maps, parcel maps, lot line adjustments, and other documents as necessary, as City Surveyor.
6. Determine locations of property lines, boundaries, easements and rights-of-way.
7. Establish and adjust benchmarks.
8. Establish and monument street center lines and street intersections.
9. Perform traditional topographic surveys and aerial topographic surveys to determine locations and elevations of existing improvements, structures, and topographic features including necessary office surveying to support field work.
10. Perform research and survey work related to property divisions and mergers.

11. Perform research and survey work related to public and private land ownership, public and private easements, public improvements, and historic information.
12. Perform all survey-related and, when required, engineering-related computations and drawings using traditional methods and/or using computer methods currently available within the City.
13. Prepare and interpret deeds and legal descriptions.
14. Develop legal descriptions and plat maps.
15. Other engineering and survey-related tasks as necessary.

The scope of the engineering and land surveying services may or may not require the use of sub-consultant services for data collection, public outreach (public relations), and other tasks as they arise and are not covered by the Consultant's own forces. Each sub-consultant used on a specific project/task order must have written approval from the City of Porterville prior to proceeding with a task order.

The above list is not intended to be comprehensive; additional services may be identified through the preparation of a specific task order. Without penalty, the Consultant will be given the opportunity to excuse themselves from performing the task order if identified tasks are not part of the Consultant's expertise or if the Consultant does not have sufficient available work force to complete the task order in the time frame expected.

CITY RESPONSIBILITIES:

1. Compensate the Engineering and / or Licensed Surveyor Consultant as provided in the executed contract agreement and approved task order.
2. Provide a "City Representative" who will represent the City and who will work with the Engineering and / or Licensed Surveyor Consultant in carrying out the provisions of the RFQ and assigned task order(s).
3. Prepare a project specific task order.
4. Provide available data pertinent to task order.
5. Provide the Consultant with City documents including policies, procedures, regulations and standards pertinent to the task order.
6. Provide topographical survey data in AutoCAD format for the Consultant's use or request the Consultant to include necessary survey as part of the Consultant's task order.
7. Provide geotechnical information as part of a separate agreement or request the Consultant to include necessary geotechnical investigations as part of the Consultant's task order.
8. Attend meetings with Consultant; conduct meeting where appropriate.
9. Provide a list of stakeholders, utility company representatives, and other agency personnel involved with a specific task order.
10. Examine documents submitted to the City by the Engineering and / or Licensed Surveyor Consultant and timely render decisions pertaining thereto.
11. Give reasonably prompt consideration to all matters submitted by Engineering and / or Licensed Surveyor Consultant for approval to the end that there will be no substantial delays in the Consultant's program of work.
12. Provide necessary environmental processing (including CEQA and NEPA), Storm Water Pollution Prevention Plan (SWPPP), Dust Control Plan (DCP), and Indirect Source Review (ISR) based on tasks identified in task order or request the Consultant to include necessary environmental reviews, SWPPP, DCP, and/or ISR

as part of the Consultant's task order.

MEETINGS:

After full execution of a task order, the selected Consultant(s) shall meet with the City Engineer or the City Project Manager and other City staff as needed to obtain project specific requirements for all reviews and preparation of plans, specifications, other construction documents, studies, analyses, surveys, modeling, and other technical reports.

The Consultant shall hold additional meetings as necessary with stakeholders (including other permitting agencies) and various City Departments as the project progress to insure other agency/stakeholder and City Department requirements are understood and addressed in any reports or analysis submitted to the City for review and approval.

The Consultant will be expected to meet with various City Staff, the Board of Public Utilities, and other stakeholders from time to time to provide recommendations and provide updates on the status of the project.

DELIVERABLES:

All public improvement design work performed by the Consultant shall meet current City Design Standards and Technical Specifications at the time a task order is executed. The Consultant should expect to submit construction documents at a preliminary stage, then 60%, 90%, and 100% complete stages. Exact tasks, deliverables, and schedules will be identified in a task order. The Consultant should expect to use a City provided Request For Bid (RFB) Word template containing General and Special Provisions as a starting point for preparing the construction ready RFB.

If a specific task order is time sensitive, the City will provide the expected timeframe before assigning the task order. The Consultant, at no risk to assignment of future task orders, shall notify the City if the services cannot be provided that meet or exceed the specified timeframe. Consultants that accept time sensitive task orders and fail to meet the required schedule may be passed over for future assignments. The City will consider delays outside the Consultant's control when a schedule is not met.

The Consultant shall provide a working schedule indicating major milestones to complete the work identified in the task order once the scope and approach have been agreed to by the City and Consultant. The Consultant should expect a draft, a final draft, and final signed submittal for reports and analyses prepared by the Consultant. The Consultant's schedule shall include the various submittals expected for each task order and provide sufficient time for the City to review and make comments.

SCHEDULE:

The proposal phase schedule is as follows:

City releases RFP for On-Call Engineering & Surveying Services.....	February 19, 2022
Consultant Proposal Due.....	April 5, 2022
Consultant interviews (if deemed necessary).....	3 rd week of April 2022
City Council awards contract.....	(tentative) April 19, 2022 or May 3, 2022
Estimated start of On Call Services Contract.....	Upon Council Award

CONSULTANT SELECTION RATING FORM				
Project Name: Project Number:	Date: 	Evaluation Factor	Rating Factor	FIRM
			Numerical Range & Weighting Based on Importance of Factor	FIRM
			Score	Score
a. Capability to perform all or most aspects of the project.		0-10		
b. Recent experience in projects comparable to the proposed project.		0-10		
c. Firm's reputation for professional integrity and competence.		0-5		
d. Key personnel's professional background and caliber.		0-7		
e. Adequate qualified personnel available for assignment to the project.		0-5		
f. Recent experience in specialized areas of expertise associated with the project.		0-5		
g. Demonstrated ability to meet schedules or deadlines.		0-10		
h. Demonstrated ability to complete projects without having major cost escalations or overruns.		0-7		
i. Qualifications and experience of outside consultants regularly engaged by the consultant under consideration.		0-10		
j. Quality of project previously undertaken.		0-10		
k. Familiarity with and proximity to the geographic location of the project.		0-5		
l. Capability of a branch office, which will do the work to perform independently of the home office, or conversely, its capability to obtain necessary support from the home office.		0-3		
m. Demonstration of an understanding of the project's potential problems and the City's special concerns.		0-5		
n. Degree of interest shown in undertaking the project.		0-3		
o. Evidence that consultant is an equal opportunity employer.		0-2		
p. Proximity of firm's office to project.		0-3		
TOTAL SCORE:				
RANKING:				

Highest Possible Score = 100

SERVICE AGREEMENT

DATE:

PARTIES: City of Porterville, a California municipal corporation, hereinafter referred to as "CITY"; and (*insert name*), hereinafter referred to as "CONSULTANT".

RECITALS: CITY has undertaken a project on which it is seeking assistance from CONSULTANT. Said project which will hereinafter be referred to as "project" is described as follows:

Project Name:

Description of Project: In general, Consultant to provide (plans and specifications) (services) for the (proposed project). Details are summarized in the Scope of Services as Attachment "A".

IN CONSIDERATION OF MUTUAL COVENANTS AND AGREEMENTS HEREINAFTER set forth the parties hereto do contract and agree as follows:

SECTION 1. CONTRACT SERVICES:

CONSULTANT hereby agrees to provide the following services and materials, in a timely manner as described:.

SECTION 2. PAYMENT:

In consideration for said services and materials, CITY shall pay CONSULTANT on a time and materials basis (and/or not to exceed _____ Dollars (\$ _____)).

TIME OF PAYMENT: Progress payment requests shall be submitted by the 25th of each month. CONSULTANT should receive payment within 45 days of the date the bill is received.

SECTION 3. COMPLETION DATE:

The services to be performed by CONSULTANT will be commenced upon execution of this agreement and all "work directives" shall be completed by (*date*). In the case of ongoing testing and results protocol, the CONSULTANT shall submit results as required to CITY, State and/or Federal governing agencies.

SECTION 4. FAMILIARITY WITH PROJECT:

CONSULTANT certifies and agrees that it is fully familiar with all of the details of the project required to perform its services. CONSULTANT agrees it will not rely upon any opinions and representations of CITY unless CITY is the only available source of said information.

SECTION 5. INDEPENDENT CONTRACTOR:

It is expressly understood that CONSULTANT is entering into this contract and will provide all services and materials required hereunder as an independent contractor and not as an employee of CITY. CONSULTANT specifically warrants that it will have in full force and effect, valid insurance covering:

- (i) Full liability under worker's compensation laws of the State of California; and
- (ii) Bodily injury and property damage insurance in the amount not less than One Million Dollars (\$2,000,000) per occurrence; and
- (iii) Errors and Omissions insurance of One Million Dollars (\$2,000,000) minimum per occurrence, if deductible for Errors and Omissions insurance is Fifty Thousand Dollars (\$50,000) or more, the City may require a Surety Bond for the deductible; and
- (iv) Automotive liability in the amount not less than One Million Dollars (\$2,000,000) per occurrence; fully protecting CITY, its elected and appointed officers, employees, agents and assigns, against all claims arising from the negligence of CONSULTANT and any

injuries to third parties, including employees of CITY and CONSULTANT. ***To the fullest extent permitted by law, CONSULTANT agrees to hold harmless, release and indemnify the CITY against any liability for damages, including but not limited to liabilities for personal injury or death or for loss or damage to property, caused by the negligence of CONSULTANT or any of its employees or agents, or CONSULTANT'S negligent activities related to the terms and conditions of or implementation of this Agreement. "Consultant has no obligation to pay for any of the City's defense related cost prior to a final determination of liability, but will reimburse the City for those costs, and Consultant has no obligation to pay any amount that exceeds Consultant's finally determined percentage of liability based upon the comparative fault of Consultant."***

SECTION 6. WORKMANSHIP AND MATERIALS:

Every part of the work herein described shall be executed in a professional manner with competent, experienced personnel. Finished or unfinished material prepared under the agreement, prepared by CONSULTANT, shall become property of CITY. CONSULTANT hereby warrants that any materials prepared under this agreement shall be fit for the intended use contemplated by the parties.

SECTION 7. ASSIGNMENT OF CONTRACT:

It is acknowledged by the parties that CITY has entered into this contract with the express understanding that CONSULTANT will perform all work. CONSULTANT shall not, without the written consent of CITY, assign, transfer or sublet any portion or part of this work, nor assign any payments to others.

SECTION 8. AFFIRMATIVE ACTION.

CONSULTANT will not discriminate against any employee, or applicant for employment as required by applicable Federal and State law.

SECTION 9. CONFLICT OF INTEREST CODE:

CONSULTANT agrees to comply with the regulations of CITY'S "Conflict of Interest Code." Said code is in accordance with the requirements of the Political Reform Act of 1974.

CONSULTANT covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of service required hereunder. The term "conflict" shall include, as a minimum, the definition of a "conflict of interest" under the California Fair Political Practices Act and the City of Porterville Conflict of Interest Code, as that term is applied to consultants.

SECTION 10. TERMINATION:

Either party for just cause may terminate this contract by giving seven (7) days written notice to the other party. Upon termination by CITY, CITY shall be relieved of any obligation to pay for work not completed including profit and overhead. CONSULTANT may be entitled to just and equitable compensation for satisfactory work completed, except CITY can withhold damages incurred as a result of the termination.

SECTION 11. ENTIRE CONTRACT:

It is understood and agreed that this Service Agreement represents the entire Agreement between the parties. Should it be necessary to institute legal proceedings to enforce any and all of the covenants

and conditions of this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs.

SECTION 12. DISPUTES; VENUE:

If either party initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that this Agreement is entered into and is to be performed in Tulare County, California. CONSULTANT hereby waives any rights it might have to remove any such action pursuant to California Code of Civil Procedure Section 394.

IN WITNESS WHEREOF, the parties have executed this Service Agreement on the date and year first above written.

CITY OF PORTERVILLE

CONSULTANT

By _____ By _____

Date _____ Date _____

Exhibit 10-R: A&E BOILERPLATE AGREEMENT LANGUAGE

(For Local Assistance Federal-aid Projects)

NOTE TO LOCAL AGENCY - BE SURE THAT YOUR LEGAL STAFF REVIEWS AND APPROVES ALL CONSULTANT CONTRACTS BEFORE EXECUTION. THIS AGREEMENT LANGUAGE IS RECOMMENDED LANGUAGE, **EXCEPT TITLE VI APPENDICES A-E MUST BE PHYSICALLY INCLUDED, UNMODIFIED, IN THE EXECUTED CONTRACT FOR ALL FEDERAL-AID PROJECTS, REFER TO ARTICLE XXXII.** MODIFY AS RECOMMENDED BY YOUR OWN LEGAL STAFF AND TO FIT YOUR PARTICULAR REQUIREMENTS AND PROJECT.

THE FISCAL AND FEDERAL PROVISIONS ARE REQUIRED IN ALL FEDERALLY FUNDED CONTRACTS. THE ORIGINAL INTENT OF THE ARTICLE SHALL REMAIN, IF MODIFIED BY YOUR LEGAL STAFF.

This exhibit contains fiscal requirements from 2 CFR 200 and **is to** be used for state-only funded contracts as well.

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ARTICLE I INTRODUCTION

This AGREEMENT is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, LOCAL AGENCY:

The name of the "CONSULTANT" is as follows:

(NAME OF CONSULTANT)

Incorporated in the State of (NAME OF STATE)

The Project Manager for the "CONSULTANT" will be (NAME)

The name of the "LOCAL AGENCY" is as follows:

(NAME)

The Contract Administrator for LOCAL AGENCY will be (NAME)

- B. The work to be performed under this AGREEMENT is described in Article III Statement of Work and the approved CONSULTANT's Cost Proposal dated (DATE). The approved CONSULTANT's Cost Proposal is attached hereto (Attachment #) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- C. CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend, and hold harmless LOCAL AGENCY, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this AGREEMENT on the part of CONSULTANT, except such loss or damage which was caused by the sole negligence, or willful misconduct of LOCAL AGENCY, as determined by a Court of competent jurisdiction. The provisions of this section shall survive termination or suspension of this AGREEMENT.
- D. CONSULTANT in the performance of this AGREEMENT, shall act in an independent capacity. It is understood and agreed that CONSULTANT (including CONSULTANT's employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto. CONSULTANT's assigned personnel shall not be entitled to any benefits payable to employees of City.
- E. LOCAL AGENCY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of the AGREEMENT, and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished.
- F. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.

- G. Except as expressly authorized herein, CONSULTANT's obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the LOCAL AGENCY. However, claims for money due or which become due to CONSULTANT from City under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the LOCAL AGENCY.
- H. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- I. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II CONSULTANT'S REPORTS OR MEETINGS

(Choose either Option 1 or Option 2)

(Option 1 - Use paragraphs A & B below for standard AGREEMENTs)

- A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the LOCAL AGENCY's Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.

(Option 2 - Use paragraphs A & B below for on-call AGREEMENTs)

- A. CONSULTANT shall submit progress reports on each specific project in accordance with the Task Order. These reports shall be submitted at least once a month. The report should be sufficiently detailed for LOCAL AGENCY's Contract Administrator or Project Coordinator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator or Project Coordinator, as needed, to discuss progress on the project(s).

ARTICLE III STATEMENT OF WORK

(Insert Appropriate Statement of work including a Description of the Deliverables) *in the following sections. If a section does not apply to the AGREEMENT, state "Not Applicable to this AGREEMENT."*)

A. CONSULTANT Services

Detail based on the services to be furnished should be provided by CONSULTANT. Nature and extent should be verified in the negotiations to make precise statements to eliminate subsequent uncertainties and misunderstandings. Reference to the appropriate standards for design or other standards for work performance stipulated in CONSULTANT AGREEMENT should be included. Describe acceptance criteria, and if the responsible CONSULTANT/engineer shall sign all Plans, Specifications and Estimate (PS&E) and engineering data furnished under the AGREEMENT including registration number.

Environmental documents are not considered complete until a Caltrans District Senior Environmental Planner signs the Categorical Exclusion, a Caltrans Deputy District Director signs the Finding of No Significant Impact, or the Caltrans District Director signs the Record of Decision (see [LAPM Chapter 6: Environmental Procedures](#), and the Standard Environmental Reference).

B. Right of Way

State whether Right of Way requirements are to be determined and shown by CONSULTANT, whether land surveys and computations with metes and bounds descriptions are to be made, and whether Right of Way parcel maps are to be furnished.

C. Surveys

State whether or not the CONSULTANT has the responsibility for performing preliminary or construction surveys.

D. Subsurface Investigations

State specifically whether or not CONSULTANT has responsibility for making subsurface investigations. If borings or other specialized services are to be made by others under the supervision of CONSULTANT, appropriate provisions are to be incorporated. Archaeological testing and data recovery guidance can be found in the Standard Environmental Reference.

E. Local Agency Obligations

All data applicable to the project and in possession of LOCAL AGENCY, another agency, or government agency that are to be made available to CONSULTANT are referred to in the AGREEMENT. Any other assistance or services to be furnished to CONSULTANT are to be stated clearly.

F. Conferences, Site Visits, Inspection of Work

This AGREEMENT provides for conferences as needed, visits to the site, and inspection of the work by representatives of the LOCAL AGENCY, State, and/or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee.

G. Checking Shop Drawings

For AGREEMENTs requiring the preparation of construction drawings, make provision for checking shop drawings. Payment for checking shop drawings by CONSULTANT may be included in the AGREEMENT fee, or provision may be made for separate payment.

H. CONSULTANT Services During Construction

The extent, if any of CONSULTANT's services during the course of construction as material testing, construction surveys. etc., are specified in the AGREEMENT together with the method of payment for such services.

I. Documentation and Schedules

AGREEMENTs where appropriate, shall provide that CONSULTANT document the results of the work to the satisfaction of LOCAL AGENCY, and if applicable, the State and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the AGREEMENT objectives.

J. Deliverables and Number of Copies

The number of copies or documents to be furnished, such as reports, brochures, sets of plans, specifications, or Right of Way parcel maps shall be specified. Provision may be made for payment for additional copies.

ARTICLE IV PERFORMANCE PERIOD

A time must be set for beginning and ending the work under the AGREEMENT. The time allowed for performing the work is specified; it should be reasonable for the kind and amount of services contemplated; and it is written into the AGREEMENT. If it is desirable that Critical Path Method (CPM) networks, or other types of schedules be prepared by CONSULTANT, they should be identified and incorporated into the AGREEMENT.

A. This AGREEMENT shall go into effect on (DATE), contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on (DATE), unless extended by AGREEMENT amendment.

B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

Use paragraph C below in addition to paragraphs A & B above for on-call AGREEMENTs. On-call AGREEMENTs shall be 5 years maximum.

C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this AGREEMENT, the terms of the AGREEMENT shall be extended by AGREEMENT amendment prior to the expiration of the contract to cover the time needed to complete the task order in progress only. The maximum term shall not exceed five (5) years.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

(Choose either Option 1, 2, 3, or 4)

(Option 1 - Use paragraphs A through K below for Cost-Plus-Fixed Fee AGREEMENTs. Use [Exhibit 10-H1: Cost Proposal Format](#))

A. The method of payment for this AGREEMENT will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY's approved overhead rate set forth in the

Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and AGREEMENT is required, the AGREEMENT time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I" of this Article shall not be exceeded, unless authorized by AGREEMENT amendment.

- B. The indirect cost rate established for this AGREEMENT is extended through the duration of this specific AGREEMENT. CONSULTANT's agreement to the extension of the 1-year applicable period shall not be a condition or qualification to be considered for the work or AGREEMENT award.
- C. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$(AMOUNT). The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- D. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- E. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- F. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT.
- G. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- H. CONSULTANT will be reimbursed promptly according to California Regulations upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)
(ADDRESS)

- I. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$(Amount).
- J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

(Option 2 - For Cost per Unit of Work AGREEMENTs, replace paragraphs A & B of Option 1 with the following paragraphs A, B, and C and re-letter the remaining paragraphs. Adjust as necessary for work specific to your project. Use [Exhibit 10-H3: Cost Proposal Format](#)).

- A. The method of payment for the following items shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.
- B. The specified rate to be paid for vehicle expense for CONSULTANT's field personnel shall be \$(Amount) per approved Cost Proposal. This rate shall be for fully equipped vehicle(s) specified in Article III Statement of Work, as applicable. The specified rate to be paid for equipment shall be, as listed in the approved Cost Proposal.
- C. The method of payment for this AGREEMENT, except those items to be paid for on a specified rate basis, will be based on cost per unit of work. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment-rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in the approved Cost Proposal, unless additional reimbursement is provided for, by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY approved overhead rate set forth in the approved Cost Proposal. In the event, LOCAL AGENCY determines that changed work from that specified in the approved Cost Proposal and AGREEMENT is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I," of this article shall not be exceeded unless authorized by AGREEMENT amendment.

(Option 3 - Use paragraphs A through P for Specific Rates of Compensation Agreements [such as on-call Agreements]. This payment method shall only be used when it is not possible at the time of procurement to estimate the extent or duration of the work or to estimate costs with any reasonable degree of accuracy. The specific rates of compensation payment method should be limited to AGREEMENTs or components of AGREEMENTs for specialized or support type services where the CONSULTANT is not in direct control of the number of hours worked, such as construction engineering and inspection. Use [Exhibit 10-H2: Cost Proposal Format](#)).

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in the CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this AGREEMENT. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order.
- C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.

- D. After a project to be performed under this AGREEMENT is identified by LOCAL AGENCY, LOCAL AGENCY will prepare a draft Task Order; less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a LOCAL AGENCY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both LOCAL AGENCY and CONSULTANT.
- E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's approved Cost Proposal.

CONSULTANT shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONSULTANT is responsible for paying the appropriate rate, including escalations that take place during the term of the AGREEMENT.

- F. *(Local Agency to include either (a) or (b) below; delete the other one)*
(a) Reimbursement for transportation and subsistence costs shall not exceed State rates.
(b) Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. CONSULTANT will be responsible for transportation and subsistence costs in excess of State rates.
- G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval in the form of an AGREEMENT amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.
- H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.
- I. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this AGREEMENT.
- J. A Task Order is of no force or effect until returned to LOCAL AGENCY and signed by an authorized representative of LOCAL AGENCY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by LOCAL AGENCY.
- K. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number, project title and Task Order number. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase, must be reimbursed by CONSULTANT prior to the expiration or termination

of this AGREEMENT. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

(NAME OF LOCAL AGENCY/ NAME OF CONTRACT ADMINISTRATOR)
(ADDRESS)

- L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this AGREEMENT.
- M. The total amount payable by LOCAL AGENCY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by amendment.
- N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.
- O. Task Orders may not be used to amend the language (or the terms) of this AGREEMENT nor to exceed the scope of work under this AGREEMENT.
- P. The total amount payable by LOCAL AGENCY for all Task Orders resulting from this AGREEMENT shall not exceed \$ (Amount). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this AGREEMENT through Task Orders.

(Option 4 - Use paragraphs A through E below for lump sum agreements. Use [Exhibit 10-H1: Cost Proposal Format](#))

- A. The method of payment for this AGREEMENT will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article III Statement of Work. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by LOCAL AGENCY.
- B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.
- C. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.
- D. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT

number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice must be submitted within sixty (60) calendar days after completion of CONSULTANT's work unless a later date is approved by the LOCAL AGENCY. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)
(ADDRESS)

E. The total amount payable by LOCAL AGENCY shall not exceed \$(Amount).

ARTICLE VI TERMINATION

- A. This AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.
- B. LOCAL AGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination.
- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by City by virtue of any breach of this AGREEMENT by CONSULTANT, and City may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due City from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200 are subject to repayment by the CONSULTANT to LOCAL AGENCY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE VIII RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT and records for real property and equipment acquired with federal funds must be retained for three (3) years after final disposition. LOCAL AGENCY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and subconsultant AGREEMENTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, LOCAL AGENCY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, LOCAL AGENCY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
- E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit

recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.

1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the LOCAL AGENCY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the LOCAL AGENCY for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONSULTANT. The CONSULTANT's obligation to pay its Subconsultants is an independent obligation from the LOCAL AGENCY's obligation to make payments to the CONSULTANT.
- B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.
- E. Any substitution of Subconsultants must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute Subconsultant.
- F. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

- G. Prompt Payment of Withheld Funds to Subconsultants

The LOCAL AGENCY may hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY, of the contract work, and pay retainage to CONSULTANT based on these acceptances. The LOCAL AGENCY shall designate one of the methods below in the contract to ensure prompt and full payment of any retainage kept by CONSULTANT or subconsultant to a subconsultant. (Choose either Method 1, Method 2, or Method 3 below and delete the other two.)

Method 1: No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. CONSULTANTS and subconsultants are prohibited from holding retainage from

subconsultants. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Method 2: No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning subconsultant within 15 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Method 3: The LOCAL AGENCY shall hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY of the contract work and pay retainage to CONSULTANT based on these acceptances. CONSULTANT or subconsultant shall return all monies withheld in retention from all subconsultants within 15 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the LOCAL AGENCY. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT; deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subcontract performance, or noncompliance by a subconsultant.

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by LOCAL AGENCY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.

- C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:
1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.
 2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.
- D. Payroll Records
1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be

verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
- a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
 - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.

F. Penalty

1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.

6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
2. CONSULTANTS and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII CONFLICT OF INTEREST

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.
- C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.

- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the value of the work actually performed, or to deduct from this AGREEMENT price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING

(Include this article in all AGREEMENTs where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the AGREEMENT; delete this article and re-number the subsequent articles.)

- A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:
1. No State, Federal, or LOCAL AGENCY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

- I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 3. Does not have a proposed debarment pending; and
 4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government excluded parties (<https://sam.gov/content/home>) maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. CONSULTANT, subrecipient (LOCAL AGENCY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, The LOCAL AGENCY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate good faith efforts to meet this goal. It is CONSULTANT's responsibility to verify [at date of proposal opening](#) that the DBE firm is certified as [a DBE by using the California Unified Certification Program \(CUCP\) database and possesses the most specific available North American Industry Classification System \(NAICS\) codes or work code applicable to the type of work the firm will perform on the contract](#). Additionally, the CONSULTANT is [responsible to](#) document the [verification](#) record by printing out the CUCP data for each DBE firm. A

list of DBEs certified by the CUCP can be found at <https://dot.ca.gov/programs/civil-rights/dbe-search>.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTs who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.

- B. The goal for DBE participation for this AGREEMENT is _____%. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10-O2: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance

Under 49 CFR 26.13(b):

CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts.

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying CONSULTANT from future proposing as non-responsible

E. Termination and Substitution of DBE Subconsultants

CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless CONSULTANT or DBE subconsultant obtains the LOCAL AGENCY's written consent. CONSULTANT shall not terminate or substitute a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without authorization from the LOCAL AGENCY. Unless the LOCAL AGENCY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 10-02 Consultant Contract DBE Commitment form, included in the Bid.

The LOCAL AGENCY authorizes a request to use other forces or sources of materials if CONSULTANT shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The LOCAL AGENCY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the LOCAL AGENCY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The LOCAL AGENCY determines other documented good cause.

CONSULTANT shall notify the original DBE of the intent to use other forces or material sources and provide the reasons and provide the DBE with 5 days to respond to the notice and advise CONSULTANT and the LOCAL AGENCY of the reasons why the use of other forces or sources of materials should not occur.

CONSULTANT's request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from CONSULTANT to the DBE regarding the request.
3. Notices from the DBEs to CONSULTANT regarding the request.

If a listed DBE is terminated or substituted, CONSULTANT must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal.

F. Commitment and Utilization

The LOCAL AGENCY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The LOCAL AGENCY shall request CONSULTANT to:

1. Notify the LOCAL AGENCY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
 - Name and business address of each 1st-tier subconsultant
 - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
 - Date of payment and total amount paid to each business (see Exhibit 9-F *Monthly Disadvantaged Business Enterprise Payment*)

If CONSULTANT is a DBE CONSULTANT, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit the notifications to the LOCAL AGENCY. On work completion, CONSULTANT shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the LOCAL AGENCY within 30 days of contract acceptance.

Upon work completion, CONSULTANT shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it to the LOCAL AGENCY within 90 days of contract acceptance. The LOCAL AGENCY will withhold \$10,000 until the form is submitted. The LOCAL AGENCY will release the withhold upon submission of the completed form.

In the LOCAL AGENCY's reports of DBE participation to Caltrans, the LOCAL AGENCY must display both commitments and attainments.

- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.
- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of

DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.

- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.
- L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant shall complete and email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to the Agency.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX INSURANCE

(Choose either Option 1 or Option 2)

(Option 1 - for AGREEMENT with a scope of services that may require the CONSULTANT or subconsultant to work within the operating state or Local Agency Highway Right of Way; where there would be exposure to public traffic or construction operations).

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance stating that there is general comprehensive liability insurance presently in effect for CONSULTANT with a combined single limit (CSL) of not less than one million dollars (\$1,000,000) per occurrence.
- B. The Certificate of Insurance will provide:
 - 1. That the insurer will not cancel the insured's coverage without thirty (30) calendar days prior written notice to LOCAL AGENCY.
 - 2. That LOCAL AGENCY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this AGREEMENT are concerned.
 - 3. That LOCAL AGENCY will not be responsible for any premiums or assessments on the policy.

- C. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event said insurance coverage expires at any time or times during the term of this AGREEMENT, CONSULTANT agrees to provide at least thirty (30) calendar days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.

(Option 2 - for AGREEMENTs with a scope of services that will not require the CONSULTANT or subconsultant to work within the operating state or Local Agency Highway Right of Way where there would be exposure to public traffic or construction CONSULTANT operations).

CONSULTANT is not required to show evidence of general comprehensive liability insurance.

ARTICLE XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only if sufficient funds are made available to LOCAL AGENCY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

- A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY's Contract Administrator.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XXII CONTINGENT FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide

established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this AGREEMENT without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXIII DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

(Choose either Option 1 or Option 2)

(Option 1 - Use paragraphs A through C below for all AGREEMENTs without PS&E submittal)

- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and (Insert Department Head or Official), who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) calendar days after completion of all work under the AGREEMENT, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

(Option 2 - Replace Paragraph B, above, with the following for AGREEMENTs requiring the submission of PS&E)

- B. Not later than thirty (30) calendar days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

ARTICLE XXIV INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.

- B. Pursuant to the authority contained in Vehicle Code §591, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

(Add the following paragraph to all AGREEMENTs, which may require trenching of five feet or deeper)

- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

ARTICLE XXVI OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.

- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this AGREEMENT.
- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.

(For PS&E contracts add paragraph F, below, to paragraphs A through E, above)

- E. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code §10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXX EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the AGREEMENT record.

ARTICLE XXXI PROMPT PAYMENT FROM THE LOCAL AGENCY TO CONSULTANT

The LOCAL AGENCY shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the LOCAL AGENCY fails to pay promptly, the LOCAL AGENCY shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the LOCAL AGENCY shall act in accordance with both of the following:

- (1) Each payment request shall be reviewed by the LOCAL AGENCY as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
- (2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

ARTICLE XXXII TITLE VI ASSURANCES

APPENDICES A - E of the TITLE VI ASSURANCES

The [U.S. Department of Transportation Order No.1050.2A](#) requires all federal-aid Department of Transportation contracts between an agency and a consultant to contain Appendices A and E of the Title VI Assurances. Include Appendices B, C, and D if applicable as shown below. In addition, the consultant must include the Title VI Assurances Appendices A and E, and if applicable Appendices B, C, and D in all subcontracts to perform work under the contract.

The clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a LOCAL AGENCY.

The clauses set forth in Appendix C and Appendix D of this Assurance shall be included as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the LOCAL AGENCY with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
- b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.

APPENDIX A

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

- a. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - ii. cancellation, termination or suspension of the Agreement, in whole or in part.
- f. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the recipient will accept title to the lands and maintain the project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the recipient, its successors and assigns. The recipient, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the recipient will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said lands, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].* (*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the recipient pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does

hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations(as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the recipient pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest ,and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the recipient will there upon revert to and vest in and become the absolute property of the recipient and its assigns.

APPENDIX E

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age;
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

ARTICLE XXXIII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT:

(CONSULTANT)

(NAME) _____, Project Manager

(ADDRESS)

LOCAL AGENCY:

(LOCAL AGENCY)

(NAME) _____, Contract Administrator

(ADDRESS)

ARTICLE XXXIV CONTRACT

The two parties to this AGREEMENT, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this AGREEMENT constitutes the entire AGREEMENT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this AGREEMENT as evidenced by the signatures below.

ARTICLE XXXV SIGNATURES

(Name of LOCAL AGENCY)

(Name of CONSULTANT)

(Signature)

(Name of Signer)

(Signature)

(Name of Signer)

Date: _____

Date: _____

Reset Form

EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed

☐ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant

Consultant _____

Project No. _____ Contract No. _____ Date _____

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
_____	_____	_____	_____	\$ 0.00
_____	_____	_____	_____	\$ 0.00
_____	_____	_____	_____	\$ 0.00
_____	_____	_____	_____	\$ 0.00

LABOR COSTS

a) Subtotal Direct Labor Costs _____ \$ 0.00

b) Anticipated Salary Increases (see page 2 for calculation) _____

c) **TOTAL DIRECT LABOR COSTS** [(a) + (b)] _____ \$ 0.00**INDIRECT COSTS**d) Fringe Benefits (Rate: 0.00%) e) Total Fringe Benefits [(c) x (d)] _____ \$ 0.00f) Overhead (Rate: 0.00%) g) Overhead [(c) x (f)] _____ \$ 0.00h) General and Administrative (Rate: 0.00%) i) Gen & Admin [(c) x (h)] _____ \$ 0.00j) **TOTAL INDIRECT COSTS** [(e) + (g) + (i)] _____ \$ 0.00**FIXED FEE**k) **TOTAL FIXED FEE** [(c) + (j)] x fixed fee 0.00%] _____ \$ 0.00**l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)**

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs				\$ 0.00
Equipment Rental and Supplies				\$ 0.00
Permit Fees				\$ 0.00
Plan Sheets				\$ 0.00
Test				\$ 0.00

l) **TOTAL OTHER DIRECT COSTS** _____ \$ 0.00**m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)**

Subconsultant 1: _____

Subconsultant 2: _____

Subconsultant 3: _____

Subconsultant 4: _____

m) **TOTAL SUBCONSULTANTS' COSTS** _____ \$ 0.00n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS** [(l)+(m)] _____ \$ 0.00**TOTAL COST** [(c) + (j) + (k) + (n)] _____ \$ 0.00**NOTES:**

- Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3**COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS**

(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal		Avg Hourly Rate	5 Year Contract Duration
\$250,000.00	500	=	\$50.00	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 1	\$50.00	+	2%	=	\$51.00	Year 2 Avg Hourly Rate
Year 2	\$51.00	+	2%	=	\$52.02	Year 3 Avg Hourly Rate
Year 3	\$52.02	+	2%	=	\$53.06	Year 4 Avg Hourly Rate
Year 4	\$53.06	+	2%	=	\$54.12	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	20.0%	*	5000	=	1000	Estimated Hours Year 1
Year 2	40.0%	*	5000	=	2000	Estimated Hours Year 2
Year 3	15.0%	*	5000	=	750	Estimated Hours Year 3
Year 4	15.0%	*	5000	=	750	Estimated Hours Year 4
Year 5	10.0%	*	5000	=	500	Estimated Hours Year 5
Total	100%		Total	=	5000	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated hours (calculated above)		Cost per Year	
Year 1	\$50.00	*	1000	=	\$50,000.00	Estimated Hours Year 1
Year 2	\$51.00	*	2000	=	\$102,000.00	Estimated Hours Year 2
Year 3	\$52.02	*	750	=	\$39,015.00	Estimated Hours Year 3
Year 4	\$53.06	*	750	=	\$39,795.30	Estimated Hours Year 4
Year 5	\$54.12	*	500	=	\$27,060.80	Estimated Hours Year 5
Total Direct Labor Cost with Escalation				=	\$257,871.10	
Direct Labor Subtotal before Escalation				=	\$250,000.00	
Estimated total of Direct Labor Salary Increase				=	\$7,871.10	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable.
(i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

EXHIBIT 10-H1 COST PROPOSAL Page 3 of 3

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: _____ Title *: _____ \$ 0.00

Signature : _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

***An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.**

List services the consultant is providing under the proposed contract:

EXHIBIT 10-H2 COST PROPOSAL Page 1 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed

Consultant _____ ☐ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant

Project No. _____ Contract No. _____ Participation Amount \$ _____ Date _____

For Combined Rate	Fringe Benefit % + General & Administrative %	=	Combined ICR%
	OR		
For Home Office Rate	Fringe Benefit % + General & Administrative %	=	Home Office ICR%
For Field Office Rate	Fringe Benefit % + General & Administrative %	=	Field Office ICR%
Fee = %			

BILLING INFORMATION

CALCULATION INFORMATION

Name/Job Title/Classification ¹	Hourly Billing Rates ²			Effective Date of Hourly Rate		Actual or Avg. Hourly Rate ⁴	% or \$ Increase	Hourly Range - for Classifications Only
	Straight ³	OT (1.5x)	OT (2x)	From	To			
John Doe – Project Manager * Civil Engineer II	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	
Sue Jones – Construction Engineer/Inspector Engineer I	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	
Buddy Black – Claims Engineer Engineer III	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		Not Applicable
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	
Land Surveyor **	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	\$00 - \$00
Technician	\$0.00	\$0.00	\$0.00	01/01/2016	12/31/2016	\$0.00		\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2017	12/31/2017	\$0.00	0.0%	\$00 - \$00
	\$0.00	\$0.00	\$0.00	01/01/2018	12/31/2018	\$0.00	0.0%	\$00 - \$00

(Add pages as necessary)

NOTES:

1. Key personnel must be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended.
3. Billing rate = actual hourly rate * (1 + ICR) * (1 + Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans. All costs must comply with the Federal cost principles for reimbursement.
4. For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

EXHIBIT 10-H2 COST PROPOSAL Page 2 of 3

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant _____ ☐ Prime Consultant ☐ Subconsultant

Project No. _____ Contract No. _____ Date _____

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)				
Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs				\$ 0.00
Equipment Rental and Supplies				\$ 0.00
Permit Fees				\$ 0.00
Plan Sheets				\$ 0.00
Test				\$ 0.00
Vehicle				\$ 0.00
Subconsultant 1:				
Subconsultant 2:				
Subconsultant 3:				
Subconsultant 4:				
Subconsultant 5:				

Note: Add additional pages if necessary.

NOTES:

1. List other direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentation.
2. Proposed ODC items should be consistently billed regardless of client and contract type.
3. Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
4. Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
5. Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
6. Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.

7. If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.
8. If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is its standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.
9. The cost proposal format shall not be amended. All costs must comply with the Federal cost principles.
10. Add additional pages if necessary.
11. Subconsultants must provide their own cost proposals.

EXHIBIT 10-H2 COST PROPOSAL Page 3 of 3**Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

7. Generally Accepted Accounting Principles (GAAP)
8. Terms and conditions of the contract
9. [Title 23 United States Code Section 112](#) - Letting of Contracts
10. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
11. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
12. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: _____ Title*: _____ \$ 0.00
Signature: _____ Date of Certification (mm/dd/yyyy): _____
Email: _____ Phone Number: _____
Address: _____

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2COST PER UNIT OF WORK CONTRACTS
(GEOTECHNICAL AND MATERIAL TESTING)

Note: Mark-ups are Not Allowed

☐ Prime Consultant☐ Subconsultant☐ 2nd Tier Subconsultant

Consultant _____

Project No. _____ Contract No. _____ Date _____

Unit/Item of Work:**(Example: Log of Test Boring for Soils Report, or ADL Testing for Hazardous Waste Material Study) Include as many Items as necessary.**

DIRECT LABOR	Hours	Billing Hourly Rate (\$)	Total (\$)
Professional (Classification)*	_____	_____	_____
Sub-professional/Technical**	_____	_____	_____
EQUIPMENT 1 (with Operator)	_____	_____	_____
EQUIPMENT 2 (with Operator)	_____	_____	_____

Consultant's Other Direct Costs (ODC) – Itemize:

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs				\$ 0.00
Equipment Rental and Supplies				\$ 0.00
Permit Fees				\$ 0.00
Plan Sheets				\$ 0.00
Test				\$ 0.00
Subconsultant 1:				
Subconsultant 2:				
Subconsultant 3:				
Subconsultant 4:				
Subconsultant 5:				

Note: Attach additional pages if necessary.

TOTAL COST PER UNIT OF WORK _____**NOTES:**

1. Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
2. Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
4. ODC items shall be based on actual costs and supported by historical data and other documentation.
5. ODC items that would be considered "tools of the trade" are not reimbursable.
6. Billing Hourly Rates must be actual, allowable, and reasonable.

EXHIBIT 10-H3 COST PROPOSAL Page 2 of 2

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

13. Generally Accepted Accounting Principles (GAAP)
14. Terms and conditions of the contract
15. [Title 23 United States Code Section 112](#) - Letting of Contracts
16. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
17. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
18. [48 Code of Federal Regulation Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: _____ Title*: _____ \$ 0.00

Signature: _____ Date of Certification (mm/dd/yyyy) _____

Email: _____ Phone Number: _____

Address: _____

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

--



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Acceptance of Project - Well No. 35 Project (Phase 2 - Pumping Plant)

SOURCE: Engineering and Project Management

COMMENT: Todd Companies has completed the Well No. 35 Project (Phase 2 - Pumping Plant). The well is located on the west side of Westwood Street, just north of the North Creek Subdivision, which is located near the intersection of Westwood Street and Westfield Avenue. This well was drilled by the State as a required part of the East Porterville Water System. This was the second phase of the well project and consisted of the installation of a 125 HP pump, electrical system, above ground discharge piping, and other items of work necessary to provide a complete pumping plant. The new municipal water well will be an asset to the West Pressure Zone but also to meet the required demands established by the new East Porterville.

Staff tracks construction costs of all capital improvement projects and reports construction expenditures when the project is accepted by the City Council. At its meeting on August 18, 2020, the Council authorized an expenditure of \$2,309,696.20 for construction, construction contingency, surveying, and quality control (construction management for the project was approved separately by Council in a contract with Dee Jasper and Associates as part of the second phase of the East Porterville Water System by MO 12-062017). The following itemizes the construction related costs in two categories: 1) the construction contract, and 2) a combination of surveying and quality control.

- Final construction cost is \$2,035,656.01
- Surveying and quality control costs are \$12,836.07

Total project construction costs equate to \$2,048,492.08, which is less than the \$2,309,696.20 budget approved by Council at the time of award. Funding for this project is being reimbursed by the State Water Resource Control Board.

Todd Companies requests that the Council accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

1. Accept the project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of final payment, provided no stop notices have been filed.

ATTACHMENTS: 1. Locator - Well 35

Appropriated/Funded:

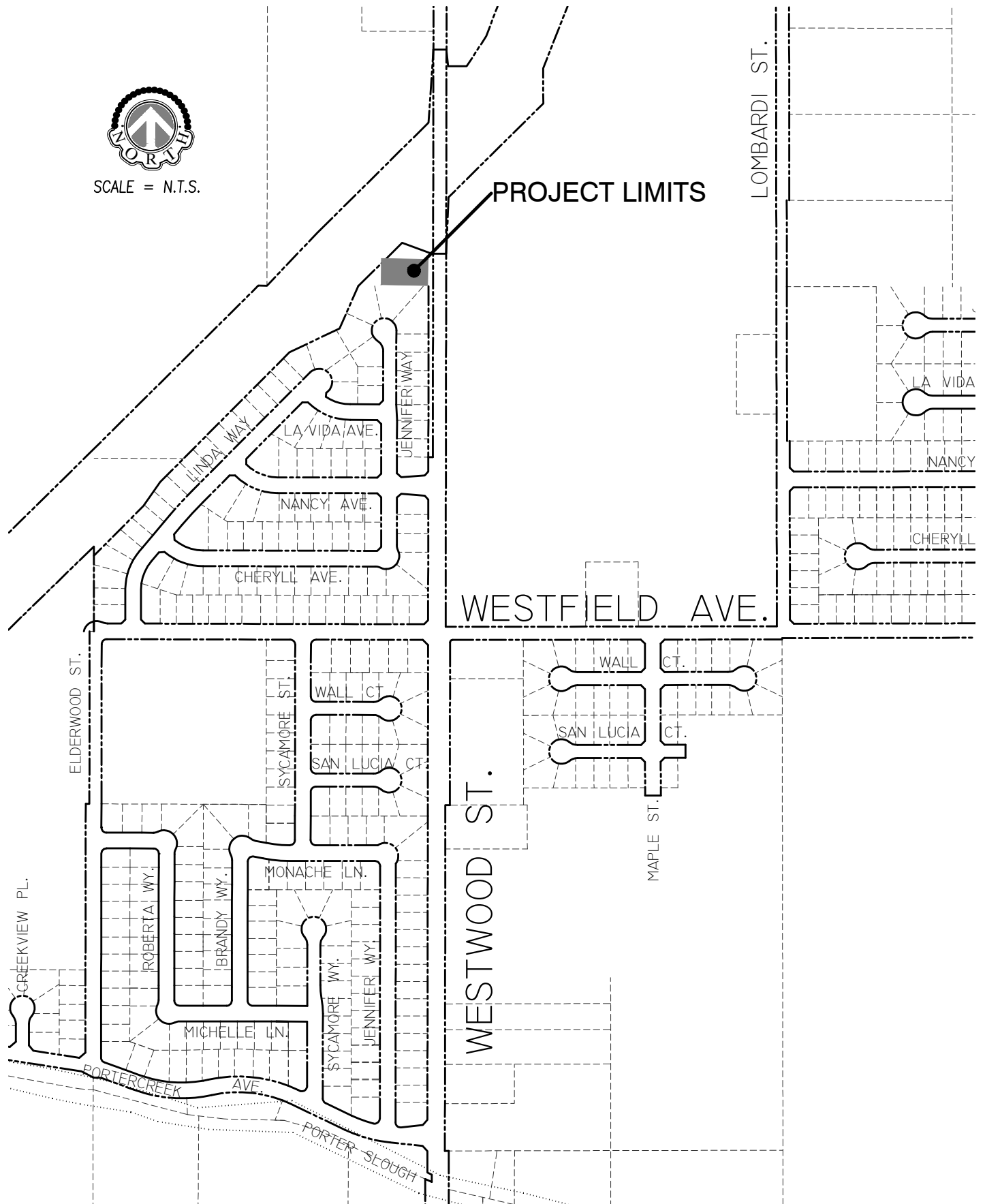
Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: Patrice Hildreth, Deputy City Manager



SCALE = N.T.S.



CITY OF PORTERVILLE
ENGINEERING DIVISION

291 NORTH MAIN STREET
PORTERVILLE, CA. 93257
(559) 782-7462

WELL 35 (PHASE 2)
EQUIPPING OF
WELL 35

OWNER	-
APN	-
AREA	-
ACRES	-
SCALE	N.T.S.
DATE	-
DRAWN BY	-
CHECKED BY	-



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Approval of 2X Promotions OHV Park Races with Overnight Camping

SOURCE: Parks and Leisure Services

COMMENT: Staff has been contacted by Myron Short, representing 2X Promotions, with a proposal to host motocross races at the City's OHV Park on March 12-13 and April 2-3, 2022. Short currently holds an annual agreement with the City to manage the operations of the OHV Park, and has held several successful similar races at the OHV Park since 2014. All of the additional necessary equipment and personnel to conduct the races would be provided by 2X Promotions. 2X Promotions would also provide the insurance naming the City as an additional insured.

In conjunction with the event, staff is seeking permission to permit overnight camping at the facility for both weekends. Overnight camping is not allowed per the City's Municipal Code, thus requiring Council authorization to be permitted. At its meeting on February 3, 2022, the Parks and Leisure Services Commission recommended the approval of the facility usage by 2X Promotions to conduct both races, along with permission for overnight camping. At its meeting on February 8, 2022, the City Council's COVID Ad Hoc Committee recommended approval of the events with requisite health and safety precautions.

RECOMMENDATION: That the City Council:
1. Approve the OHV Park races on March 12-13 and April 2-3, 2022; and
2. Approve overnight camping for both weekends.

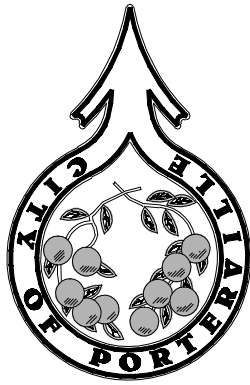
ATTACHMENTS: 1. OHV Park Locator Map

Appropriated/Funded:

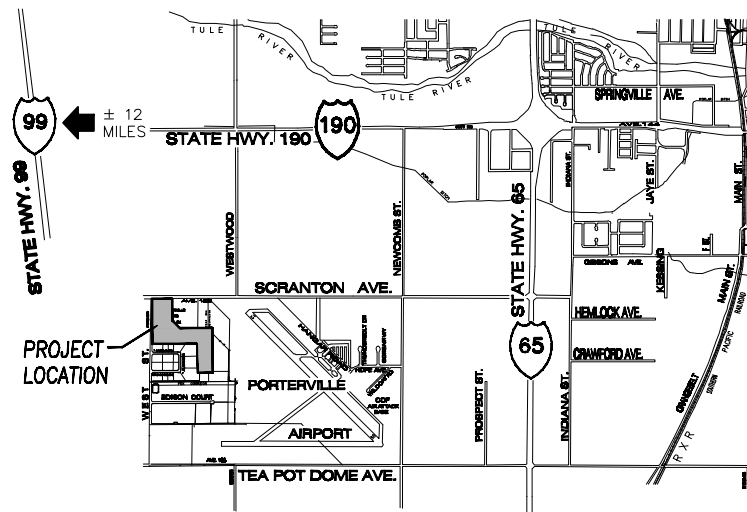
Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

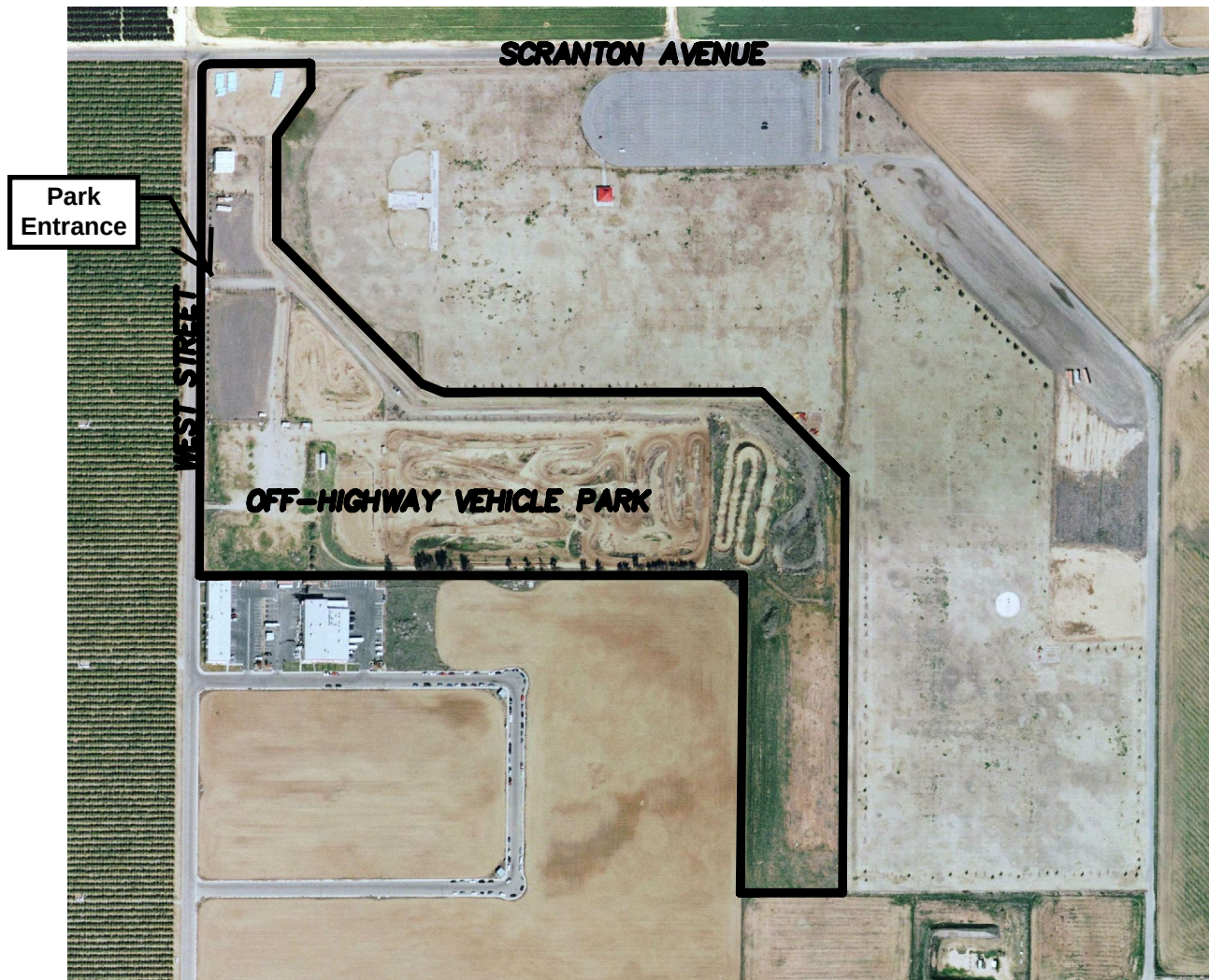
Final Approver: John Lollis, City Manager



SCALE 1" = 500'



VICINITY MAP (no scale)



AERIAL MAP

CITY OF PORTERVILLE
ENGINEERING DIVISION

LOCATOR MAP

CITY ENGINEER

06-15-09
DATE

REV.



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Authorization to Perform Water Storage Reservoir Inspections

SOURCE: Public Works

COMMENT: The City's water system has a total of seven potable water storage reservoirs (tanks) located throughout the City's transmission and distribution systems that provide water storage for both domestic and fire protection use. Three of the tanks have a capacity of 3 million gallons, two of the tanks have a capacity of 300,000 gallons, one has a capacity of 550,000 gallons and the newest tank as a component of the East Porterville Water Supply Project has a capacity of 1.2 million gallons. The American Water Works Association recommends that each tank be inspected every five years. In the past, staff has contracted with Dive Corr Inc. to inspect all seven tanks at least every five years. During efforts to schedule inspections with Dive Corr Inc., City staff was informed that the company will no longer be performing potable tank inspections due to covid-19 complications.

Securing the services of a company to perform potable water tank inspections is challenging, especially during the ongoing COVID-19 pandemic. Inspections are required to ensure the exterior walls are not exhibiting heavy corrosion near the reservoir base, visually inspect the interior roof coating for any potential corrosion, and ensure the operation of the Cathodic Protection. This effort is necessary to maintain water quality in the reservoir and extend the useful life of the infrastructure.

Staff reached out to three potential tank inspection contractors in an effort to obtain three quotes for services, and received two responses, with one non-responsive, for the work requested.

Contractor	Cost
Inland Potable Services	\$11,346
LiquiVision Technology Services	\$14,445
Corrpro	Non-responsive

Inland Potable Services was identified as presenting the lowest quote in response at \$11,346. They are immediately available to schedule the tank inspections for an amount not to exceed \$12,481 (inclusive of all parts, taxes, and a 10% contingency) upon approval by the City Council. The total cost of the inspection will be funded by the Water Operating Fund.

RECOMMENDATION:

That City Council:

1. Direct the Finance Director to initiate a purchase order to Inland Potable Services Inc. for an amount not to exceed \$12,481 for the complete inspection of the City's seven water storage reservoirs; and
2. Direct the Finance Director to make payment to Inland Potable Services Inc. upon receipt of the invoice approved by the Public Works Director.

ATTACHMENTS:

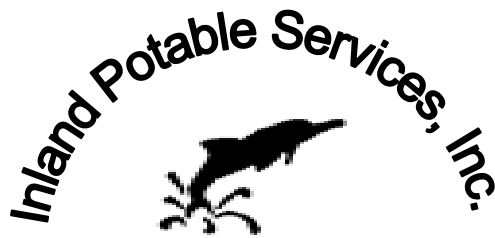
1. Inland Potable Services, Inc. Quote
2. LiquiVision Technology Quote

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager



Business Address:
 16297 E. Crestline Lane
 Centennial, Colorado 80015
 Phone: 303-400-4220
 Toll Free: 1-844-372-2956
 Fax: 303-400-4215
 Email: gary@inlandpotableservices.com

David Payne
 City of Porterville
 291 N. Main Street
 Porterville, CA 93257

Phone: (559) 782-7514
 Fax: (559) 782-8937

Date: 1/21/2022

Diving Services for Potable Water Tanks/Reservoirs

Tanks	Tank Description	Additional Information	Scope of Work To Include
3	3MG Tanks, on-grade, steel welded, 128ft diameter x 35ft high	This proposal is for Inspection only.	1. Visual inspection of the interior and exterior of the tank. 2. Written report with photos. 3. A video recording of the dive.
1	1.2MG Tank, on-grade, steel welded, 80ft diameter x 35ft high		
2	300KG Tanks, on-grade, steel welded, 30ft diameter x 35ft high		
1	550KG Tank, on-grade, steel welded, 45ft diameter x 35ft high		
	Proposal Total \$11,346.00 ** The prevailing wage rates dated August 22, 2020 with the published rate increase effective July 1, 2021for Tulare County were used in our calculations. Overtime, Holidays and Weekends are not included		
The bid price listed above is valid for 90 days from the date shown. Proposals signed and returned to Inland Potable Services are valid for one year from date of acceptance.			

Payment terms: 1% Ten Days, Net 30 Days. 1.5% interest per month will be charged on all accounts past 30 days.

This contract is based on a total price which includes time and mobilization to and from the project site, set-up and breakdown of equipment, preparation for dive and diving services. Diving services will include a video inspection and written report for your records (still photos included). During the initial dive sediment depths will be measured by the diver and documented on video.

**** If the removal of sediment of an abnormal consistency (clay, calcium, rocks, pebbles, mud, etc.) and/or the removal of sediment over 3 inches from the floor prevents the scope of work from being completed in the allowed three-day time frame these services will be performed at the rate of \$473.00 for each overtime hour (two allowed per day per regulations) or \$3,782.00 for each eight-hour day or any part thereof. These same rates apply to any additional work requested and approved by the on-site City representative. If epoxy repairs are made the additional cost of the**

epoxy material used will be shown as a separate line item on the final invoice. We only charge for the actual amount used in 1/4 kit (\$62.50) increments.

Inland Potable Services, Inc. will provide all personnel and equipment necessary to provide diving services in the above referenced tank(s) or reservoir(s). We will provide your utility with a written report as well as a narrated color video for the services performed. The tank(s) or reservoir(s) will be inspected according to American Water Works Association (AWWA), NACE, SSPC, ASNT, ACI and AWS standards.

- All divers employed by Inland Potable Services are certified Commercial Divers.
- Inland Potable Services is fully bondable and insured.
- All equipment entering the tanks will be disinfected with a minimum of 200ppm Chlorine.
- Schedule dates are tentative and are subject to change.
- If Inland Potable Services' dive team is required to stop working or is delayed working due to unforeseen circumstances or any reasons beyond our control (i.e. no utility personnel onsite, inability to access designated work site, low water level, etc.) there may be additional charges at the rate of \$473.00 for each overtime hour (up to 2 per day) or \$3,782.00 for each additional eight hour day or any part thereof.
- If we are unable to get our truck and/or trailer to a tank location we will use portable dive gear and cleaning equipment to complete the job. Please understand that use of utility vehicles or equipment may be necessary to get our equipment to a tank. If this additional work was not addressed prior to the date of this proposal there may be additional charges at the rate of \$473.00 for each overtime hour (up to 2 per day) or \$3,782.00 for each additional eight hour day or any part thereof.
- Inland Potable Services makes every attempt to obtain complete information from customers prior to the presentation of bids concerning fees required for municipal licenses, registration fees, Sales Tax or Use Taxes in your area. These items are identified on your contract. In the event that additional fees are discovered or charged, after the bid has been submitted, these charges will be added to the stated contract amount when billed.

Gary Birkhead, Regional Account Manager

Date: 1/21/2022

Important Information

Hatch Size - The entry hatch on top of the tank(s) must be at least 20" in diameter or square with no obstructions that would prevent entry. A futile trip charge of \$500.00 will be levied if the team is unable to enter the tank due to the hatch size being too small or objects are blocking the entry.

Water Level - Please be advised, and understand, the water level within the tank(s) must be within ten (10) feet or less of the hatch opening prior to the dive team's arrival. If the air gap is more than ten feet a standby charge based on the time it takes to reach the appropriate level will be added to the final invoice.

Tank Information – Please verify the tank dimensions and information listed in the proposal is accurate. If the tank information is not accurate and the tank is larger than shown additional charges may be added if more time than planned is needed to service the tank.

Fuel Surcharge - Effective January 1, 2021 a fuel surcharge of \$25.00 per day will be added to this contract, if the price of diesel fuel exceeds \$4.00 per gallon on the date of the contract completion.

Completion Date – With acceptance this work will be completed at a mutually acceptable date within one year. If money budgeted for this work must be used by a specific date, please show that date on this line and every attempt will be made to meet the given date: _____

Option – If a hatch gasket (\$125.00) NSF 61 Certified Hatch Gasket, a #24 mesh vent screen (\$75) and/or a lock for the hatch (\$25) is needed, would you like the dive team to install while on-site? **Yes**

____ **No** ____

To accept, please sign and date proposal. Please fax both pages to 303-400-4215 or scan and send to gary@inlandpotableservices.com

Printed Name and Title

Date

Signature



LiquiVision DIVING

TECHNOLOGY SERVICES

Office/Mailing Address
711 Market Street
Klamath Falls, OR 97601

Phone: (800) 229-8959 Fax: (541) 883-1361
liquivision@divingservices.com
www.divingservices.com

Western Operations
835 Market Street
Klamath Falls, OR 97601

David Payne
City of Porterville
291 N.Main St.
Porterville, CA 93257

1/25/2022
Wk: 559-782-7516
Em: dpayne@ci.porterville.ca.us
CA132322R7T_

We are pleased to provide you the following firm quotation and outline of the conditions of our services.

Tank	Type	Dia. or LxW (Feet)	Hgt. (Feet)	Maximum Calculated Capacity (Gallons)	Surface Area (S.F.)	Price for Diver Inspection Only	Price for Diver Cleaning & Inspection	Price for Additional Sediment Per Hour
Mobilization Charge - Flat charge to mobilize and demobilize to your location.						\$520		\$615
1. 3MG #1	OG Welded	121	35	3,009,125	11,493	\$2,200		
2. 2MG #2	OG Welded	121	35	3,009,125	11,493	\$2,200		
3. 3MG #3	OG Welded	121	35	3,009,125	11,493	\$2,200		
4. 300KG 1	OG Welded	45	25	297,281	1,590	\$2,000		
5. 300KG 2	OG Welded	45	25	297,281	1,590	\$2,000		
6. 550KG	OG Welded	54	32	547,947	2,289	\$2,050		
7. 1.2MG	OG Welded	76	35	1,187,126	4,534	\$2,175		
Pricing reflects Prevailing wages and is contingent on all work being completed on the same trip.								
LVT estimates 3 days of work, if more time is needed multiple trips might be required and additional fees may apply.								
Pricing is for inspection only, please disregard any mention of sediment removal in the items below.								
Subtotal						\$15,345		
Multitank Discount (after the first two tanks).						(\$900)		
Total						\$14,445		

*Plus sales tax if applicable

Scope of Work:

A final and comprehensive inspection will be performed documenting the condition of the entire structure and recorded on DVD. Written documentation with digital pictures, descriptions of the images and any recommendations will be provided to the district on a USB flash drive.

Our bids are based on a variety of factors that pertain to the length of time it takes to accomplish our work. The main consideration is the amount of sediment that has to be removed, **4" of normal sediment** is included in this bid.

Initials Please initial the line items below to verify that you have reviewed them.

- ____ Entry hatch on top of the tank is at least 18" diameter.
 ____ The water level is kept within ten (10) feet of the top of the tank.
 ____ Tank dimensions are correct.
 ____ Scope of work is correct.
 ____ Customer has disclosed prevailing wage requirements to Liquivision Technology, Inc.

This job requires rates to be paid at prevailing wage: Yes _____ No _____

1. Placement and disposal of effluent removed from the tank is done at the direction of the Customer.
2. Quotes for cleaning assume that the sediment is normal material (such as silt, flocculated material, insects, manganese, rust, etc.) found in potable water tanks that is easily removed by our vacuum system. If the sediment is difficult to remove such as large amounts of concrete chips, gravel, sand, rocks, detached coating debris, etc., then our hourly rate shall apply for each hour (over the first hour) for removing this material.



LiquiVac Technology

711 Market Street
Klamath Falls, OR 97601
Phone: (541) 883-6473
Fax: (541) 883-1361

3. Unless specified in quote detail we clean all submerged horizontal and angled berms or sloped surfaces 35 degrees or less. Surfaces exceeding this angle such as the walls can be cleaned but must be listed separately in the quote detail or estimated by the divers upon inspection. We do not clean surfaces that are out of the water.
4. If any information provided to us is incorrect or if any problems exist that inhibit our ability to complete the job on a timely schedule, then we will notify you of the problem and reserve the right to add on to the quote based on our estimate of the additional time it will take to complete the work. Charges for time delays are **\$200** per hour. This paragraph only applies to any problems that are your responsibility (i.e. rescheduling with less than 2 business days notice, set up and start of work before cancelation, etc.) Charge for going remote (if required and not addressed in advance) is **\$615** per hour.
5. For coating repair in steel tanks we use a two part underwater epoxy. Each rust nodule or area of coating defect is wire brushed to bare metal and epoxy is applied over the area. The epoxy chemically bonds to the steel, displaces water, and remains intact with a greater bond than the original coating. All of our repair, sealing and coating materials meet or exceed NSF 60 & 61 standards. Repairs are done at the districts direction for the rate of **\$615** per hour and **\$40** per tube of Manus or epoxy.
6. If dechlorination is required it will be charged at **\$15.00** per hour. If filtration is required then the filter bags will be charged at **\$200.00** per bag. Unless specified LVT does not remove the bags they become the districts responsibility to dispose of.
7. If payment is not made within sixty days of the date of the invoice, an interest charge of 3% shall begin to accrue each month on the unpaid balance. This interest will continue to accrue each month until the balance is paid in full. To avoid any interest charges, payment must be received or postmarked within the sixty days following the date of the invoice. Statements will be sent each month to reflect the new balance.

Our cleaning procedure is accomplished utilizing our proprietary vacuum cleaner, the "LiquiVac™" (Patented). The LiquiVac™ pumps an average of 200 gallons per minute. It has a rotating soft bristle brush that scrubs the floor clean and removes all sediment without creating turbidity in your tank. This is the only way to ensure that all biofilm is removed from the interior surfaces without getting any of it mixed into the water column. This system also enables us to clean walls.

In a conscious effort to preserve our nations natural resources LVT will provide our reports to the district on USB flash drives. If you require a printed and bound copy of the reports please notify our office staff. There will be an additional fee of \$125 per copy.

In over 20 years of providing diving services we continue to treat every customer as if they were our only customer. We are dedicated to accomplishing every job with the utmost professionalism, safety and efficiency.

Please sign this quote and FAX both pages back to us with an approximate time frame of when you would like the work done. If you have any questions please give us a call. We look forward to working with you.

Quote is valid for 90 days. Upon signature the work shall be accomplished at a mutually acceptable date within one year.

Sincerely,

Patty Bowers
General Manager

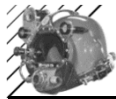
I find the above and preceding page of contingencies and procedures acceptable.

Accepted by:

Date:

Signature:

Title:



LiquiVision Technology

711 Market Street
Klamath Falls, OR 97601
Phone: (541) 883-6473
Fax: (541) 883-1361

Billing/Change Order/Estimate Form

David Payne
City of Porterville
291 N.Main St.
Porterville, CA 93257

1/25/2022
Wk: 559-782-7516
Em: dpayne@ci.porterville.ca.us
CA132322R7T_

Team Leader: _____
Diver #2: _____

Diver #1: _____
Diver #3: _____

Tank	Type	Dia. or LxW (Feet)	Hgt. (Feet)	Maximum Calculated Capacity (Gallons)	Surface Area (S.F.)	Price for Diver Inspection Only	Price for Diver Cleaning & Inspection	Date Work Done
Mobilization Charge - Flat charge to mobilize and demobilize to your location.						\$520		
1. 3MG #1	OG Welded	121	35	3,009,125	11,493	\$2,200		
2. 2MG #2	OG Welded	121	35	3,009,125	11,493	\$2,200		
3. 3MG #3	OG Welded	121	35	3,009,125	11,493	\$2,200		
4. 300KG 1	OG Welded	45	25	297,281	1,590	\$2,000		
5. 300KG 2	OG Welded	45	25	297,281	1,590	\$2,000		
6. 550KG	OG Welded	54	32	547,947	2,289	\$2,050		
7. 1.2MG	OG Welded	76	35	1,187,126	4,534	\$2,175		
Pricing reflects Prevailing wages and is contingent on all work being completed on the same trip.								
LVT estimates 3 days of work, if more time is needed multiple trips might be required and additional fees may apply.								
Pricing is for inspection only, please disregard any mention of sediment removal in the items below.								
Subtotal						\$15,345		
Multitank Discount (after the first two tanks).						(\$900)		
Total						\$14,445		
*Plus sales tax if applicable								
Itemize work:			Time or Quantity:				Extended:	
Sales Tax if any:								
Total								
Authorization Signature: _____								
Estimation of cost for recommendations that LVT can perform.								
Recommendations:			Estimated Labor				Total Estimate	
Total								



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Reclamation Area Lease Agreement - Field 10 & 46C Compensation and Amendment No. 4

SOURCE: Public Works

COMMENT: On March 17, 2021, City staff met with Kim Perigo to discuss upcoming projects which require the removal of fields 10, 35, and 2.25 acres of field 46C from the Reclamation Area Lease Agreement with Rick Perigo Roadsiding.

The City adopted Amendment No. 3 on June 15, 2021, which reflected the new acreage total and the new annual rental payment for the removal of fields 10 and 35. Rick Perigo Roadsiding was compensated for two months of pre-paid rental payment for field 35. There was no compensation for potential income loss on field 35 as there were no costs incurred by Rick Perigo Roadsiding. Rick Perigo Roadsiding was allowed to continue harvesting alfalfa cuttings on field 10 through December 31, 2021, at no charge.

On November 1, 2021, Rick Perigo Roadsiding submitted a request for reimbursement of \$16,832 for the 2020 cultivation costs incurred for the planting of alfalfa on field 10. Rick Perigo Roadsiding submitted an additional claim of \$153,597 for potential income loss as a result of losing two years (2022-2023) of alfalfa production. Alfalfa typically has a four-year rotation schedule to facilitate the land application of biosolids.

Staff has reviewed the claim for reimbursement of cultivation costs and recommends that the City Council approve compensation in the amount of \$16,832 for cultivation costs incurred for the planting of thirty-two (32) acres of alfalfa in field 10.

Staff has reviewed the claim for the reimbursement of \$153,597 for potential income loss on field 10 and has recommended, and Council has agreed, that Rick Perigo Roadsiding is not entitled to compensation for potential income loss for 2022-2023, as defined in Section 1.7 and Section 12.6 of the Reclamation Area Lease Agreement.

On October 21, 2021, the City informed Rick Perigo Roadsiding it was in the process of finalizing an agreement with the Friant-Kern Canal which would require the reduction of 2.25 acres from field 46C. Rick Perigo Roadsiding incurred an annual rental pre-payment cost of \$742.50 for the 2.25 acres and \$1,183.50 cultivation costs for the planting of crops on field 46C. Staff is recommending that the Council approve a credit of \$1,926 for one-year rental

pre-payment and cultivation costs on 2.25 acres of field 46C.

Under Section 1.7 of the Reclamation Lease Agreement, signed on July 16, 2019, the City has the right to reduce or expand the acreage of the premises and remove or add to this area for Lessee's use. Amendment No. 4 to the Reclamation Area Lease Agreement reflects the reduction of the 2.25 acres from field 46C, resulting in a new acreage total of 617.15 acres and a new annual rental payment of \$101,829.75.

RECOMMENDATION: That the City Council:

1. Approve a credit of \$18,758 to Rick Perigo Roadsiding for alfalfa cultivation costs incurred on field 10 (\$16,832) and the field 46C credit which includes one year rental pre-payment (\$742.50) and cultivation costs incurred (\$1,183.50) on 2.25 acres; and
2. Approve Amendment No.4 to the agreement between the City of Porterville and Rick Perigo Roadsiding which includes the new acreage total of 617.15 acres and new annual rental payment of \$101,829.75 through the expiration of the reclamation lease agreement on October 31, 2024.

ATTACHMENTS: 1. Draft Amendment No. 4
 2. Reclamation Area Exhibits A and B

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

AMENDMENT NO. 4

To the Agreement between the
City of Porterville and Rick Perigo Roadsiding effective February 15, 2022

This Amendment No. 4 is made to the Reclamation Area Lease Agreement dated November 1, 2019, between the City of Porterville and Rick Perigo Roadsiding and in accordance with Section 1.7 of the Agreement, which allows written amendment to the original Agreement. The following sections are changed to read as follows:

Section:

1.2.1 Parcel 1: APN 302-480-001 Airport

1.3 For operational purposes, Exhibit B divides the Premises into portions identifies as Field numbers 5N; 5S; 7; 8; 9; 27; 28A; 28B; 28C; 29; 30N; 30S; 31; 32N; 32S; 33; 34; 46A; 46B; 46C; 160A; 160B; 160C; and 160D;

5.1. Beginning May 1, 2022, Lessee shall pay to the City, in lawful money of the United States, an annual rental in the amount of \$101,829.75 for 617.15 acres based on \$165 per acre for Lessee's use of the Premises and effluent water.

5.1.4. Upon mutual agreement by both parties, payment based on acreage calculations shall be reduced upon construction of a recycled water treatment facility or facilities that permanently reduce secondary effluent flows to the leased properties. The annual rental payment shall be reduced by calculating the yearly average secondary effluent flow over the most recent two year period and recording the actual yearly flow to recycled water facility (extraction from secondary effluent system). The gross irrigated lands (617.15 acres), in theory, will be reduced upon construction of a recycled water facility or facilities. Upon completion of such a facility of facilities the annual rental payment shall be reduced proportionally to the average annual flow over the most recent two-year period and the actual recorded annual flow to such a facility as defined by the following formula:

$$\frac{\text{Most recent 2 year total of secondary Effluent flow/2}}{617.15 \text{ acres}} = \frac{\text{Actual Annual Recorded Recycled Water Flow}}{X}$$

X = Reduction of Annual Lease area (acres)

All other terms and conditions of the Agreement and Amendment Nos. 1, 2, and 3, not inconsistent with this Amendment, shall remain in full force and effect.

City of Porterville

By _____
Adrian Monte Reyes, Mayor

Date: _____

Lessee

By _____
Rick Perigo Roadsiding, Owner

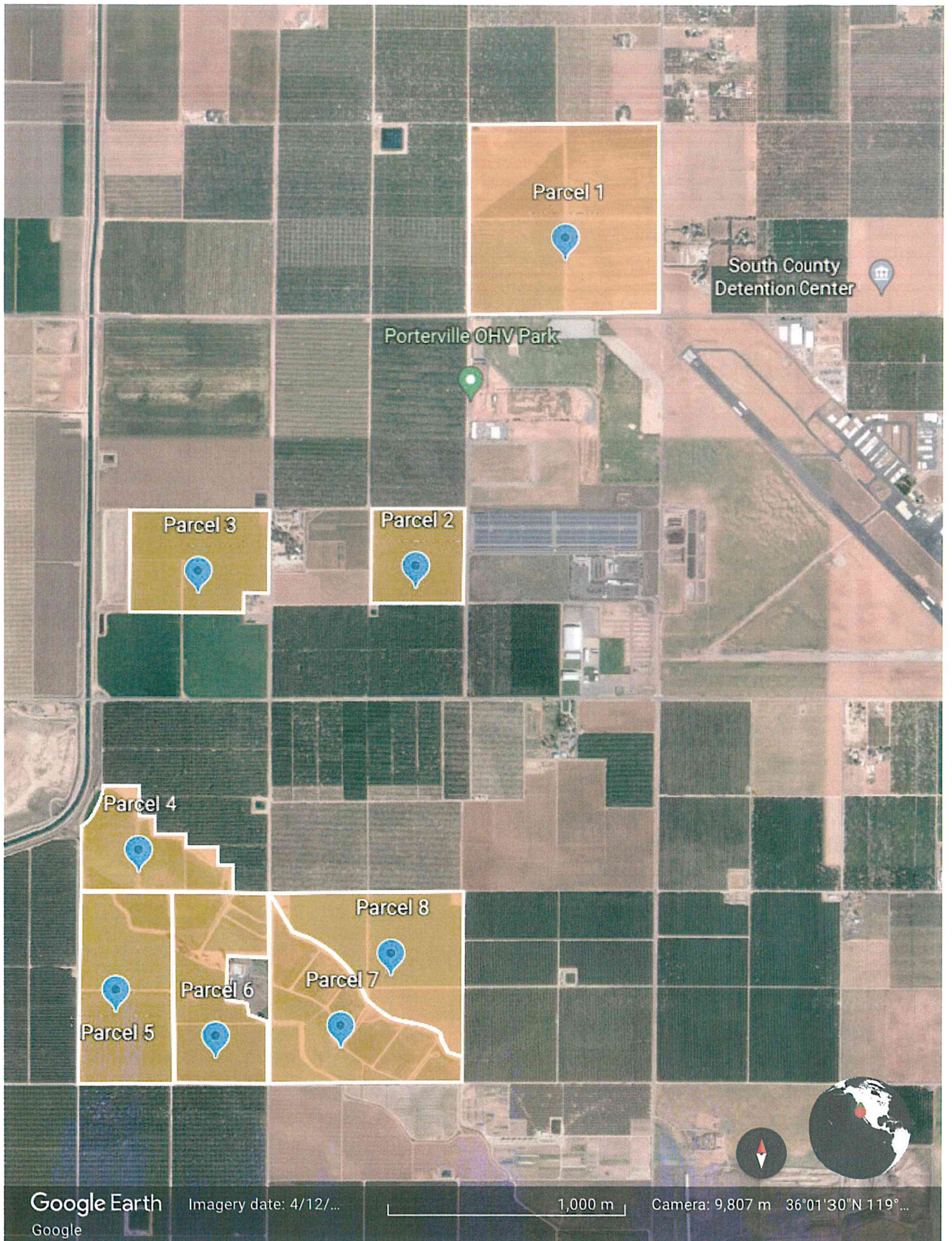
Date: _____

Reclamation Area Legal Descriptions

Exhibit A

PARCEL	APN	LEGAL DESCRIPTION	ACRES
City of Porterville Airport Property			
Parcel 1	302480001	SE/4 SEC 5-22-57	160.00
City of Porterville Lease Purchase			
Parcel 2	302110059	E/2 OF N/2 OF SW/4 SEC 8-22-27	40.00
Parcel 3	302100015	LTS 34,35,46,47 ETC PVILLE FRUIT & FARMS TR RM 15-23	64.66
City of Porterville Old Perc Pond/Field #46			
Parcel 4	302130028	POR NE/4 SEC 18-22-27	44.29
City of Porterville Underhill Property			
Parcel 5	302130008	W/2 OF SE/4 SEC 18-22-27	80.00
Parcel 6	302130007	E/2 OF SEC/4 SEC 18-22-27 15.20 Acres (Police Shooting range - Not part of lease)	64.80
City of Porterville Hunsaker Property			
Parcel 7	302130019	POR S/2 SEC 17-22-27	79.26
Parcel 8	302130021	POR SW/4 SEC 17-22-27	84.14
Total Management Acres			617.15

2/8/22



Parcel 1

South County
Detention Center

Porterville OHV Park

Parcel 3

Parcel 2

Parcel 4

Parcel 8

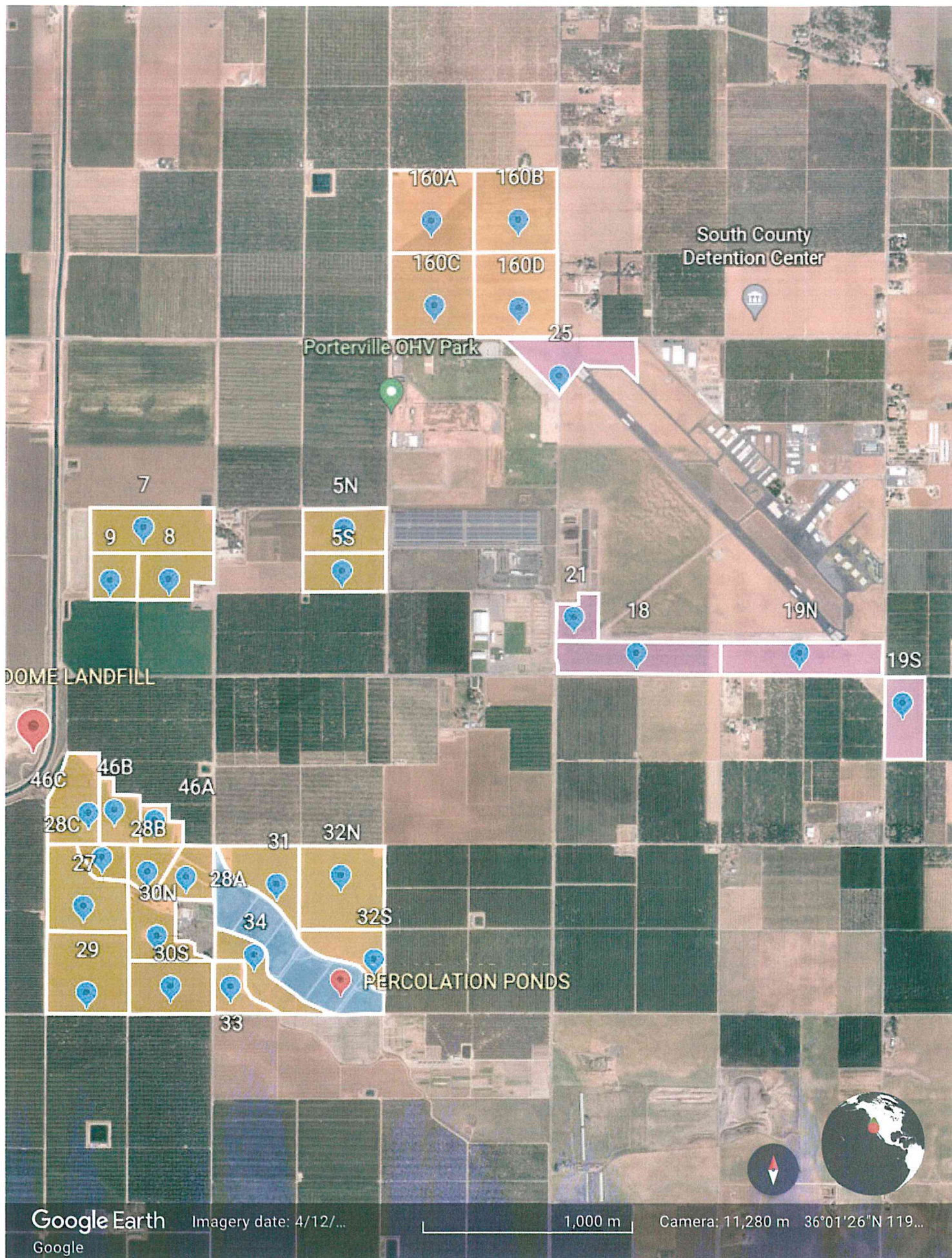
Parcel 7

Parcel 6

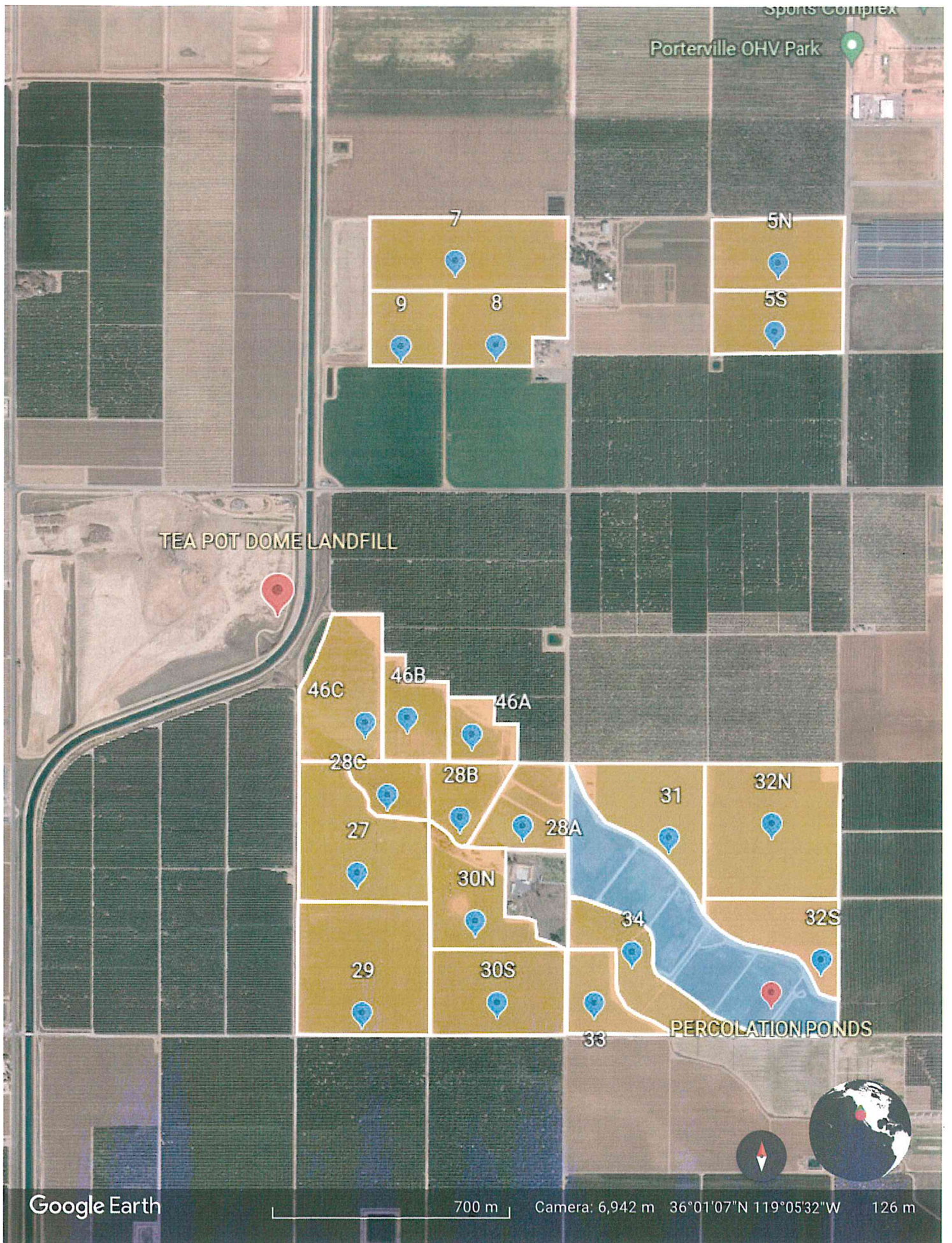
Parcel 5

Reclamation Area Field #s

Exhibit B









CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Community Clean-Up Events

SOURCE: Public Works

COMMENT: To encourage local property maintenance and beautification, the City sponsors two clean-up events annually; one in Spring and one in Fall. These events offer City residential refuse customers free disposal of general trash, bulky items, woodwaste, yard clippings, and e-waste at the City's Corporation yard.

Based on the success of prior events, staff recommends the City host two Community Clean-Up Events in 2022. The proposed event dates are Saturday, April 23rd, and Saturday, October 15th. Staff are unaware of any community event conflicts with these dates. As in the past, the events are open to all residents receiving City residential refuse service. Staff estimated City costs for both events to be approximately \$11,000 and funded through the Solid Waste Operating Budget.

RECOMMENDATION: That City Council:

1. Declare April 23, 2022, "Spring Clean-Up Day" and October 15, 2022, "Fall Clean-Up Day;"
2. Encourage all residents to clean up their properties and take advantage of these special opportunities offered by the City;
3. Authorize the City to accept trash, litter and yard clippings delivered by City residents receiving City residential refuse service to the Spring and Fall Clean-Up Events for free disposal; and
4. Authorize the cost of both events be funded from the Solid Waste Operating Budget.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Authorization of Street Closure

SOURCE: City Manager's Office

COMMENT: Pursuant to City Code Chapter 15-20(E), the planned non-emergency closure of city streets requires the approval of the City Council. Accordingly, the Fire and Police Chiefs request the approval of the Council to close city streets in the vicinity of Fire Station 71 deemed necessary on February 18, 2022.

RECOMMENDATION: That the City Council authorize the Fire and Police Departments to close city streets in the vicinity of Fire Station 71 as deemed necessary on February 18, 2022.

ATTACHMENTS: 1. Municipal Code 15-20 - Regulations

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager

15-20: REGULATIONS:

A. Card Tables:

1. **Conformance With State Law:** It is the stated purpose of this subsection to regulate card rooms, licenses and permits in the city of Porterville concurrently with the state of California, and to impose local controls and conditions upon establishments operating card rooms and card tables as permitted in the "gambling control act" as codified in division 8, chapter 5 of the California Business and Professions Code.

2. **Licenses:** Each card table shall be assigned a separate license with such license designating the number of the table and the location of the table, and the exact place of business where such card table is to be maintained. The operator shall attach to each licensed table a metal identification number, which shall be plainly visible at all times; and no license or identification number shall be transferable; provided, however, that it may be moved to a new location with the approval of the city council.

3. **Hours Of Operation:** Playing at all card tables shall absolutely cease and terminate at two o'clock (2:00) A.M. of each day; and it is hereby declared to be unlawful for any person to deal, participate in, play, carry on or bet at, against, rent, open up, carry on, conduct or have charge of or to control any card table in the city between the hours of two o'clock (2:00) A.M. and seven o'clock (7:00) A.M. of each day.

4. **Patron Security And Safety:** All licensees shall have in effect a security plan to address the safety and security of patrons in and around the card room. The plan, and any amendments thereto, must be filed with and approved by the chief of police. The licensee shall be liable for the security and safety of its patrons to the extent required by law. Any information about security measures that is provided to the city by an establishment operating a card table shall be confidential and not open to public inspection.

The physical arrangements of the gambling area and parking lots of the establishment operating card tables shall meet the requirements and specifications determined necessary by the chief of police for the security and safety of citizens, patrons, and police officers. During all hours of operation, the outside doors to the establishments wherein card tables are operated and the main doors to rooms wherein the tables are located must be unlocked and accessible to the general public. Any part and all of the establishment where a card table is operated shall be open to police inspection during all hours of operation.

5. **Wagering Limits:** Unless otherwise authorized by the chief of police based upon a finding of necessity because of the rules relating to a particular game, a maximum of ten (10) hands may be dealt at any one table. The maximum number of persons who may participate in play at a table may be limited by the licensee consistent with the provisions of this chapter, provided that in any event, the number of persons present in any establishment or room shall not exceed the occupant load as otherwise prescribed by law. There shall be posted in a conspicuous place on the establishment premises the minimum buy-in and wagering limits. Not later than July 1 of each calendar year, the licensee shall execute under penalty of perjury and file with the chief of police a declaration stating the following: a) the minimum buy- in, table and wagering limits and any and all charges or other fees assessed of all players at a table; and b) a set of the then current posted detailed house rules applicable to the games played. There is no wagering limit imposed by this subsection. However, all wagering limits fixed by the licensee shall be posted as required in this subsection, and shall comply with all state laws and all ordinances of the city.

6. **Number Of Gambling Tables:** Not more than three (3) card tables shall be located at each establishment. Not more than nine (9) tables total shall be located in the city of Porterville, and not more than three (3) establishments operating such tables shall be located in the city of Porterville.

7. **Location:** No license shall be issued except for a location deemed suitable by the city council.

8. **Permit Required For Dealers And Employees:** All card room dealers and employees shall be required to obtain a permit from the chief of police. In addition, all card room dealers and employees are required to submit to a fingerprint based criminal history background check by the department of justice. Permit applicants are responsible for all fees charged for applying for and obtaining the permit and submitting to the background check. The chief of police shall deny said permit for any of the following reasons, as set forth in California Business and Professions Code section 19850A(a):

a. Failure of the applicant to clearly establish eligibility and qualification in accordance with California Business and Professions Code, division 8, chapter 5;

b. Failure of the applicant to provide any information, documentation, and assurances required by said chapter of the Business and Professions Code or requested by the director of the division of gambling control, department of justice, or failure of the applicant to reveal any fact material to qualification, or the supplying of information that is untrue or misleading as to a material fact pertaining to the qualification criteria;

c. Conviction of the applicant for any crime punishable as a felony;

d. Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within the ten (10) year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to sections 1203.4, 1203.4a and 1203.45 of the California Penal Code;

e. Association of the applicant with criminal profiteering activity or organized crime, as defined by section 186.2 of the Penal Code;

f. Wilful and obstinate defiance by the applicant of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling; official corruption related to gambling activities; or criminal profiteering activity or organized crime, as defined by section 186.2 of the Penal Code; or

g. The applicant is less than twenty one (21) years of age.

The department of justice's division of gambling control may object to the issuance of a work permit by the city for any cause deemed reasonable by the division.

9. Revocation And Appeal:

a. By The Chief Of Police: The chief of police may refuse to issue or may revoke the permit of a card room dealer or employee at any time if, in his judgment, such action is necessary. A person whose application for a permit is denied or a person whose permit is revoked, if the decision to deny or revoke was made solely by the chief of police, may appeal the action of the chief of police to the city council in accordance with the procedure set forth in subsection 15-13B of this article.

b. By The Division Of Gambling Control: If the division objects to the issuance of a work permit, the permit shall be denied. Any person whose application for a work permit has been denied because of an objection by the division may apply to the California gambling commission for an evidentiary hearing in accordance with regulations. In addition, the California gambling control commission may notify the chief of police to revoke a work permit, if the commission makes the necessary findings after a hearing, pursuant to California Business and Professions Code section 19912A.

B. Coin Operated Machines:

1. Contents Of Applications: At the time a license is applied for, the applicant shall give the serial number, and kind or character of such machine.

2. Display Of License Or Stamp: No person shall maintain any vending, weighing, entertainment or amusement machine within the city without having posted thereon in a conspicuous place a stamp or label, which shall be issued and supplied by the collector, which stamp or label shall indicate the number of the license, together with the date of expiration thereof; and in the event any duly qualified officer of the city finds any such machine being maintained in the city without such stamp or label being maintained thereon in a conspicuous place, or without such stamp or label indicating that there is a valid and unexpired license issued covering such machine, it shall be his duty to seize and hold such machine for the payment of the license tax, which machine shall be disposed of upon the nonpayment of such tax as provided by the laws relative thereto.

3. Transfer Of License: In the event any person discontinues maintaining any vending, weighing, entertainment or amusement machine duly licensed pursuant to this chapter during a period when such license remains unexpired, the licensee may substitute another similar machine in place of the machine, the use of which is so discontinued, and may maintain such substituted machine without the payment of an additional license tax for the unexpired period of the license carried on such discontinued machine; provided, however, that such person surrender the unexpired license of such discontinued machine to the collector and obtain from the collector a new license for such unexpired period for the replacing machine.

4. Location Of Machines: No license as provided in this chapter shall be issued for the maintaining of any vending, weighing, entertainment or amusement machine upon any public street, sidewalk, alleyway or court within the city.

C. Junk Dealers And/Or Collectors:

1. Permit Required: Before any person shall engage in the city in the business of buying or selling old rope, brass, copper, tin, lead, rags, slush, empty bottles, paper, bagging, or other junk whether at a fixed place of business or as an itinerant peddler, he shall make application to the city council for a permit to engage in such business. Such application shall be referred to the chief of police, who shall make an investigation concerning the character of the applicant, and within seven (7) days shall report thereon to the city council. Upon receiving such report, the city council shall grant or deny the applicant a permit to engage in such business, and such permit shall be granted unless it shall appear from such report of the chief of police that the applicant is not a person of good moral character, or has not a good character in respect to honesty and integrity; provided, however, that no such permit shall be granted unless the city council find that such applicant, or if the applicant be a corporation, the manager thereof, has been a resident of the city for not less than ninety (90) days prior to such application.

2. Registration Of Purchases: Every person maintaining or operating a junk shop or junkyard shall keep at his place of business a substantial well bound book, and shall promptly enter therein an exact description of all personal property purchased by him or it, the date of purchase, name and residence or place of business of the person from whom purchased, and all particular or prominent marks of identification that may be found on such property. Such book shall be kept neat and clean, and all entries made therein shall be neatly and legibly written in ink. Such book shall at all times during the ordinary hours of business be open to the inspection of the chief of police, or any other city officer.

3. Required Holding Period: All junk purchased by owners or keepers of junk shops or junkyards shall be held for a period of at least nine (9) days before the same shall be sold.

4. Pawning And Pledging Prohibited: No owner or keeper of a junk shop or junkyard shall receive any personal property by way of pledge or pawn, nor shall any owner or keeper of a junk shop or junkyard engage in the business of pawnbroking on the same premises wherein a junk shop or junkyard is located.

5. Hours Of Business: No junk peddler shall purchase or collect any junk in the city between the hours of six o'clock (6:00) P.M. and six o'clock (6:00) A.M.

6. Revocation Of Permit: The city council may revoke the junk dealer permit granted to any person upon failure of such person to conduct and carry on such business in accordance with the provisions of this subsection; and such permit may likewise be revoked, if in the conduct of such business, any law of the state, county or city be violated.

7. Places Of Business: It shall be unlawful for any owner, tenant or lessee of any premises in the city, or the owner, tenant or lessee of any trailer house, trailer, truck, automobile, motor vehicle or other vehicle to keep, place or maintain thereon, or to permit the keeping, placing or maintaining thereon, of any trailer house, trailer, truck, automobile, motor vehicle or other vehicle which is used or which is to be used for a dental or chemical laboratory or for the display or selling of merchandise therein, or to use or permit the use of any trailer house, trailer, truck, automobile, motor vehicle or other vehicle on any premises in the city for business, religious, educational, retail, commissary, shop, storage, office purposes or for other type of commercial retail purpose.

D. Bingo Games:

1. Bingo Games Allowed Only By Eligible Organizations With Proper City Permit: Bingo games within the city are illegal except those organizations exempted from the payment of the bank incorporation tax by sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701i of the California Revenue and Taxation Code and by mobile home park associations and senior citizens' organizations; provided, that the proceeds of such games are used only for charitable purposes; and provided, that these eligible organizations have applied for and received the proper city bingo license and conformed to section 326.5 of the California Penal Code and the provisions of this chapter.

2. Application And Fee For License: Eligible organizations desiring to obtain such license to conduct bingo games in the city shall file an application, in writing, to the office of the finance director on a form provided by the city. The issuing authority shall be the finance director, after approval of the chief of police. The license shall be for a term of one year from the date of issuance. The license fee, whether for the initial license or renewal, will be fifty dollars (\$50.00) annually. If an application for a license is denied, one-half ($\frac{1}{2}$) of the license fee paid shall be refunded to the organization.

3. Contents Of Application: Said application for a bingo license shall obtain the following information:

a. The name, address, date, place of birth, physical description and driver's license number of every officer of the charitable organization.

b. The name, address, date, place of birth, physical description and driver's license number of not more than twenty (20) members who will be authorized to operate the licensed bingo games on behalf of the organization.

c. The particular property within the city including the street number owned or leased by the applicant, and used by such applicant for an office or for the performance of the purposes for which the applicant is organized, on which property bingo games will be conducted together with the occupancy capacity of such place.

d. The proposed days of week and hours of day for conduct of bingo games.

e. That the applicant agrees to conduct the bingo games in strict accordance with section 326.5 of the California Penal Code and this chapter as they may be amended from time to time and agrees that the license to conduct bingo games may be revoked by the chief of police when there is a violation of this chapter or other applicable laws.

f. The application shall be signed by said applicant under penalty of perjury.

g. The annual license fee shall accompany the application.

h. The applicant shall also submit, with its application, a certificate or determination of exemption under section 23701d of the California Revenue and Taxation Code, or a letter of good standing from the exemption division of the franchise tax board in Sacramento, showing exemption under said section 23701d.

4. Investigation Of Applicant: Upon receipt of the completed application and the fee, the finance director shall refer the application to the appropriate departments of the city for investigation, as to whether or not all the statements in the application are true, and whether or not the property of the applicant qualifies and the extent to which it qualifies, as property in which bingo games may lawfully be conducted, as to fire, occupancy and other applicable restrictions.

5. Contents Of License: Upon being satisfied that the applicant is fully qualified under the law to conduct bingo games within the city, and the police department has investigated the application, the finance director shall issue a license to said applicant, which shall contain the following information:

a. The name and nature of the organization to whom the license is issued.

b. The address where bingo games are authorized to be conducted.

c. The occupancy capacity of the room in which bingo games are to be conducted.

d. The days of the week and times during which games may be conducted.

e. The date of the expiration of such license.

f. Such other information as may be necessary or desirable for the enforcement of this subsection.

6. Consent: The application for or acceptance of a license constitutes:

a. Consent to the entry of any peace officer to investigate the location identified in the application before the issuance of a license, as well as during any game thereafter.

b. Consent to the chief of police or his agents to review or audit the charitable organization's records relating to the conduct of bingo games into the special account required by California Penal Code section 326.5(j) for the purposes of verifying compliance with the financial interest and special fund requirements of Penal Code section 326.5 and with this chapter and with all other applicable laws and regulations.

7. Violation A Misdemeanor: Any person who conducts a bingo game without the proper license as required by this chapter, or who operates a bingo game in violation of any of the requirements of this chapter, or who operates any bingo game after the suspension or revocation of a bingo license is guilty of a misdemeanor.

8. Summary Suspension Or Revocation: The chief of police may suspend or revoke a license for any violation of the provisions of this subsection or of any applicable law or regulation, or for any false, misleading or fraudulent statement of a material fact in the application for the license, or in the promotion, supervision, operation, conduct or staffing of any bingo game.

9. Notice Of Suspension Or Revocation: When it appears that there is probable cause for a suspension or revocation, the chief of police shall prepare a written statement showing the cause and the specific action to be taken. This written notice shall be served

on an officer or member of the organization listed on the license application.

10. Appeal Process:

a. After receiving the written notice of suspension or revocation, the affected licensee may file a written request for an appeal hearing with the city manager. The decision of the city manager will be final. The written request for an appeal hearing must be filed with the city manager's office no later than seven (7) calendar days after receiving the written notice of suspension from the chief of police.

b. This appeal hearing must be held within thirty (30) days of the request being filed with the city manager. Upon the conclusion of the appeal hearing, the city manager shall issue his written decision within ten (10) days.

c. Any organization whose license is finally revoked may not again apply for a license to conduct bingo games in the city for a period of one year from the date of such revocation; provided, however, if the ground for revocation is the cancellation of the exemption granted under section 23701d of the Revenue and Taxation Code, such organization may again apply for a license upon proof of reinstatement of said exemption.

11. Definition Of Bingo: As used in this chapter, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols designated on a card which conform to numbers or symbols selected at random.

12. Maximum Amount Of Prize: The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars (\$250.00) in cash or kind, or both, for each separate game which is held.

13. Profits To Be Kept In Separate Fund Or Account: All profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. The licensee shall keep full and accurate record of the income and expenses received and disbursed in connection with its operation, conduct, promotion, supervision and any other phase of bingo games which are authorized by this chapter. The city, by and through its authorized officers, shall have the right to examine and audit such record at any reasonable time and licensee shall fully cooperate with the city by making such records available.

14. Financial Interest In Licensee Only: No individual, corporation, partnership or other legal entity except the licensee shall hold a financial interest in the conduct of such bingo game.

15. Exclusive Operation By Licensee: A bingo game shall be operated and staffed only by members of the licensee organization. Such members shall not receive a profit, wage or salary from bingo game. Only the licensee shall operate such game, or participate in the promotion, supervision or any phase of such game.

16. Bingo Games Open To Public: All bingo games shall be open to the public, not just to the members of the licensee organization.

17. Attendance Limited To Occupancy Capacity: Notwithstanding that bingo games are open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted as determined by the fire department and building department of the city in accordance with applicable laws and regulations. Licensee shall not reserve seats or space for any person.

18. Bingo Games Conducted Only On Licensee's Property: A licensee shall conduct a bingo game only on property owned or leased by it, and which property is used by such organization for an office or for performance of the purposes for which the organization is organized. The license issued under this chapter shall authorize the holder thereof to conduct bingo games only on such property, the address of which is stated in the application. In the event the described property ceases to be used as an office and as a place for performance of the purposes for which the licensee is organized, the license shall have no further force or effect. A new license may be obtained by an eligible organization, upon application under this chapter, when it again owns or leases property used by it for an office or for performance of the purposes for which the organization is organized. Nothing in this subsection should be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization.

19. Bingo Cards: Only preprinted cards that bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinances" are to be used in any bingo game.

20. Minors Not To Participate: No person under the age of eighteen (18) years of age shall be allowed to participate in a bingo game.

21. Intoxicated Persons Not To Participate: No person who is obviously intoxicated shall be allowed to participate in a bingo game.

22. Hours Of Operation: No licensee shall conduct any bingo game more than ten (10) hours out of any twenty four (24) hour period. No bingo game shall be conducted before ten o'clock (10:00) A.M. nor after twelve o'clock (12:00) midnight of any day.

23. Participant Must Be Present: No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.

24. Receipt Of Profit By A Person A Misdemeanor Under State Law: It is a misdemeanor under section 326.5(b) of the Penal Code of the state of California for any person to receive a profit, wage or salary from any bingo game authorized under this chapter, a violation of which is punishable by a fine not to exceed ten thousand dollars (\$10,000.00), which fine shall be deposited in the general fund of the city.

25. City May Enjoin Violation: The city may bring an action in a court of competent jurisdiction to enjoin a violation of section 326.5 of the California Penal Code or of this subsection.

26. Severability: If any portion of this subsection is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this subsection. The city council

hereby declares that it would have adopted this subsection and each portion thereof, irrespective of the fact that any one or more sections, subsections or portion be declared invalid or unconstitutional.

E. Community Civic Events:

1. City Council Findings: The city council finds and declares that it has historically closed city streets in portions of the downtown area, for the purpose of assisting certain community and regional events benefitting the city, the community at large, and nonprofit organizations operating in the city. Control over the operation of these community civic events has traditionally been turned over to the entity sponsoring the event. The city council finds and declares that there is a need to provide written guidelines and regulations on how these community civic events shall operate.

2. Purpose: The purpose of this subsection is to establish a legal framework for the operation of community civic events, to set forth minimal requirements for sponsors of these events, to meet the need for order and control during these events, and to ensure that the theme or character of the event is maintained, and that use of public property is compatible with the event.

3. Definition: "Community civic event" (hereafter referred to as "CCE") shall mean the sponsoring and conducting by a nonprofit organization of a civic, artistic, cultural, charitable, educational, veteran or benevolent activity of community interest. The council shall require reasonable proof of the nonprofit status of the sponsoring organization.

4. Participation: Participation in a CCE and use of public right of way shall be limited to those members of the sponsoring organization, in good standing with the organization, and those persons and vendors as may be approved by the sponsoring organization.

5. Permit Required: The CCE sponsor shall obtain a CCE permit from the city not less than thirty (30) nor more than one hundred eighty (180) days before the commencement date of the proposed permit activities; provided, that the council may waive these time requirements if it determines such a waiver to be in the public interest. Upon receipt of an application, the business license clerk shall circulate the application to the following departments for comments and approval: police department, fire department, finance department, department of community development, public works department, parks and recreation department, and risk management department. These departments may impose terms and conditions upon the CCE permit and issuance and approval of the permit is conditioned upon compliance with the required conditions. At a minimum, the permit shall include conditions for holding the city harmless, maintaining minimum limits of liability insurance in accordance with city standards, providing security and traffic control, providing adequate restroom and sanitation facilities, and paying for the cost of city services. The nonprofit sponsor of the CCE shall be exempt from a license fee. Said permit shall be valid for a maximum of four (4) consecutive days. If an event runs for four (4) consecutive days, one of those days must include a Saturday, Sunday or national holiday. No person or sponsoring organization shall fail to keep the permit, at all times, at the place where the activities are being conducted, nor fail upon demand therefor to exhibit such permit to any public officer. The permit may be revoked for noncompliance with the conditions of the permit and the provisions of this subsection. Revocation may be made by the council, city manager, chief of police, or their designees. If the grounds for revocation occur during the CCE, the council, city manager, chief of police or their designee shall first advise the CCE sponsor of the grounds for revocation and provide an opportunity to correct the same. The permit may also be revoked during the CCE if fire or another emergency requires the CCE to be terminated to protect the public safety. When the permit is revoked for this reason, all CCE participants must immediately comply with instructions from any city police officer or fire department personnel.

6. Application: The application for the CCE permit shall contain:

- a. The name of the applicant, the sponsoring organization, the CCE chairperson, and the addresses and telephone numbers of each.
- b. The location and outside perimeter of the CCE area, indicated upon a map of the area.
- c. The date and times at which the CCE activities are to take place.
- d. A description of the CCE activities which will be conducted.

A preliminary list of persons who will be engaging in the CCE, and a preliminary list of persons engaging in temporary selling activities at any time during the dates and times for which a temporary selling permit has been granted shall be furnished to the city no later than one week before the CCE is to take place. An amended list of all participants is required to be submitted in conjunction with the payment of business license fees per subsection E16 of this section.

The council shall cause such application to be investigated and shall grant the permit if it determines that the proposed CCE activities will not disrupt to an unreasonable extent the movement of vehicular or pedestrian traffic or create a hazard to the public; that the proposed CCE activities are not of a size or nature that requires the diversion of so great a number of police personnel to regulate such CCE activities that it prevents reasonable police protection for the city; that the concentration of persons, equipment and materials is not so great in the CCE areas that it would prevent proper fire, police and ambulance protection; and that the CCE permit applicant agrees to be responsible for cleanup necessitated by the proposed activities. The council may, in its discretion, require a cleanup deposit to guarantee that cleanup takes place. The council shall condition the granting of permits upon compliance with the provisions of this subsection and also with such other conditions as the council may deem necessary to impose for the proper protection of persons and property.

7. Responsible Party: The sponsoring organization shall be responsible for the CCE and for all necessary planning, physical facilities, equipment, fire lanes, and removal, cleanup, and staffing. The sponsoring organization shall be responsible for any necessary permits and code requirements for the conduct of such CCE as may be required by county and state agencies and coordination with appropriate city departments, such as police and fire. All necessary certificates and approvals by any health or other governmental organization shall be in possession of the person representing the sponsoring entity in such CCE.

8. Management: Subject to the minimum requirements imposed by this subsection, the CCE sponsor shall:

- a. Promulgate rules and regulations for the CCE, including rules and regulations to maintain the theme or character of the

CCE. A copy of the rules and regulations shall be submitted to the business license clerk prior to the CCE.

b. Have control over the terms and conditions under which persons chosen to provide vending services will operate at a CCE including, but not limited to, products sold, hours of sale, fees, vendor locations and issuance of seller permits.

c. Take any other actions which are necessary for the efficient management and operation of the CCE.

9. Minimum Requirements: The CCE sponsor shall abide by the following minimum requirements. These minimum requirements shall be deemed a part of the permit conditions and may be supplemented by resolution of the city council.

a. Maintain openings between vendor booths or sizes, and at locations and distances, required by the city. The required openings shall be identified on the CCE sponsor's street plan.

b. Not use any permanent or semipermanent paint or other markers to delineate or mark the location or other direction on any public street, sidewalk, alley or parking lot.

c. Not discriminate in the selection of any vendor on the basis of race, color, religion, sex, national origin, or familial status, or violate any law with respect to the selection of any vendor.

d. Require that all vendors obtain and display all appropriate permits, licenses, and certificates, and comply with all applicable federal, state and local laws, ordinances, and regulations.

e. Require that all vendors maintain their spaces in a clean and sanitary condition, including the removal of containers, waste and trimmings before leaving the area.

f. Require that vendors take sufficient measures to keep the city storm drain system free from contamination, and require that food vendors take special precaution to keep grease and other waste products off all public streets, sidewalks, alleys and parking lots.

g. Provide on site personnel who can be contacted by appropriate city officials for immediate corrective action either for noncompliance with this subsection or the permit conditions, for emergencies, or for actions deemed necessary by the city official. Such personnel shall be equipped with appropriate means of communication to be made known to the city by the CCE sponsor prior to the CCE.

h. Distribute the rules and regulations to each person participating in the CCE.

10. Cost Of CCE: The CCE sponsor will be responsible for the costs associated with the CCE, including, but not limited to, the cost of city services related to the CCE, and the cost of repair of any damage caused to any public property and rights of way, including landscaping. The CCE sponsor may apply to the city council for cooperation in presenting a CCE and request financial assistance for some or all of the costs of city services related to the CCE.

11. Permit To Sell: No person shall sell or offer to sell any item at the CCE except under the authority of a valid permit approved by the CCE sponsor. The CCE sponsor shall designate a person or persons responsible for issuing permits to sell. A seller's permit shall not be required for existing businesses selling merchandise from their stores. Whenever the CCE sponsor in good faith believes that a vendor has violated the conditions of the seller's permit, the CCE sponsor may immediately suspend the seller's permit. Vendors shall have an opportunity to appeal the denial or suspension of a seller's permit as set forth in subsection E20 of this section. Permits to sell shall give a seller (including vendors, peddlers and other sellers) the privilege of selling at the CCE only if the following conditions are met:

a. The seller properly files an application for a permit to sell at the CCE with the CCE sponsor.

b. The seller complies with all federal, state and local laws and regulations relating to the CCE, including the rules and regulations of the CCE sponsor.

c. The seller obtains all required permits, licenses and certificates.

d. The seller pays all required fees to the appropriate authorities, including any fees due the sponsor.

e. The seller grants permission to the CCE sponsor, or an authorized representative, to enter the seller's premises for the reasonable inspection of land, facilities, and records, in order to determine whether the seller is in compliance with the permit conditions, the rules and regulations of the CCE sponsor, and the terms of this subsection.

12. Peddlers And Itinerant Vendors: All peddler and itinerant vendor permits and licenses issued by the city shall be deemed suspended for the duration of any CCE. All permit and license holders shall be notified of this provision. No person holding a peddler or itinerant vendor permit or license shall sell merchandise within the designated CCE area for the duration of any declared CCE unless the holder of the peddler or itinerant vendor permit or license has a written agreement with the CCE sponsor to participate in the CCE, or otherwise has a seller's permit from the CCE sponsor. The CCE sponsor shall allow peddler and itinerant vendor permit and license holders with suspended city permits and licenses under this subsection the same opportunity to participate in a declared CCE as the CCE sponsor offers to other vendors.

13. Sidewalks: The city shall not approve vendor or sidewalk sales or other activities within the closure area for a CCE. The sponsoring entity may allow such sales or events, however selling activity during a parade must take place in conformity with subsection G of this section.

14. Parades: Any person or organization desiring to have a parade as a CCE or in connection with a CCE, and all vendors, peddlers, solicitors, or merchants not located inside a commercial location, shall comply with subsection G of this section in addition to the provisions of this subsection.

15. Interference: It shall be unlawful for any person to interfere with, disrupt or impede a permitted CCE. It shall also be unlawful for a person to put up any booth, table, chair, stool, structure, vehicle or piece of equipment in any public area located within a

designated CCE area for which a CCE sponsor has been issued a permit without consent of the CCE sponsor. This subsection E15 shall not apply to persons acting under the direction or control of the city.

16. **Business License Fees:** Any individual, company, firm, concessionaire, fair operator, carnival operator, etc., who engages in, conducts, organizes, or promotes business for profit shall pay a business license fee of one dollar (\$1.00) per day per amusement, entertainment, exhibit, ride or per booth, space, stall, stand or other unenclosed location used for the purpose of advertising, promoting, or sale of, or taking orders for, goods or services; except that no individual, company, firm concessionaire, fair operator, carnival operator, etc., who possesses a valid city business license shall be subject to separate licensing pursuant to this subsection E16.

The nonprofit sponsor shall collect said fee and remit the fee to the city within five (5) working days following the CCE. Said remittance shall be accompanied by a complete list of participants and consecutively numbered receipts written in triplicate, containing the name, address and telephone number of the licensee, and the licensee's California seller's permit number. Said receipts shall be furnished by the city. One copy of the receipt shall be furnished to the licensee, one copy filed with the finance department of the city, and one copy retained by the CCE sponsor for a period of three (3) years for audit purposes.

17. **Charges And Exhibit Fees:** The sponsoring entity may impose a reasonable charge or exhibit fee on each participating seller or exhibitor and shall be responsible for enforcing all requirements of this subsection and regulations imposed by the sponsoring entity. Any net profit received by the sponsoring organization shall be utilized for the civic, artistic, cultural, charitable, educational, veteran or benevolent activities of the organization within the city of Porterville.

18. **Insurance:** The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than one million dollars (\$1,000,000.00) per occurrence of bodily injury and property damage, combined single limit.

19. **Violations:** Any person who violates the provisions of this subsection E shall be deemed guilty of either a misdemeanor or an infraction, in accordance with section 15-21 of this article. In addition, civil penalties of one hundred dollars (\$100.00) for a first violation and up to one thousand dollars (\$1,000.00) for subsequent violations may be imposed. Every day that any such violation continues shall constitute a separate offense. In addition, the CCE sponsor is authorized to take civil action to enforce the requirements of this subsection, and the rules and regulations established by the CCE sponsor. The remedies provided herein shall not be exclusive, and the violation of any provision of this subsection E shall be subject to other remedies as may be provided by law.

20. **Appeal Of The Denial Or Suspension Of A Seller Permit:** After the denial or suspension of a seller's permit, the CCE sponsor shall allow the vendor an opportunity for an appeal hearing before the CCE sponsor's governing board, or if no governing board, the person with the highest decision making authority, to determine if the permit shall be issued, further suspended, reinstated, or revoked for repeated violations. The hearing shall be held within a reasonable time, depending on the date and duration of the CCE, no later than thirty five (35) days. The CCE sponsor shall establish procedures for the conduct of the hearing.

21. **Other Rules And Regulations; Applicability:** The CCE sponsor shall comply with all other applicable city ordinances, resolutions, policies, rules and regulations.

22. **Compatibility With State And Federal Laws And Constitutions:** It is the intention of the city council and the people of the city of Porterville that these subsections shall be interpreted in a manner compatible with the state of California constitution and the United States constitution and the laws of the state of California and the United States.

23. **Severability:** If any paragraph, sentence, clause or phrase of this subsection are for any reason held to be unconstitutional or invalid, that holding shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have passed these subsections, irrespective of the fact any one or more sections, subsections, sentences, clauses or phrases might be declared unconstitutional or invalid.

F. Fortune Telling:

1. Purposes And Findings:

a. The practice of "fortune telling", as defined in this subsection, has historically been subject to abuse by certain unscrupulous practitioners using the practice to commit fraud and larceny upon clients.

b. It is the purpose of this subsection to regulate the practice of fortune telling in such a manner as to reduce the risk of fraud and larceny to clients while allowing fortune tellers to provide their services to clients with only minimal restrictions.

c. The provisions of this subsection requiring a permit, posting of fees, providing receipts and allowing client recordation of the consultation, will make it more difficult for an unscrupulous fortune teller to commit fraud or larceny, and yet, as informational regulations, will not affect the nature of the information conveyed by the fortune teller nor the manner in which it is conveyed. These regulations require only minimal expense and effort on the part of the fortune teller and will not, therefore, impose any undue burden on their practices.

d. "Fortune telling" for entertainment purposes, as defined in this subsection, does not create the same risk of fraud and larceny by an unscrupulous practitioner as would the practice with an individual client because it is done with a group at a public place for the purpose of entertaining and not to deal with the private concerns of an individual.

e. For these and other reasons, the provisions of this subsection are necessary to protect the health, safety and welfare of the community.

2. Permit Required: No person shall conduct, engage in, carry on, participate in, or practice fortune telling or cause the same to

be done for pay without having first obtained a permit therefor.

3. Definitions: As used in this subsection:

FOR PAY: For a fee, reward, donation, loan or receipt of anything of value.

FORTUNE TELLING: Shall mean and include telling of fortunes, forecasting of future events or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult or psychic power, faculty or force, including, but not limited to, clairvoyance, clairaudience, cartomancy, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, divination, soothsaying, mantic, necromancy, mind reading, telepathy, or other craft, art, cards, talisman, charm, potion, magnetism, magnetized article or substance, crystal gazing, or magic, of any kind or nature.

4. Permit Application: Every natural person who, for pay, conducts, engages in, carries on, or practices fortune telling shall file a separate verified application or a permit with the business license officer. The application shall contain:

- a. The name, home and business address, and home and business telephone number of the applicant.
- b. The record of conviction for violations of the law, excluding minor traffic violations.
- c. The fingerprints of the applicant on a form provided by the police department.
- d. The address, city and state, and the approximate dates where and when the applicant practiced a similar business, either alone or in conjunction with others.
- e. A nonrefundable application fee in an amount of one hundred dollars (\$100.00) to cover cost incurred by the city in staff time, and other expenses involved in investigation and processing of permit.

5. Investigation: Upon the filing of the application, it shall be referred to the police department for investigation, report and recommendation. The investigation shall be conducted to verify the facts contained in the application and any supporting data. The investigation shall be completed and a report and recommendation made in writing to the business license officer within twenty one (21) days after the filing of the application, unless the applicant requests or consents to an extension of the time period. If the report recommends denial of the permit to the applicant, the grounds for the recommended denial shall be set forth therein.

6. Hearing And Decision By Business License Officer: The business license officer shall consider the application and the police department report and recommendation at a hearing held not less than seven (7) nor more than fourteen (14) days following receipt of the police department report described in subsection F5 of this section. Notice of the time and place of the hearing and a copy of the police department report shall be given to the applicant personally or by certified mail by the business license officer at least five (5) days prior to the hearing. Any interested parties shall be heard at the hearing. City shall have the burden of proof to show the permit should be denied. The decision of the business license officer to approve, deny or conditionally approve the permit shall be in writing, and if adverse to the applicant, shall contain findings of fact and a determination of the issues presented. Unless the applicant agrees in writing to an extension of time, the business license officer shall make his or her decision approving, denying, or conditionally approving the permit within twenty four (24) hours after completion of the hearing on the application for a permit and shall notify the applicant of his or her action by personal service or certified mail.

7. Approval Of Permit: The business license officer shall approve or conditionally approve the permit if he or she makes all of the following findings:

- a. All the information contained in the application and supporting data is true;
- b. The applicant has not, within one year from the date of the application, been convicted of any violation of this subsection or crimes involving prediction of future events by the occult arts, larceny, perjury, bribery, extortion, fraud, or crimes involving moral turpitude;
- c. The applicant has paid the required business license fee; and
- d. The applicant agrees to abide by and comply with all conditions of the permit and applicable laws.

8. Term Of Permit: The term of the permit and the term of the business license shall be for one year from the date of issuance. A renewal application shall be filed no later than thirty (30) days prior to the expiration of the permit and shall be processed in the same manner as a new application.

9. Posting Of Fees:

a. Each person required to obtain a permit pursuant to this subsection shall post on his or her business premises a sign containing the following information:

- (1) The true name of the fortune telling practitioner;
 - (2) Each service provided by the fortune telling practitioner;
 - (3) The fees charged for each service provided by the fortune telling practitioner;
 - (4) The statement, "By law, this business is prohibited from charging or soliciting any fee, payment or remuneration beyond these established rates".
- b. The sign required by this subsection F9 shall be prominently posted in the interior of the business premises at a point near the entry and shall be conspicuously visible to every person seeking the services of the fortune teller. The sign lettering shall be of uniform size with each letter at least one-half inch ($\frac{1}{2}$ ") in height.
- c. If the fortune telling service is provided at a location other than the fortune teller's permanent place of business, the fortune

teller shall provide the information required by this subsection on eight and one-half by eleven inch (8¹/₂ x 11") paper and legibly printed or typewritten. The paper shall also include the name and permanent address of the person providing the fortune telling services. A true, correct and complete copy of such paper shall be given to each client prior to providing any fortune telling services.

d. No person shall charge any fee, payment, remuneration, or item of value for fortune telling services in excess of the fees set forth on the sign or paper required by this subsection F9.

10. Receipts: Prior to the acceptance of any money or item of value from a client, other than the acceptance of a gratuitous tip given voluntarily by the client, which is in addition to the fee, the fortune teller shall issue a written receipt to the client, clearly showing:

- a. Date;
- b. Name of client;
- c. Amount of money received or specific description of item of value received; and
- d. Purpose for which the money or item of value was received.

11. Client's Record Of Consultation: No person engaging in fortune telling services shall prohibit a client from making an audio recording or taking written notes of the information conveyed by the fortune teller.

12. Exception Entertainment: The provisions of this subsection shall not apply to any person engaged solely in the business of entertaining the public by demonstrations of fortune telling at public places and in the presence of and within the hearing of all other persons in attendance, and at which no questions are answered as part of such entertainment except in a manner to permit all persons present at such public place to hear such answers.

13. Exception; Religious Practice: The provisions of this subsection shall not be applicable to any person conducting or participating in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer, clairvoyant, or similar position (hereinafter collectively referred to as "minister") from any bona fide church or religious association having a creed or set of religious principles that is recognized by all churches of like faith which provides for fortune telling; provided, that:

a. Except as provided in subsection F13c of this section, the minister's fees, gratuities, emoluments, and profits shall be regularly accounted for and paid solely to or for the benefit of the bona fide church or religious association, as defined in this subsection.

b. The minister holding a certificate of ordination from such bona fide church or religious association, as defined in this subsection, shall file with the business license officer a certified copy of the minister's certificate of ordination and the minister's name, age, street address, and telephone number in this city where the activity set forth in this subsection is to be conducted.

c. Such bona fide church or religious association, as defined in this subsection, may pay to its ministers a salary or compensation based upon a percentage basis, pursuant to an agreement between the church or religious association and the minister which is embodied in a resolution and transcribed in the minutes of such church or religious association.

G. Parades:

1. Application And Approval: Parades will only be allowed in conjunction with a community civic event referenced in subsection E of this section.

2. Selling Activity During A Parade: In order to maintain public safety and promote the good order of a parade, no vendor, peddler, solicitor, or merchant shall be permitted in the parade route once the parade begins. No vendor, peddler, solicitor, or merchant shall be permitted to conduct business on sidewalks or walkways or other areas that may impede pedestrian traffic. Any vendor, peddler, solicitor, or merchant not located inside a commercial location shall be limited to side streets once the parade begins. No vendor, peddler, solicitor, or merchant shall impede the view of any spectator during the event. All vendors, peddlers, solicitors, and merchants shall be prohibited from selling products at or near the event that are deemed to be a nuisance or contrary to the good order of the parade. These items include, but are not limited to:

- a. Silly string;
- b. Snap caps;
- c. Party poppers;
- d. Any projectile and/or launcher.

3. Movement Of Public Safety Equipment: The conduct of such parade shall not interfere with the movement of firefighting or police equipment. (Ord. 1324, 12-18-1984; Ord. 1326, 5-7-1985; Ord. 1346, 3-18-1986; Ord. 1384 § 2, 8-4-1987; Ord. 1584, 10-19-1999; Ord. 1586, 5-16-2000; Ord. 1612, 8-20-2002; Ord. 1613 §§ 1, 2, 3, 9-17-2002; Ord. 1625, 11-19-2002; Ord. 1718 § 1, 3-20-2007)



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: City Council Member Requested Agenda Item - Consider Municipal Code Dog Leash Requirements

SOURCE: City Manager's Office

COMMENT: During Other Matters at its meeting on February 1, 2022, Vice Mayor Flores stated the request that the City Council consider and review the City's Code for dog leash requirements. Pursuant to the City Council Procedural Handbook, should the Council approve to consider Vice Mayor Flores' request, the subject would be considered as a Scheduled Matter at the Council's next regular meeting.

RECOMMENDATION: That the City Council approve Vice Mayor Flores' request to consider and review the City's Code for dog leash requirements as a Scheduled Matter at its next regular meeting.

ATTACHMENTS: 1. Municipal Code 5-2.24: Leash Requirements

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager

5-2.24: LEASH REQUIREMENTS:

It shall be unlawful for the owner or handler in lawful possession or control of a dog to walk the dog on any public place or right of way without the dog being secured or tethered by a fixed length leash not to exceed six feet (6'), and the number of dogs shall not exceed the number of dogs the owner or handler can reasonably and safely control and in no circumstance shall the number of dogs exceed three (3). (Ord. 1824, 6-16-2015)



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Status and Review of Local Emergency: Drought

SOURCE: City Manager's Office

COMMENT:

At its meeting of May 5, 2015, the City Council took action to approve a Resolution Declaring a Drought Emergency in the City of Porterville. At its meeting of February 1, 2022, the Council reviewed the status of existence of local emergency, and acted to continue its Resolution of local emergency.

Governor Brown issued Executive Order B-29-15 on Wednesday, April 1, 2015, which established drought-related mandates and restrictions in addition to those already stipulated in previous Executive Orders B-26-14 and B-28-14. Of significance, the Governor directed the State Water Resources Control Board to impose restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016, in comparison to the amount used in 2013, and with consideration given to per capita usage as a basis. The Governor further directed the Board to impose additional restrictions on commercial, industrial, and institutional properties with significant landscaping (cemeteries, golf courses, parks, schools, etc.), to also achieve a 25% reduction in potable water usage. Also of significance, the Board was directed to prohibit irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or micro-spray systems.

On November 13, 2015, Governor Brown issued Executive Order B-36-15, which extends emergency conservation regulations through October 2016, if drought conditions persist through January 2016. On February 2, 2016, the State Water Resources Control Board adopted extended emergency water conservation regulations, to be in effect March 1 through October 31, 2016.

The City of Porterville benefited somewhat from the extended regulations as the City's water conservation rate has been reduced from 32% to 26%, due to new water connections that have been made and population served (4%), as well as a new climate adjustment factor that was considered (2%).

On May 9, 2016, Governor Brown issued Executive Order B-37-16 ("Making Water Conservation a California Way of Life"), which directs the State Water Resources Control Board to establish new regulations making permanent the emergency conservation regulations. On May 18, 2016, the State Water Resources Control Board adopted a statewide water conservation approach that replaces the percentage reduction-based water conservation standard with a localized "stress test" approach that mandates urban water suppliers act immediately to ensure at least a three-year supply of water to their customers

under continued drought conditions.

On April 7, 2017, Governor Brown issued Executive Order B-40-17, which ended the drought state of emergency in most of California, with the exception of Fresno, Kings, Tulare and Tuolumne counties where emergency water supply and reliability projects are continuing toward addressing diminishing groundwater supplies. The Order maintains monthly reporting requirements and prohibitions on wasteful practices.

On May 31, 2018, Governor Brown signed both AB 1668 (Friedman) and SB 606 (Hertzberg), which set permanent overall targets for indoor and outdoor water consumption. The legislation sets an initial limit for indoor water use of 55 gallons per-person per-day in 2022, reducing to 52.5 gallons per-person per-day in 2025, and finally to 50 gallons per-person per-day in 2030. The amount of residential outdoor use is yet-to-be determined, but will allow for varying regional climates. In addition, a standard for water loss due to leak rates in water system pipes will be established. As an urban water provider, the City of Porterville will need to submit its plan for compliance for approval by the State Water Resources Control Board.

On March 5, 2021, Secretary Vilsack of the United States Department of Agriculture federally-designated Tulare County as a primary natural disaster area due to ongoing drought conditions. On April 21, 2021, Governor Newsom issued a State of Emergency Proclamation due to drought conditions, including Tulare County. On April 27, 2021, the Tulare County Board of Supervisors adopted a Resolution Proclaiming a Local Emergency due to severe drought conditions. On January 4, 2022, the State Water Resources Control Board adopted emergency regulations to supplement voluntary water conservation.

Initially within the city of Porterville, twenty-six (26) residences within the city were determined to have dry wells, for which City staff submitted a Mutual Aid Request to Tulare County OES to initiate the household tank program for identified properties within the city where wells are dry and challenged for permanent connection. The State has committed funding for non-profit agencies to continue drought-related activities, which Self-Help Enterprises has continued the household tank program locally, through State Cleanup and Abatement Account (CAA) emergency funds.

Representatives for the City, County, State (CalOES, DDW, DWR, and SWB) and non-profit partners have continued to meet in support of the long-term permanent water connection project for the entire East Porterville area and the estimated 1,800 expected future connections. DWR identified 423 residential units in the East Porterville area (381 of which are in the City's Urban Development Boundary), that were served by the County's Household Tank Program and desired by the State to be connected to the City's water distribution system as soon as possible. DWR has completed a significant City waterline extension project to permanently connect those 423 residential units to the City's water system (considered Phase I of the project). To provide initial source water for the DWR extension project, CalOES desired to expeditiously

connect the new well on Olive Avenue to the City's water system instead of being first equipped as a filling station. Given the new well has an estimated water production value of 800 gallons per minute, as well as a SWB assumed 1.5 gallons per minute per residence, the new well could effectively serve up to 500 single-family residential units. The City indicated its significant interest that the E. Vandalia Avenue area and its eighty (80) residential units be included in the water connection project, to which the State was agreeable.

Given CalOES has paid for the development of the new well, and its connection to the City's water system, the City will be required under "Drought Redundancy and Resiliency Provisions" to make available to the State up to three million gallons of water per month without charge for emergency purposes.

To proceed with the connection of the new well to the City's water system and the 500 East Porterville and E. Vandalia Avenue residential units, the City Council approved modifications to the Draft Agreement between the City and County at its meeting on April 5, 2016, which the County Board of Supervisors subsequently approved at their meeting on May 10, 2016.

A Memorandum of Understanding between the State, County, and City on the East Porterville permanent water connection project was approved by the Council during a Special Meeting on Tuesday, June 21, 2016, and approved by the Board of Supervisors on Tuesday, June 28, 2016. With the approval of the MOU, the State began the permanent connection of approximately forty (40) homes that are located along existing City water mains. Subsequently, the State officially requested that the City approve the connection of an additional thirty (30) residences as part of the first immediate connections, for up to a total of seventy (70), which the Council approved at its meeting on August 2, 2016.

In regards to the new well's development and connection to the City's water distribution system, the Board of Supervisors awarded the contract for equipping and connecting the new well at their meeting of Tuesday, August 16, 2016, and construction activities commenced the week of October 10, 2016.

County staff had previously indicated that the well would be in service and connected to the City's system no later than December 2016, however, the well was operational and connected to the City's water distribution as of Friday, February 17, 2017. Given the delay in the well's completion and connection, DWR requested that the Council consider allowing the connection of residences as they become prepared for connection, to which the Council was receptive, and a Draft MOU Amendment was approved by the Council at its meeting on December 6, 2016, and subsequently approved by the Board of Supervisors at its meeting on December 20, 2016. City staff continued to work with County staff toward the transfer of the well's ownership from the County to the City, which at its meeting on April 20, 2021, the Council approved the draft Transfer Agreement subject to the City Attorney's final form.

As of Friday, March 31, 2017, the date the State established as the final day for property owners to complete the registration process to participate in the State-

funded connection program opportunity, of the 1,017 eligible developed residential properties identified by the State for connection, 722 completed the required Extra-Territorial Services Agreement, leaving 295 developed residential properties non-responsive to this unique connection program, 23 of which were reported as having either dry or diminishing capacity wells. On February 6, 2018, the final residential connection was made of the approximate eligible 800 residences in East Porterville to the City's water system.

City staff continues to coordinate with Self-Help Enterprises and State representatives toward the extension of water mains to serve all residential properties within City limits and the city's periphery that are currently participating in the County's Household Tank Program. The two main areas of focus are N. Cobb Street (northwest of State Route 65 and Pioneer Avenue), and S. Cloverleaf Street (southeast of State Route 65 and Olive Avenue). The State has maintained its commitment to grant-fund the necessary infrastructure and connection fees, providing an official funding letter to the City on January 18, 2018, which commits up to \$2.81 million in funding until December 31, 2019. The authorization to advertise for bids for the water connection project was approved by the Council at its July 17th meeting, after which DWR reviewed the bid package for compliance and approved in December the package for advertisement. Council authorized award of the construction contract for approximately \$1.82 million at its meeting on January 15, 2019.

City staff conducted a pre-construction public outreach meeting with the affected residents on the status of the project on Thursday, April 4, 2019.

Council authorized the agreement with Self-Help Enterprises Inc. to provide the private residential connections at its meeting on July 2, 2019, and construction work began on the project. At its meeting on October 1, 2019, the Council accepted the public works segment of the project in the installation of water mains as complete, with Self-Help and CSET continuing to collaborate on the completion of the individual private connections and abandonment of private wells. City staff has recently been made aware that there may be a couple of additional residences whose wells are dry that are located along existing City water mains or may require further extension of water mains.

Staff is coordinating with State staff on addressing these new isolated needs.

County OES and the State Division of Drinking Water (DDW) have reported to the City that the Central Mutual Water Company, located south of the city and south of Gibbons Avenue, has had its well run dry and desires an immediate emergency connection to the City's water system to serve the 41 connections currently without water. DDW is wishing to support a financial application to upgrade the small water system to City standards (new water lines, meters ,etc.), and to sponsor an Urban Development Boundary (UDB) Amendment application to Tulare County Local Agency Formation Commission (LAFCO), given this area is currently outside the City's UDB but within the City's Urban Area Boundary (UAB). Given several private wells have run dry in this area, DDW is also attempting to sponsor their connection to the City's water system.

For source water capacity for the connections, DWR will include these new connections within the East Porterville water connection capacity development projects. At its Special meeting on August 30th, the City Council directed staff

to proceed with the immediate emergency connection of the Central water system, with the permanent connection of the system contingent upon an Agreement with DDW to the sponsorship conditions they have offered. At its meeting on October 1, 2019, the Council directed staff to proceed with the amendment of the UDB to facilitate annexation, which a public meeting with the affected residents was conducted on Wednesday, October 9, 2019. At its meeting on April 21, 2020, the Council conducted a Public Hearing and approved Resolutions of approval of the environmental determination and amendment to the UDB to facilitate annexation. At its meeting on June 1, 2021, the Council approved the State Water Board funding agreement for the development of a City-owned production well, distribution mains and water meters to serve each customer, as well as fire hydrants. On July 20, 2021, the City received notification from the State Water Board that the Akin/Central Water Consolidation Project funding agreement had been formally approved and executed.

DDW has also reported to the City that the Del Oro East Plano water system, located on Paul Street (southeast of the intersection of Plano Street and Worth Avenue), is experiencing problems with its existing well and have implemented severe water restrictions. The East Plano water system serves fourteen (14) residences and approximately 45 people. DDW is wishing to provide financial support to upgrade the small water system to City standards (new water lines, meters ,etc.), and for source water capacity for the connections, DDW would need to either pay appropriate fees and/or develop a capacity development project. The Council is aware that the Del Oro Grandview Gardens water system (north of W. North Grand Avenue) is also experiencing significant issues, and DDW may seek their future consolidation with the City's water system as well.

DDW has further reported to the City that the Beverly Grand Mutual Water Company water system, located north of West North Grand Avenue, is experiencing problems with its existing well and water quality issues, and desires its connection to the City's system to serve the 31 residences the system serves. DDW is wishing to provide financial support to upgrade the small water system to City standards (new water lines, meters ,etc.), and for source water capacity for the connections, DDW has agreed to pay appropriate fees toward developing a capacity development project, which at its meeting of October 3, 2017, the Council approved a purchase agreement with Smee Homes, Inc. for the acquisition of property along the Tule River for the development of a new municipal well. At its meeting of October 1, 2019, the Council approved proceeding with the consolidation of the Beverly Grand water system.

RECOMMENDATION: That the City Council receive the report of status and review of the Declaration of Local Emergency and determine the need exists to continue said Declaration.

ATTACHMENTS: 1. City of Porterville Resolution Declaring Local Drought

Item No. 11.

- Emergency: May 5, 2015
2. United States Department of Agriculture Drought Natural Disaster Area Designation: March 5, 2021
 3. State of California State of Emergency Proclamation: April 21, 2021
 4. County of Tulare Drought Local Emergency Resolution: April 27, 2021
 5. State Water Resources Control Board: Emergency Regulation - Water Conservation; January 4, 2022
 6. State Water Resources Control Board Funding Agreement: Akin/Central Water Consolidation Project

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager

RESOLUTION NO. 49-2015

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF PORTERVILLE DECLARING A DROUGHT EMERGENCY
WITHIN THE CITY OF PORTERVILLE

WHEREAS: in response to the ongoing severe drought, the State Water Resources Control Board approved an emergency regulation to ensure water agencies, their customers, and state residents increase water conservation in urban settings or face possible fines or other enforcement; and

WHEREAS: as we enter the fourth year of severe drought, long-term forecasts indicate no relief of the current drought conditions, and suggest a warmer-than-average summer, resulting in increased domestic demand for water; and

WHEREAS: public and private potable water supplies continue to be threatened due to decreasing supplies of groundwater caused by the precipitation deficit and an extended state of groundwater overdraft; and

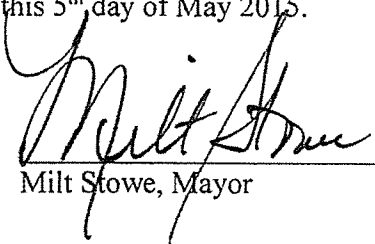
WHEREAS: the long-term ramifications of the current drought will have a significant impact on the city of Porterville and potentially pose a danger to the health and welfare of its residents; and

NOW, THEREFORE, BE IT RESOLVED: that the City Council of the City of Porterville does hereby proclaim that, due to drought conditions, a Local Emergency now exists in the city of Porterville and shall remain in effect for the duration of the emergency; and

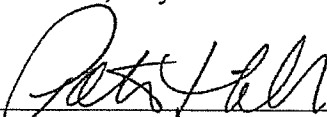
BE IT FURTHER RESOLVED: that the City Council of the City of Porterville requests the Governor and California Department of Water Resources make available California Disaster Assistance Act funding for the State of Local Emergency proclaimed on May 5, 2015, and seek all available forms of Federal assistance, to include a Presidential Declaration of Emergency and Individual Assistance and Public Assistance programs as applicable; and

BE IT FURTHER RESOLVED: that a copy of this resolution be forwarded to the State Director of the Office of Emergency Services.

PASSED, APPROVED, AND ADOPTED this 5th day of May 2015.


Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk


By: Patrice Hildreth, Chief Deputy City Clerk



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

March 5, 2021

The Honorable Gavin Newsom
Governor
State of California
Sacramento, California 95814

Dear Governor Newsom:

In accordance with 7 CFR 759.5(a), I am designating 50 California counties as primary natural disaster areas due to a recent drought.

According to the U.S. Drought Monitor (see <http://droughtmonitor.unl.edu/>), these counties suffered from a drought intensity value during the growing season of 1) D2 Drought-Severe for 8 or more consecutive weeks or 2) D3 Drought-Extreme or D4 Drought-Exceptional.

In accordance with section 321(a) of the Consolidated Farm and Rural Development Act, additional areas of your state and adjacent states are named as contiguous disaster counties. Enclosed you will find documentation that provides a detailed list of all primary and contiguous counties impacted by this disaster.

A Secretarial disaster designation makes farm operators in primary counties and those counties contiguous to such primary counties eligible to be considered for certain assistance from the Farm Service Agency (FSA), provided eligibility requirements are met. This assistance includes FSA emergency loans. Farmers in eligible counties have 8 months from the date of a Secretarial disaster declaration to apply for emergency loans. FSA considers each emergency loan application on its own merits, taking into account the extent of production losses on the farm and the security and repayment ability of the operator.

Local FSA offices can provide affected farmers with further information.

Sincerely,

A handwritten signature in blue ink, reading "Tom J. Vilsack", is positioned above the printed name of the Secretary.

Thomas J. Vilsack
Secretary

Enclosure

Disaster Designation Areas for California and Contiguous States

Primary Counties:

California	(50)			
Alameda	Glenn	Marin	Riverside	Solano
Alpine	Humboldt	Mariposa	Sacramento	Sonoma
Amador	Imperial	Mendocino	San Bernardino	Stanislaus
Butte	Inyo	Merced	San Francisco	Sutter
Calaveras	Kern	Modoc	San Joaquin	Tehama
Colusa	Kings	Mono	San Mateo	Trinity
Contra Costa	Lake	Napa	Santa Clara	Tulare
Del Norte	Lassen	Nevada	Shasta	Tuolumne
El Dorado	Los Angeles	Placer	Sierra	Yolo
Fresno	Madera	Plumas	Siskiyou	Yuba

Contiguous Counties:

California	(8)		
Monterey	San Benito	San Luis Obispo	Santa Cruz
Orange	San Diego	Santa Barbara	Ventura

In addition, in accordance with section 321(a) of the Consolidated Farm and Rural Development Act, counties in adjacent states are named as contiguous disaster areas. Those states, counties, and numbers are:

Contiguous Counties in Adjacent States:

Arizona	(3)		
La Paz	Mohave	Yuma	
Nevada	(8)		
Clark	Esmeralda	Mineral	Washoe
Douglas	Lyon	Nye	Carson City
Oregon	(5)		
Curry	Josephine	Lake	
Jackson	Klamath		

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

State of Emergency Proclamation

WHEREAS climate change is intensifying the impacts of droughts on our communities, environment and economy, and California must therefore improve drought resiliency and prepare to respond to more frequent, prolonged, and intense dry periods; and

WHEREAS much of the West is experiencing severe to exceptional drought and California is in a second consecutive year of dry conditions, resulting in drought or near-drought throughout many portions of the State; and

WHEREAS these drought conditions can result in degraded water quality, fallowing of productive farmland, setbacks to vulnerable and rural communities through job losses and longer-lasting recoveries, significant impacts to tribal, commercial, and recreational salmon fisheries, constraints on access to traditional lifeways, loss of aquatic and terrestrial biodiversity, and ecosystem impacts; and

WHEREAS drought conditions vary across the State and some watersheds, including the Russian River and Klamath Basin, are extremely dry and are facing substantial water supply and ecosystem challenges; and

WHEREAS it is necessary to expeditiously mitigate the effects of the drought conditions within the Russian River Watershed, located within Mendocino and Sonoma counties, to ensure the protection of health, safety, and the environment; and

WHEREAS experience in the last drought has demonstrated the value of preparing earlier for potential sustained dry conditions, the need to improve our monitoring and forecasting capabilities, and many other lessons that are captured in the Administration's *Report to the Legislature on the 2012-2016 Drought*; and

WHEREAS the State and its many partners have strengthened drought resilience since the last drought including state investments in water management systems, implementation of the Sustainable Groundwater Management Act, establishment of the Safe and Affordable Fund for Equity and Resilience Program, development of the Administration's *Water Resilience Portfolio*, and continued water conservation by Californians whose current statewide urban water use is 16% lower than at the beginning of the last drought; and

WHEREAS state agencies have been actively responding to current drought conditions and preparing for the possibility of a third dry year including through convenings of the interagency drought team, which was established at my direction, to organize, focus, and track changing conditions, coordinate state agency responses, and work closely with partners across the State; and

WHEREAS under the provisions of Government Code section 8558(b), I find that the conditions caused by the drought conditions, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single local government and require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the drought conditions; and

WHEREAS to protect public health and safety, it is critical the State take certain immediate actions without undue delay to prepare for and mitigate the effects of, the drought conditions within the Russian River Watershed, and under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Proclamation would prevent, hinder, or delay the mitigation of the effects of the drought conditions of the Russian River Watershed, located within Mendocino and Sonoma counties.

NOW THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in Mendocino and Sonoma counties due to drought conditions in the Russian River Watershed.

IT IS HEREBY ORDERED THAT:

1. To further the success of California's water conservation efforts and increase our drought preparedness, state agencies shall partner with local water districts and utilities to make all Californians aware of drought, and encourage actions to reduce water usage by promoting the Department of Water Resources' Save Our Water campaign (<https://saveourwater.com>) and other water conservation programs.
2. To continue coordination with partners across the State for the potential of prolonged drought impacts, the Department of Water Resources, the State Water Resources Control Board (Water Board), the Department of Fish and Wildlife, and the Department of Food and Agriculture shall work with regional and local governments, including groundwater sustainability agencies, to identify watersheds, communities, public water systems, and ecosystems that may require coordinated state and local actions to address issues stemming from continued dry conditions, to ensure that we can respond to water shortages and protect people, natural resources and economic activity.
3. To continue partnership and coordination with Californian Native American tribes, state agencies shall engage in consultation, collaboration, and communication with California Native American tribes to assist them in necessary preparation and response to drought conditions on tribal lands and potential impacts to cultural and traditional resources within ancestral lands.
4. To prioritize drought response and preparedness resources, the Department of Water Resources, the Water Board, the Department of Fish and Wildlife and the Department of Food and Agriculture, in consultation with the Department of Finance, shall:
 - a. Accelerate funding for water supply enhancement, water conservation, or species conservation projects.
 - b. Identify unspent funds that can be repurposed to enable projects to address drought impacts to people, ecosystems, and economic activities.
 - c. Recommend additional financial support for water resilience infrastructure projects and actions for potential inclusion in the upcoming May Revision.

5. To increase resilience of our water supplies during drought conditions, the Department of Water Resources shall:
 - a. Work with counties to encourage reporting of household water shortages, such as dry residential wells, on the website the Department maintains for that purpose, to enable tracking of drought impacts.
 - b. Work with counties, and groundwater sustainability agencies as appropriate, to help ensure that well drillers submit required groundwater well logs for newly constructed and deepened wells in a timely manner.
 - c. Work with agricultural water suppliers and agricultural water users to provide technical assistance, including implementation of efficient water management practices and use of technology such as the California Irrigation Management Information System.
 - d. Work with urban and agricultural water suppliers to encourage timely submittal by water districts and public posting of urban water management and water shortage contingency plans and agricultural water management and drought plans.
 - e. Accelerate updating the land subsidence data it is providing to support implementation of the Sustainable Groundwater Management Act.
6. To increase resilience of our water systems during drought conditions, the Water Board shall:
 - a. Use its authority, provide technical assistance, and where feasible provide financial assistance, to support regular reporting of drinking water supply well levels and reservoir water levels where the Water Board determines that there is risk of supply failure because of lowering groundwater levels or reservoir levels that may fall below public water system intakes.
 - b. Prioritize the permitting of public water systems that anticipate the need to activate additional supply wells where water quality is a concern and treatment installation needs to proceed to relieve a system's potential supply concerns.
 - c. Provide annual water demand data, information on water right priority, and other communications on water availability on its website.
 - d. Identify watersheds where current diversion data is insufficient to evaluate supply impacts caused by dry conditions, and take actions to ensure prompt submittal of missing data in those watersheds.
7. To address the acutely dry conditions in the Russian River Watershed, the Water Board shall consider:
 - a. Modifying requirements for reservoir releases or diversion limitations in that watershed to ensure adequate, minimal water supplies for critical purposes.
 - b. Adopting emergency regulations to curtail water diversions when water is not available at water rights holders' priority of right or to protect releases of stored water.

For purposes of carrying out this directive, Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division are suspended in the counties of Mendocino and Sonoma to the extent necessary to address the impacts of the drought in the Russian River Watershed. The Water Board shall identify the projects

eligible for the suspensions pursuant to this paragraph and maintain on its websites a list of the activities or approvals for which these provisions are suspended.

8. To ensure that equipment and services necessary for drought response in the Russian River Watershed can be procured quickly, the provisions of the Government Code and the Public Contract Code applicable to procurement, state contracts, and fleet assets, including, but not limited to, advertising and competitive bidding requirements, are hereby suspended to the extent necessary to address the effects of the drought in the Russian River Watershed, located within Mendocino and Sonoma counties. Approval of the Department of Finance is required prior to the execution of any contract entered into pursuant to this provision.
9. To increase the resilience of our natural habitats to protect vulnerable species during drought conditions, the Department of Fish and Wildlife shall:
 - a. Evaluate and take actions to protect terrestrial and aquatic species and, wherever possible, work with water users and other parties on voluntary measures to protect species.
 - b. Work to improve State hatcheries and increase water use efficiency on State wildlife areas and ecological reserves to maintain habitat for vulnerable species.
 - c. Respond to human-wildlife interactions related to ongoing dry conditions and increase public messaging and awareness.
 - d. Work with commercial and recreational salmon fishing and tribal representatives to anticipate and develop strategies to mitigate and respond to salmon fishery impacts, with particular emphasis on addressing impacts to salmon fisheries in the Klamath Basin.
10. To support our agricultural economy and food security during drought conditions, the Department of Food and Agriculture shall:
 - a. Provide technical assistance to support conservation planning, on-farm water and energy conservation practices and technologies, including augmenting the State Water Efficiency and Enhancement Program.
 - b. Conduct an economic analysis of drought impacts to agriculture, including land use, jobs, and rural food economies, expanding on existing research done in the last drought to include thorough regional analysis especially in the Central Valley, and in the implementation of the Sustainable Groundwater Management Act and alternative land uses for fallowed land.
 - c. Maintain a web page with drought resources for farmers and ranchers, including the United States Department of Agriculture and other federal and state resources.
 - d. Work with federal agencies to assist Klamath Basin farmers and ranchers contending with reduced water supplies.
11. To ensure the potential impacts of drought on communities are anticipated and proactively addressed, the Department of Water Resources, in coordination with the Water Board, shall develop groundwater management principles and strategies to monitor, analyze, and minimize impacts to drinking water wells.
12. To provide critical information on the different drought conditions across the State, the Department of Water Resources, in consultation with the Department of Fish and Wildlife, the Department of Food and Agriculture,

and the Water Board, shall develop a California Drought Monitor by December 31, 2021, as recommended in the Administration's Report to the Legislature on the 2012-2016 Drought.

13. To prepare for potential salinity issues in the Delta, the Department of Water Resources, in consultation with the Water Board, the Department of Fish and Wildlife, the Delta Stewardship Council, and the Central Valley Flood Protection Board, shall initiate actions necessary to prepare for and address potential Delta salinity issues during prolonged drought conditions.

14. To prepare for potential impacts of drought conditions on species, the Water Board and the Department of Fish and Wildlife shall work with federal agency partners to manage temperature conditions for the preservation of fish in the Sacramento River downstream of Shasta Dam while balancing water supply needs.

This Proclamation is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 21st day of April 2021



GAVIN NEWSOM
Governor of California

ATTEST:

DR. SHIRLEY WEBER
Secretary of State

RESOLUTION PROCLAIMING A LOCAL EMERGENCY BY THE BOARD OF SUPERVISORS COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF A)
LOCAL EMERGENCY DUE TO)
SEVERE DROUGHT CONDITIONS)

RESOLUTION NO. 2021-0290

WHEREAS, California's most recent drought spanning from approximately 2012 to 2018 required the proclamation of a Local Emergency by the County of Tulare from February 2014 to November 2019, as well as a Governor's State of Emergency and the combined resources of multiple local, state, and federal agencies, commercial entities, and non-profit organizations to mitigate; and

WHEREAS, over 3,000 failed or dry wells – including private domestic, community, and agricultural wells – were reported to Tulare County from 2014 to 2017 as a result of the prior drought, causing significant health, safety, and economic issues for Tulare County residents and businesses; and

WHEREAS, well over \$100 million in emergency relief and permanent infrastructure projects were expended to mitigate the effects of the prior drought; and

WHEREAS, a hydrological year ("water year") runs from October 1 to September 30 of the following year; and

WHEREAS, the current water year beginning October 1, 2020 is, to date, the third-driest on record, with potential to become the driest on record without significant additional precipitation which is unlikely to occur during the traditionally dry months; and

WHEREAS, the United States Drought Monitor shows that 94.51% of Tulare County is currently experiencing "Extreme Drought" (D3) conditions and the remaining 5.49% is in "Severe Drought" (D2) conditions, and the County of Tulare anticipates that these conditions will progress to "Exceptional Drought" (D4) conditions as occurred in the prior drought based on the current Southern Sierra snowpack measured at only 15% of historical average for April 1st, drastically reduced surface water allocations on the State Water Project and Central Valley Project, and correspondingly low water levels in local reservoirs; and

WHEREAS, surface water supply constraints create a demonstrable and unsustainable increase in demand for groundwater which is likely to cause additional dry wells for community water systems, private domestic wells, and agricultural wells, creating economic hardships and conditions of extreme peril to the health and safety of individuals within Tulare County requiring the combined forces of all levels of government to mitigate; and

WHEREAS, California Government Code section 8630 empowers the Board of Supervisors to proclaim the existence or threatened existence of a local emergency; and

WHEREAS, Section 1-15-1005 of the Tulare County Ordinance Code defines "emergency" to include "the actual or threatened existence of conditions of disaster or of

extreme peril to the safety of persons and property within [Tulare] County caused by such conditions as air pollution, fire, flood, storm, epidemic, riot, earthquake, or other conditions, ... which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of [Tulare] County, requiring the combined forces of other political subdivisions to combat"; and

NOW, THEREFORE, IT IS HEREBY PROCLAIMED that a local emergency now exists throughout said Tulare County due to drought which has created conditions of disaster and extreme peril to the safety of persons and property within the County, and that such conditions are or are likely to be beyond the control of the services, personnel, equipment, and/or facilities of this County, thus requiring the combined forces of other political subdivisions to combat; and

IT IS FURTHER PROCLAIMED that this local emergency is proclaimed pursuant to the California Emergency Services Act, California Government Code §8550 et seq.; and

IT IS REQUESTED that the Governor of the State of California find and proclaim Tulare County to be in a State of Emergency, and make available any and all material and financial support and resources necessary to combat the conditions of disaster, including but not limited to California Disaster Assistance Act funding for emergency protective measures and increased funding to relevant programs of the State Water Resources Control Board and Department of Water Resources; and

IT IS FURTHER REQUESTED that the Governor waive and all regulations and statutes that may hinder response to this emergency; and

IT IS PROCLAIMED AND ORDERED that during the existence of said local emergency, the powers, functions, and duties of the emergency organization of Tulare County shall be those prescribed by State law, by ordinances and resolutions of Tulare County, and by the Tulare County Operational Area Emergency Operations Plan, as approved by the Board of Supervisors.

UPON MOTION OF SUPERVISOR MICARI, SECONDED BY SUPERVISOR TOWNSEND, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD APRIL 27, 2021, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS MICARI, VANDER POEL, SHUKLIAN, VALERO AND TOWNSEND

NOES: NONE

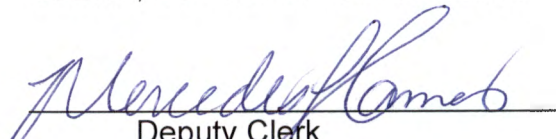
ABSTAIN: NONE

ABSENT: NONE

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS



BY:


Deputy Clerk

**STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2022-0002**

**TO ADOPT AN EMERGENCY REGULATION
TO SUPPLEMENT VOLUNTARY WATER CONSERVATION**

WHEREAS:

1. On April 21, May 10, and July 8, 2021, Governor Newsom issued proclamations that a state of emergency exists in a total of 50 counties due to severe drought conditions and directed state agencies to take immediate action to preserve critical water supplies and mitigate the effects of drought and ensure the protection of health, safety, and the environment.
2. On October 19, 2021, Governor Newsom signed a proclamation extending the drought emergency statewide and further urging Californians to reduce their water use.
3. There is no guarantee that winter precipitation will alleviate the current drought conditions.
4. Many Californians have taken bold steps over the years to reduce water use; nevertheless, the severity of the current drought and uncertainty about Water Year 2022 require additional conservation actions from residents and businesses.
5. Water conservation is the easiest, most efficient, and most cost-effective way to quickly reduce water demand and extend supplies into the next year, providing flexibility for all California communities. Water saved is water available next year, giving water suppliers the flexibility to manage their systems efficiently. The more water that is conserved now, the less likely it is that a community will experience such dire circumstances or that water rationing will be required.
6. Most Californians use more water outdoors than indoors. In many areas, 50 percent or more of daily water use is for lawns and outdoor landscaping. Outdoor water use is generally discretionary, and many irrigated landscapes would not suffer greatly from receiving a decreased amount of water.

7. Public information and awareness are critical to achieving conservation goals, and the Save Our Water campaign ([SaveOurWater.com](https://www.SaveOurWater.com)), run jointly by the Department of Water Resources (DWR) and the Association of California Water Agencies, is an excellent resource for conservation information and messaging that is integral to effective drought response.
8. [SaveWater.CA.Gov](https://www.SaveWater.CA.Gov) is an online tool designed to help save water in communities. This website lets anyone easily report water waste from their phone, tablet, or computer by simply selecting the type of water waste they see, typing in the address where the waste is occurring, and clicking send. These reports are filed directly with the State Water Resources Control Board (State Water Board or Board) and relevant local water supplier.
9. Enforcement against water waste is a key tool in conservation programs. When conservation becomes a social norm in a community, the need for enforcement is reduced or eliminated.
10. On October 19, 2021, the Governor suspended the environmental review required by the California Environmental Quality Act to allow State Water Board-adopted drought conservation emergency regulations and other actions to take place quickly to respond to emergency conditions.
11. Water Code section 1058.5 grants the State Water Board the authority to adopt emergency regulations in certain drought years in order to: “prevent the waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion, of water, to promote water recycling or water conservation, to require curtailment of diversions when water is not available under the diverter’s priority of right, or in furtherance of any of the foregoing, to require reporting of diversion or use or the preparation of monitoring reports.”
12. On November 30, 2021, the State Water Board issued public notice that the State Water Board would consider the adoption of the regulation at the Board’s regularly scheduled January 4, 2022 public meeting, in accordance with applicable State laws and regulations. The State Water Board also distributed for public review and comment a Finding of Emergency that complies with State laws and regulations.
13. The emergency regulation sets a minimum standard that many communities are already doing more but not everyone is taking these low-cost, easy to implement actions that can save significant amounts of water during a drought emergency.

14. Disadvantaged communities may require assistance in increasing water conservation, and state and local agencies should look for opportunities to provide assistance in promoting water conservation, including but not limited to translation of regulation text and dissemination of water conservation announcements into languages spoken by at least 10 percent of the people who reside in a water supplier's service area, such as in newspaper advertisements, bill inserts, website homepage, social media, and notices in public libraries.
15. The Board directs staff to consider the following in pursuing any enforcement of section 995, subdivision (b)(1)(A)-(F): before imposing monetary penalties, staff shall provide one or more warnings; monetary penalties must be based on an ability to pay determination, consider allowing a payment plan of at least 12 months, and shall not result in a tax lien; and Board enforcement shall not result in shutoff.
16. The Board encourages entities other than Board staff that consider any enforcement of this regulation to apply these same factors identified in resolved paragraph 15. Nothing in the regulation or in the enforcement provisions of the regulation precludes a local agency from exercising its authority to adopt more stringent conservation measures. Moreover, the Water Code does not impose a mandatory penalty for violations of the regulation adopted by this resolution, and local agencies retain their enforcement discretion in enforcing the regulation, to the extent authorized, and may develop their own progressive enforcement practices to encourage conservation.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts California Code of Regulations, title 23, section 995, as appended to this resolution as an emergency regulation.
2. State Water Board staff will submit the regulation to the Office of Administrative Law (OAL) for final approval.
3. If, during the approval process, State Water Board staff, the State Water Board, or OAL determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or designee may make such changes.

4. This regulation shall remain in effect for one year after filing with the Secretary of State unless the State Water Board determines that it is no longer necessary due to changed conditions or unless the State Water Board renews the regulation due to continued drought conditions, as described in Water Code section 1058.5.
5. The State Water Board directs State Water Board staff to work with the Department of Water Resources and the Save Our Water campaign to disseminate information regarding the emergency regulations.
6. Nothing in the regulation or in the enforcement provisions of the regulation precludes a local agency from exercising its authority to adopt more stringent conservation measures. Local agencies are encouraged to develop their own progressive enforcement practices to promote conservation.

CERTIFICATION

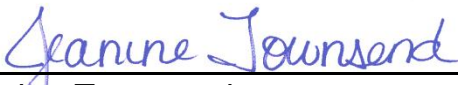
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on January 4, 2022.

AYE: Vice Chair Dorene D'Adamo
Board Member Sean Maguire
Board Member Laurel Firestone
Board Member Nichole Morgan

NAY: None

ABSENT: Chair E. Joaquin Esquivel

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

ADOPTED TEXT OF EMERGENCY REGULATION

Title 23. Waters

Division 3. State Water Resources Control Board and Regional Water Quality Control Boards

Chapter 3.5. Urban Water Use Efficiency and Conservation

Article 2. Prevention of Drought Wasteful Water Uses

§ 995. Wasteful and Unreasonable Water Uses.

(a) As used in this section:

(1) "Turf" has the same meaning as in section 491.

(2) "Incidental runoff" means unintended amounts (volume) of runoff, such as unintended, minimal overspray from sprinklers that escapes the area of intended use. Water leaving an intended use area is not considered incidental if it is part of the facility or system design, if it is due to excessive application, if it is due to intentional overflow or application, or if it is due to negligence.

(b)(1) To prevent the unreasonable use of water and to promote water conservation, the use of water is prohibited as identified in this subdivision for the following actions:

(A) The application of potable water to outdoor landscapes in a manner that causes more than incidental runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures;

(B) The use of a hose that dispenses water to wash a motor vehicle, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use;

(C) The use of potable water for washing sidewalks, driveways, buildings, structures, patios, parking lots, or other hard surfaced areas, except in cases where health and safety are at risk;

(D) The use of potable water for street cleaning or construction site preparation purposes, unless no other method can be used or as needed to protect the health and safety of the public;

(E) The use of potable water for decorative fountains or the filling or topping-off of decorative lakes or ponds, with exceptions for those decorative fountains, lakes, or ponds that use pumps to recirculate water and only require refilling to replace evaporative losses;

(F) The application of water to irrigate turf and ornamental landscapes during and within 48 hours after measurable rainfall of at least one fourth of one inch of rain. In determining whether measurable rainfall of at least fourth of one inch of rain occurred in a given area, enforcement may be based on records of the National Weather Service, the closest CIMIS station to the parcel, or any other reliable source of rainfall data available to the entity undertaking enforcement of this subdivision; and

(G) The use of potable water for irrigation of ornamental turf on public street medians.

(2) Notwithstanding subdivision (b)(1), the use of water is not prohibited by this section to the extent necessary to address an immediate health and safety need. This may include, but is not limited to, the use of potable water in a fountain or water feature when required to be potable because human contact is expected to occur.

(c)(1) To prevent the unreasonable use of water and to promote water conservation, any homeowners' association or community service organization or similar entity is prohibited from:

(A) Taking or threatening to take any action to enforce any provision of the governing documents or architectural or landscaping guidelines or policies of a common interest development where that provision is void or unenforceable under section 4735, subdivisions (a) and (b) of the Civil Code;

(B) Imposing or threatening to impose a fine, assessment, or other monetary penalty against any owner of a separate interest for reducing or eliminating the watering of vegetation or lawns during a declared drought emergency, as described in section 4735, subdivision (c) of the Civil Code; or

(C) Requiring an owner of a separate interest upon which water-efficient landscaping measures have been installed in response to a declared drought emergency, as described in section 4735, subdivisions (c) and (d) of the Civil Code, to reverse or remove the water-efficient landscaping measures upon the conclusion of the state of emergency.

(2) As used in this subdivision:

(A) "Architectural or landscaping guidelines or policies" includes any formal or informal rules other than the governing documents of a common interest development.

(B) "Homeowners' association" means an "association" as defined in section 4080 of the Civil Code.

(C) "Common interest development" has the same meaning as in section 4100 of the Civil Code.

(D) "Community service organization or similar entity" has the same meaning as in section 4110 of the Civil Code.

(E) "Governing documents" has the same meaning as in section 4150 of the Civil Code.

(F) "Separate interest" has the same meaning as in section 4185 of the Civil Code.

(3) If a disciplinary proceeding or other proceeding to enforce a rule in violation of subdivision (c)(1) is initiated, each day the proceeding remains pending shall constitute a separate violation of this regulation.

(d) To prevent the unreasonable use of water and to promote water conservation, any city, county, or city and county is prohibited from imposing a fine under any local maintenance ordinance or other relevant ordinance as prohibited by section 8627.7 of the Government Code.

(e) The taking of any action prohibited in subdivision (b), (c) or (d) is an infraction punishable by a fine of up to five hundred dollars (\$500) for each day in which the violation occurs. The fine for the infraction is in addition to, and does not supersede or limit, any other remedies, civil or criminal.

(f) A decision or order issued under this section by the Board or an officer or employee of the Board is subject to reconsideration under article 2 (commencing with section 1122) of chapter 4 of part 1 of division 2 of the Water Code.

Authority: Section 1058.5, Water Code.

References: Article X, Section 2, California Constitution; Sections 4080, 4100, 4110, 4150, 4185, and 4735, Civil Code; Section 8627.7, Government Code; Sections 102, 104, 105, 275, 350, 491, and 1122, Water Code; *Light v. State Water Resources Control Board* (2014) 226 Cal.App.4th 1463; *Stanford Vina Ranch Irrigation Co. v. State of California* (2020) 50 Cal.App.5th 976.



DRINKING WATER CONSTRUCTION LOAN

AGREEMENT NO. SWRCB0000000000D2002017

by and between

CITY OF PORTERVILLE ("Recipient")

and

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD ("State Water Board")



STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

for the purpose of the

AKIN/CENTRAL WATER CONSOLIDATION PROJECT
5410010-018C AND 5400655-001C ("Project")

- Section 116760 et seq. of the Health and Safety Code and Resolution Nos. 2019-0065 and 2020-0022.

PROJECT FUNDING AMOUNT: \$4,787,664

PRINCIPAL FORGIVENESS COMPONENT: \$4,787,664

ESTIMATED REASONABLE PROJECT COST: \$4,787,664

ELIGIBLE WORK START DATE: JULY 1, 2016

ELIGIBLE CONSTRUCTION START DATE: SEPTEMBER 22, 2020

CONSTRUCTION COMPLETION DATE: OCTOBER 1, 2023

FINAL REIMBURSEMENT REQUEST DATE: APRIL 1, 2024

RECORDS RETENTION END DATE: OCTOBER 1, 2059

1. The State Water Board and the Recipient mutually promise, covenant, and agree to the terms, provisions, and conditions of this Agreement, including the following Exhibits, which are attached hereto or are incorporated by reference:
 - Exhibit A – Scope of Work and Schedule
 - Exhibit B – Specific Funding Provisions
 - Exhibit C – GENERAL TERMS AND CONDITIONS 2019-NOV
 - Exhibit D – Special Conditions
2. The following documents are also incorporated by reference:
 - the Drinking Water System Permit No. 03-12-06P-004;
 - the Davis-Bacon requirements found at:
https://www.waterboards.ca.gov/water_issues/programs/grants_loans/srf/docs/davisbacon/2020_dwsrf_governmental_entities.pdf
3. Party Contacts during the term of this Agreement are:

State Water Board		City of Porterville	
Section:	Division of Financial Assistance		
Name:	Pete Stamas, Project Manager	Name:	Monte Reyes, Mayor
Address:	1001 I Street, 16th Floor	Address:	291 North Main Street
City, State, Zip:	Sacramento, CA 95814	City, State, Zip:	Porterville, CA 93257
Phone:	(916) 552-9983	Phone:	(559) 782-7499
Fax:		Fax:	
Email:	Pete.Stamas@waterboards.ca.gov	Email:	montereyes@portervilleca.gov

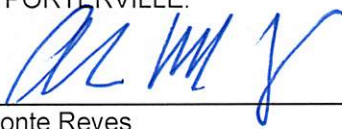
Each party may change its contact upon written notice to the other party. While Party Contacts are contacts for day-to-day communications regarding Project work, the Recipient must provide official communications and notices to the Division's Deputy Director.

4. Conditions precedent to this Agreement are set forth as follows:
 - (a) The Recipient must deliver an opinion of general counsel satisfactory to the State Water Board's counsel dated on or after the date that the Recipient signs this Agreement.
 - (b) The Recipient must deliver to the Division a resolution authorizing this Agreement and identifying its authorized representative by title.
 - (c) The Recipient must deliver to the Division a resolution certifying that its decision-making body reviewed and considered the Mitigated Negative Declaration filed by the State Water Board for the Akin Water Company Water Supply Project together with the Mitigation Monitoring and Reporting Program and reached its own conclusions on whether and how to approve the Project, pursuant to Section 15050 (b) of the CEQA Guidelines.
5. The Recipient represents, warrants, and commits to the following as of the Eligible Work Start Date and continuing thereafter for the term of this Agreement, which shall be at least until the Records Retention End Date:
 - (a) The Recipient agrees to comply with all terms, provisions, conditions, and commitments of this Agreement, including all incorporated documents.
 - (b) The execution and delivery of this Agreement, including all incorporated documents, has been duly authorized by the Recipient. Upon execution by both parties, this Agreement constitutes a valid and binding obligation of the Recipient, enforceable in accordance with its terms, except as such enforcement may be limited by law.

- (c) None of the transactions contemplated by this Agreement will be or have been made with an actual intent to hinder, delay, or defraud any present or future creditors of Recipient. The Recipient is solvent and will not be rendered insolvent by the transactions contemplated by this Agreement. The Recipient is able to pay its debts as they become due. The Recipient maintains sufficient insurance coverage considering the scope of this Agreement, including, for example but not necessarily limited to, general liability, automobile liability, workers compensation and employer liability, professional liability.
- (d) The Recipient is in compliance with all State Water Board funding agreements to which it is a party.

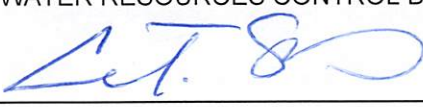
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CITY OF PORTERVILLE:

By: 
Name: Monte Reyes
Title: Mayor

Date: 6/1/2021

STATE WATER RESOURCES CONTROL BOARD:

By: 
Name: Leslie Laudon
Title: Deputy Director *for*
Division of Financial Assistance

Date: 7/15/21

EXHIBIT A – SCOPE OF WORK AND SCHEDULE

A.1. PROJECT PURPOSE AND DESCRIPTION.

The Project is for the benefit of the Recipient and has a Useful Life of at least 40 years. The funding under this Agreement shall be used to provide the residents of two small disadvantaged communities currently served by Akin Water Company (Akin WC) and Central Mutual Water Company (Central MWC) with a sustainable source of safe drinking water.

A.2. SCOPE OF WORK.

The Recipient agrees to do the following: consolidate with Akin WC and Central MWC. Recipient also agrees to construct a new production well, estimated to produce between 1,300 and 1,800 gallons per minute, to provide the needed source capacity for the consolidation of Akin WC, the consolidation of Central MWC, as well as satisfy the remainder of East Porterville residents' capacity needs.

The Recipient agrees to do the following for the Akin WC service area: construct approximately 1,500 feet of 8-inch waterline to provide water service to each customer currently served by Akin WC; install approximately three new fire hydrants and twenty-six new service laterals and meters; and destroy Akin WC's two existing wells.

The Recipient agrees to do the following for the Central MWC service area: construct approximately 1,400 feet of 6-inch waterline to provide water service to each customer currently served by Central MWC; install approximately four new fire hydrants and thirty-four new service laterals and meters; and destroy Central MWC's existing well.

Upon Completion of Construction, the Recipient must expeditiously initiate Project operations.

A.3 SIGNAGE

The Recipient must place a professionally prepared sign at least four feet tall by eight feet wide made of ¾ inch thick exterior grade plywood or other approved material in a prominent location on the Project site and must maintain the sign in good condition for the duration of Project implementation. The sign may include another agency's required information and must include, prominently displayed, the following disclosure statement and color logos (available from the Division):



"Funding for this project has been provided in full or in part under the Drinking Water State Revolving Fund, which may include capitalization funding from the United States Environmental Protection Agency through an agreement with the State Water Resources Control Board."

A.4 SCHEDULE.

Failure to provide items by the due dates indicated in the table below may constitute a material violation of this Agreement. The Project Manager may adjust the dates in the "Estimated Due Date" column of this table, but Critical Due Date adjustments will require an amendment to this Agreement. The Recipient

must complete and submit all work in time to be approved by the Division prior to the Project Completion Date. As applicable for specific submittals, the Recipient must plan adequate time to solicit, receive, and address comments prior to submitting the final submittal. The Recipient must submit the final Reimbursement Request prior to the Final Reimbursement Request Date set forth on the Cover Page.

ITEM	DESCRIPTION OF SUBMITTAL	CRITICAL DUE DATE	ESTIMATED DUE DATE
EXHIBIT A – SCOPE OF WORK			
A.	ADDITIONAL SUBMITTAL(S) TO DIVISION		
1.	Final Plans and Specifications		September 1, 2021
2.	Final Budget Approval Package		February 1, 2022
3.	Completion of Construction	October 1, 2023	
B.	REPORTS		
1.	Progress Reports		Quarterly
2.	Final Inspection and Certification		October 1, 2023
3.	Project Completion Report		December 1, 2023
4.	As Needed Reports		TBD
EXHIBIT B – REIMBURSEMENTS, BUDGET DETAIL, AND REPORTING PROVISIONS			
A.	REIMBURSEMENTS		
1.	Reimbursement Requests		Quarterly
2.	Final Reimbursement Request	April 1, 2024	

The Recipient must award the prime construction contract and begin construction timely. The Recipient must deliver any request for extension of the Completion of Construction Date no less than 90 days prior to the Completion of Construction Date.

A.5 PROGRESS REPORTS.

The Recipient must provide a progress report to the Division each quarter, beginning no later than 90 days after execution of this Agreement. The Recipient must provide a progress report with each Reimbursement Request. Failure to provide a complete and accurate progress report may result in the withholding of Project Funds, as set forth in Exhibit B. A progress report must contain the following information:

- 1) A summary of progress to date including a description of progress since the last report, percent construction complete, percent contractor invoiced, and percent schedule elapsed;
- 2) A description of compliance with environmental requirements;
- 3) A listing of change orders including amount, description of work, and change in contract amount and schedule; and
- 4) Any problems encountered, proposed resolution, schedule for resolution, and status of previous problem resolutions.

A.6 SPECIAL REPORTS.

(a) The Recipient must submit a Project Completion Report to the Division with a copy to the appropriate District Office on or before the due date established by the Division and the Recipient at the time of final project inspection. The Project Completion Report must include the following:

- i. Description of the Project,
- ii. Description of the water quality problem the Project sought to address,
- iii. Discussion of the Project's likelihood of successfully addressing that water quality problem in the future, and
- iv. Summary of compliance with applicable environmental conditions.

(b) If the Recipient fails to submit a timely Project Completion Report, the State Water Board may stop processing pending or future applications for new financial assistance, withhold reimbursements under this Agreement or other agreements, and begin administrative proceedings.

(c) The Recipient must report Disadvantaged Business Enterprise (DBE) utilization to the Division on the DBE Utilization Report, State Water Board Form DBE UR334. The Recipient must submit such reports to the Division annually within ten (10) calendar days following October 1 until such time as the "Notice of Completion" is issued. The Recipient must comply with 40 CFR § 33.301 and require its contractors and subcontractors on the Project to comply.

A.7 FINAL PROJECT INSPECTION AND CERTIFICATION.

Upon completion of the Project, the Recipient must provide for a final inspection and must certify that the Project has been completed in accordance with this Agreement, any final plans and specifications submitted to the State Water Board, and any amendments or modifications thereto. If the Project involves the planning, investigation, evaluation, design, or other work requiring interpretation and proper application of engineering, or other professionals, the final inspection and certification must be conducted by a California Registered Civil Engineer or other appropriate California registered professional. The results of the final inspection and certification must be submitted to the Project Manager.

EXHIBIT B – FUNDING AMOUNTS

B.1 ESTIMATED REASONABLE COST AND PROJECT FUNDS.

The estimated reasonable cost of the total Project is set forth on the Cover Page of this Agreement and is greater than or equal to the funding anticipated to be provided by the State Water Board under this Agreement. Subject to the terms of this Agreement, the State Water Board agrees to provide Project Funds not to exceed the amount of the Project Funding Amount set forth on the Cover Page of this Agreement.

B.2 RECIPIENT CONTRIBUTIONS.

(a) The loan component of this Agreement is forgiven. The estimated amount of principal that will be due to the State Water Board from the Recipient under this Agreement is Zero dollars and no cents (\$0.00).

(b) The Recipient must pay any and all costs connected with the Project including, without limitation, any and all Project Costs. If the Project Funds are not sufficient to pay the Project Costs in full, the Recipient must nonetheless complete the Project and pay that portion of the Project Costs in excess of available Project Funds, and shall not be entitled to any reimbursement therefor from the State Water Board.

(c) If the Recipient recovers funds from any responsible parties, the Recipient shall immediately notify the Division. The amount of this Agreement may be reduced to reflect the recovered funds.

B.3 VERIFIABLE DATA.

Upon request by the Division, the Recipient must submit verifiable data to support deliverables specified in the Scope of Work. The Recipient's failure to comply with this requirement may be construed as a material breach of this Agreement.

B.4 BUDGET COSTS

Budget costs are contained in the Summary Project Cost Table below:

LINE ITEM	TOTAL ESTIMATED COST	PROJECT FUNDING AMOUNT
Construction	\$3,194,720	\$3,194,720
Pre-Purchased Material/Equipment	\$0	\$0
Purchase of Land	\$0	\$0
Contingency	\$638,944	\$638,944
Allowances (Soft Costs)	\$954,000	\$954,000
TOTAL	\$4,787,664	\$4,787,664

The Division's Final Budget Approval and related Form 259 and Form 260 will document a more detailed budget of eligible Project Costs and Project funding amounts.

The Recipient is prohibited from requesting disbursement amounts that represent Recipient's mark-ups to costs invoiced or otherwise requested by consultants or contractors.

Reasonable indirect costs may be allowable upon approval by the Division.

B.5 LINE ITEM ADJUSTMENTS.

Upon written request by the Recipient, the Division may adjust the line items of the Summary Project Cost Table at the time of Division's Final Budget Approval. Upon written request by the Recipient, the Division may also adjust the line items of the Summary Project Cost Table as well as the detailed budget at the time of Recipient's submittal of its final claim. Any line item adjustments to the Summary Project Cost Table that are due to a change in scope of work will require an Agreement amendment. The sum of adjusted line items in both the Summary

Project Cost Table and the detailed budget must not exceed the Project Funding Amount. The Division may also propose budget adjustments.

Under no circumstances may the sum of line items in the budget approved through the Final Budget Approval process exceed the Project Funding Amount. Any increase in the Project Funding Amount will require an Agreement amendment.

B.6 REIMBURSEMENT PROCEDURE.

(a) Except as may be otherwise provided in this Agreement, reimbursements will be made as follows:

1. Upon execution and delivery of this Agreement by both parties, the Recipient may request immediate reimbursement of any eligible incurred costs as specified below through submission to the State Water Board of the Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed.
2. The Recipient must submit a Reimbursement Request for costs incurred prior to the date this Agreement is executed by the State Water Board no later than ninety (90) days after this Agreement is executed by the State Water Board. Late Reimbursement Requests may not be honored.
3. Additional Project Funds will be promptly disbursed to the Recipient upon receipt of Reimbursement Request Form 260 and Form 261, or any amendment thereto, duly completed and executed by the Recipient for incurred costs consistent with this Agreement, along with receipt of progress reports due under Exhibit A.
4. The Recipient must not request reimbursement for any Project Cost until such cost has been incurred and is currently due and payable by the Recipient, although the actual payment of such cost by the Recipient is not required as a condition of reimbursement. Supporting documentation (e.g., receipts) must be submitted with each Reimbursement Request. The amount requested for Recipient's administration costs must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = total amount claimed). Reimbursement of Project Funds will be made only after receipt of a complete, adequately supported, properly documented, and accurately addressed Reimbursement Request. Upon request by the Division, supporting documents for professional and administrative services must include the employees' names, classifications, labor rates, hours worked, and descriptions of the tasks performed. Reimbursement Requests submitted without supporting documents may be wholly or partially withheld at the discretion of the Division.
5. The Recipient must spend Project Funds within 30 days of receipt. If the Recipient earns interest earned on Project Funds, it must report that interest immediately to the State Water Board. The State Water Board may deduct earned interest from future reimbursements.
6. The Recipient shall not request a reimbursement unless that Project Cost is allowable, reasonable, and allocable.
7. Notwithstanding any other provision of this Agreement, no reimbursement shall be required at any time or in any manner which is in violation of or in conflict with federal or state laws, policies, or regulations.

(b) Notwithstanding any other provision of this Agreement, the Recipient agrees that the State Water Board may retain an amount equal to ten percent (10%) of the Project Funding Amount until Project Completion. Any retained amounts due to the Recipient will be promptly disbursed to the Recipient, without interest, upon Project Completion.

(c) Except as follows, construction costs and disbursements are not available until after the Division has approved the final budget form submitted by the Recipient. The Deputy Director of the Division may authorize the disbursement of up to ten percent (10%) of Project Funds for the reimbursement of eligible construction costs and pre-purchased materials prior to Division approval of the final budget form submitted by the Recipient. All other construction costs are not eligible for reimbursement until after this the Division has approved the final budget form submitted by the Recipient. Construction costs incurred prior to the Eligible Construction Start Date are not eligible for reimbursement.

B.7 REVERTING FUNDS AND DISENCUMBRANCE.

In the event the Recipient does not submit Reimbursement Requests for all funds encumbered under this Agreement by the Final Reimbursement Request Date, any remaining funds revert to the State. The State Water Board may notify the Recipient that the project file is closed, and any remaining balance will be disencumbered and unavailable for further use under the Agreement.

EXHIBIT C – GENERAL TERMS AND CONDITIONS 2019-NOV

GENERAL TERMS AND CONDITIONS 2019-NOV is incorporated by reference and is posted at
https://www.waterboards.ca.gov/water_issues/programs/grants_loans/general_terms.html

EXHIBIT D – SPECIAL CONDITIONS

1. Notwithstanding Exhibit C, the following terms have no meaning for the purposes of this Agreement:

- Work Completion
- Work Completion Date

2. Each capitalized term used in this Agreement has the following meaning:

- "Allowance" means an amount based on a percentage of the accepted bid for an eligible project to help defray the planning, design, and construction engineering and administration costs of the Project.
- "Authorized Representative" means the duly appointed representative of the Recipient as set forth in the certified original of the Recipient's authorizing resolution that designates the authorized representative by title.
- "Completion of Construction" means the date, as determined by the Division after consultation with the Recipient, that the work of building and erection of the Project is substantially complete, and is established on the Cover Page of this Agreement.
- "District Office" means District Office of the Division of Drinking Water of the State Water Board.
- "Division of Drinking Water" means the Division of Drinking Water of the State Water Board.
- "Eligible Construction Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which construction costs may be incurred and eligible for reimbursement hereunder.
- "Eligible Work Start Date" means the date set forth on the Cover Page of this Agreement, establishing the date on or after which any non-construction costs may be incurred and eligible for reimbursement hereunder.
- "Enterprise Fund" means the enterprise fund of the Recipient in which Revenues are deposited.
- "Event of Default" means, in addition to the meanings set forth in Exhibit C, the occurrence of any of the following events:
 - a) A material adverse change in the condition of the Recipient, the Revenues, or the System, which the Division reasonably determines would materially impair the Recipient's ability to satisfy its obligations under this Agreement.
 - b) Failure to operate the System or the Project without the Division's approval;
- "Final Budget Approval" means the Division-approved final budget for the Project, as set forth in Exhibit B.
- "Indirect Costs" means those costs that are incurred for a common or joint purpose benefiting more than one cost objective and are not readily assignable to the Project (i.e., costs that are not directly related to the Project). Examples of Indirect Costs include, but are not limited to: central service costs; general administration of the Recipient; non-project-specific accounting and personnel services performed within the Recipient organization; depreciation or use allowances on buildings and equipment; the costs of operating and maintaining non-project-specific facilities; tuition and conference fees; generic overhead or markup; and taxes.
- "Initiation of Construction" means the date that notice to proceed with work is issued for the Project, or, if notice to proceed is not required, the date of commencement of building and erection of the Project.
- "Net Revenues" means, for any Fiscal Year, all Revenues received by the Recipient less the Operations and Maintenance Costs for such Fiscal Year.
- "Operations and Maintenance Costs" means the reasonable and necessary costs paid or incurred by the Recipient for maintaining and operating the System, determined in accordance with GAAP, including all

reasonable expenses of management and repair and all other expenses necessary to maintain and preserve the System in good repair and working order, and including all reasonable and necessary administrative costs of the Recipient that are charged directly or apportioned to the operation of the System, such as salaries and wages of employees, overhead, taxes (if any), the cost of permits, licenses, and charges to operate the System and insurance premiums; but excluding, in all cases depreciation, replacement, and obsolescence charges or reserves therefor and amortization of intangibles.

- "Reimbursement Request" means the Recipient's request for Project Funds from the State Water Board as set forth in Exhibit B.
- "Revenues" means, for each Fiscal Year, all gross income and revenue received or receivable by the Recipient from the ownership or operation of the System, determined in accordance with GAAP, including all rates, fees, and charges (including connection fees and charges) as received by the Recipient for the services of the System, and all other income and revenue howsoever derived by the Recipient from the ownership or operation of the System or arising from the System, including all income from the deposit or investment of any money in the Enterprise Fund or any rate stabilization fund of the Recipient or held on the Recipient's behalf, and any refundable deposits made to establish credit, and advances or contributions in aid of construction.
- "System" means all drinking water collection, transport, treatment, storage, and delivery facilities, including land and easements thereof, owned by the City of Porterville, or its successor agency, and all other properties, structures, or works hereafter acquired and constructed by the Recipient and determined to be a part of the System, together with all additions, betterments, extensions, or improvements to such facilities, properties, structures, or works, or any part thereof hereafter acquired and constructed.
- "Useful Life" means the economically useful life of the Project beginning at Project Completion and is set forth in Exhibit A.

3. Acknowledgements.

The Recipient must include the following acknowledgement in any document, written report, or brochure to be shared with the general public prepared in whole or in part pursuant to this Agreement:

"Funding for this project has been provided in full or in part under the Drinking Water State Revolving Fund, which may include capitalization funding from the United States Environmental Protection Agency through an agreement with the State Water Resources Control Board. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

4. Rates and Charges. The Recipient must, to the extent permitted by law, fix, prescribe and collect rates, fees and charges for the System during each Fiscal Year which are reasonable, fair, and nondiscriminatory and which will be sufficient to generate Revenues in the amounts necessary to cover Operations and Maintenance Costs, and must ensure that Net Revenues are in an amount necessary to meet its obligations under this Agreement. The Recipient may make adjustments from time to time in such fees and charges and may make such classification thereof as it deems necessary, but shall not reduce the rates, fees and charges then in effect unless the Net Revenues from such reduced rates, fees, and charges will at all times be sufficient to meet the requirements of this section.
5. [RESERVED]
6. [RESERVED].

7. Environmental/Technical Special Conditions

Technical:

1. The Recipient shall submit its professional engineering services contract to the Division prior to disbursement of funds for costs incurred under such contract.
2. The Recipient shall not solicit bids, award a contract, or commence construction activities until final plans and specifications are approved by the Division of Drinking Water Tulare District Office Engineer and the Project Manager.
3. The Recipient must submit final consolidation agreements with Akin WC and Central MWC, in a form satisfactory to the Division, and receive written approval from the Project Manager to proceed before Project Funds may be disbursed for any Project Costs under the Agreement.
4. Upon completion of the Project the Recipient shall submit a water supply permit amendment request for review to the Division of Drinking Water Tulare District Office.

Environmental:

1. The documents identified below are incorporated by reference and the Recipient shall comply with the conditions and recommendations therein:
 - a. The Mitigation Monitoring and Reporting Program adopted by the State Water Board on June 16, 2016 for the Project. The Recipient shall implement all mitigation measures therein.
 - b. The letter dated February 12, 2020, from Patricia Cole of the United States Fish and Wildlife Service, San Joaquin Valley Division to Douglas E. Eberhardt of the United States Environmental Protection Agency, including, but not limited to, the following:
 - i. Implement Avoidance and Minimization Measures and Best Management Practices prior to and during construction activities to minimize and avoid effects to the San Joaquin kit fox.
 - c. The Mitigation Monitoring and Reporting Program adopted by the City of Porterville on April 21, 2020 for the Central Mutual Water Company Consolidation Project. The Recipient shall implement all mitigation measures therein.
2. In the Recipient's Quarterly Reports submitted pursuant to this Agreement, the Recipient shall include a discussion of the status of its compliance with environmental measures identified in this Exhibit D, with separate sections clearly labeled and titled, discussing the status of Recipient's compliance.
3. In the Recipient's Project Completion Report submitted pursuant to this Agreement, the Recipient shall include a discussion of its compliance with environmental measures identified in this Exhibit D, with separate sections clearly labeled and titled, discussing the status of Recipient's compliance.
8. [RESERVED].
9. Appointment of Receiver/Custodian. Upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the State Water Board under this Agreement, the State Water Board may make application for the appointment of a receiver or custodian of the Revenues, pending such proceeding, with such power as the court making such appointment may confer.
10. [RESERVED].
11. Damages for Breach of Federal Conditions. In the event that any breach of any of the provisions of this Agreement by the Recipient results in the failure of Project Funds to be used pursuant to the provisions of this Agreement, or if such breach results in an obligation on the part of the State or any subdivision or agency thereof to reimburse the federal government, the Recipient must immediately reimburse the State or any subdivision or agency thereof in an amount equal to any damages paid by or loss incurred by the State or any subdivision or agency thereof due to such breach.

12. [RESERVED].

13. Operation and Maintenance. The Recipient shall sufficiently and properly staff, operate, and maintain the facility and structures constructed or improved as part of the project throughout the term of this Agreement, consistent with the purposes of this Agreement. The Recipient assumes all operations and maintenance costs of the facilities and structures; the State Water Board shall not be liable for any cost of such maintenance, management or operation.

14. Insurance. The Recipient will procure and maintain or cause to be maintained insurance on the System and Project with responsible insurers, or as part of a reasonable system of self-insurance, in such amounts and against such risks (including damage to or destruction of the System or Project) as are usually covered in connection with systems similar to the System or Project. Such insurance may be maintained by a self-insurance plan so long as such plan provides for (i) the establishment by the Recipient of a separate segregated self-insurance fund in an amount determined (initially and on at least an annual basis) by an independent insurance consultant experienced in the field of risk management employing accepted actuarial techniques and (ii) the establishment and maintenance of a claims processing and risk management program. In the event of any damage to or destruction of the System or Project caused by the perils covered by such insurance, the net proceeds thereof shall be applied to the reconstruction, repair or replacement of the damaged or destroyed portion of the System or Project. The Recipient must begin such reconstruction, repair or replacement as expeditiously as possible, and must pay out of such net proceeds all costs and expenses in connection with such reconstruction, repair or replacement so that the same must be completed and the System and Project must be free and clear of all claims and liens. Recipient agrees that for any policy of insurance concerning or covering the construction of the Project, it will cause, and will require its contractors and subcontractors to cause, a certificate of insurance to be issued showing the State Water Board, its officers, agents, employees, and servants as additional insured; and must provide the Division with a copy of all such certificates prior to the commencement of construction of the Project.

15. Notice Events. Upon the occurrence of any of the following events, the Recipient must notify the Division's Deputy Director and Party Contacts by phone and email within the time specified below:

- a. The Recipient must notify the Division within 24 hours by phone at (916) 327-9978 and by email to DrinkingWaterSRF@waterboards.ca.gov of any discovery of any potential tribal cultural resource and/or archaeological or historical resource. Should a potential tribal cultural resource and/or archaeological or historical resource be discovered during construction or Project implementation, the Recipient must ensure that all work in the area of the find will cease until a qualified archaeologist has evaluated the situation and made recommendations regarding preservation of the resource, and the Division has determined what actions should be taken to protect and preserve the resource. The Recipient must implement appropriate actions as directed by the Division.
- b. The Recipient must notify the Division promptly of the occurrence of any of the following events:
 - i. Bankruptcy, insolvency, receivership or similar event of the Recipient, or actions taken in anticipation of any of the foregoing;
 - ii. Change of ownership of the Project (no change of ownership may occur without written consent of the Division);
 - iii. Loss, theft, damage, or impairment to Project;
 - iv. Events of Default, except as otherwise set forth in this section;

- v. A proceeding or action by a public entity to acquire the Project by power of eminent domain.
- vi. Any litigation pending or threatened with respect to the Project or the Recipient's technical, managerial or financial capacity or the Recipient's continued existence;
- vii. Consideration of dissolution, or disincorporation;
- viii. Enforcement actions by or brought on behalf of the State Water Board or Regional Water Board.
- ix. The discovery of a false statement of fact or representation made in this Agreement or in the application to the Division for this funding, or in any certification, report, or request for reimbursement made pursuant to this Agreement, by the Recipient, its employees, agents, or contractors;
- x. Any substantial change in scope of the Project. The Recipient must undertake no substantial change in the scope of the Project until prompt written notice of the proposed change has been provided to the Division and the Division has given written approval for the change;
- xi. Any circumstance, combination of circumstances, or condition, which is expected to or does delay Completion of Construction for a period of ninety (90) days or more;
- xii. Any Project monitoring, demonstration, or other implementation activities required in this Agreement;
- xiii. Any public or media event publicizing the accomplishments and/or results of this Agreement and provide the opportunity for attendance and participation by state representatives with at least ten (10) working days' notice to the Division;
- xiv. Any event requiring notice to the Division pursuant to any other provision of this Agreement.
- xv. Completion of work on the Project.
- xvi. The Recipient must promptly notify the Division and Party Contacts of cessation of all major construction work on the Project where such cessation of work is expected to or does extend for a period of thirty (30) days or more;
- xvii. The Recipient must promptly notify the Division and Party Contacts of the discovery of any unexpected endangered or threatened species, as defined in the federal Endangered Species Act. Should a federally protected species be unexpectedly encountered during implementation of the Project, the Recipient agrees to promptly notify the Division. This notification is in addition to the Recipient's obligations under the federal Endangered Species Act;
- xviii. The Recipient must promptly notify the Division and Party Contacts of Completion of Construction, and Project Completion;
- xix. The Recipient must promptly notify the Division and Party Contacts of the award of the prime construction contract for the Project; and the Recipient must promptly notify the Division and Party Contacts of Initiation of construction of the Project.

xx. The occurrence of a material breach or event of default under any Recipient obligation that results in the acceleration of principal or interest or otherwise requires immediate prepayment, repurchase or redemption.

xxi. [RESERVED].

16. Continuous Use of Project; No Lease, Sale, Transfer of Ownership, or Disposal of Project. The Recipient agrees that, except as provided in this Agreement, it will not abandon, substantially discontinue use of, lease, sell, transfer ownership of, or dispose of all or a significant part or portion of the Project during the Useful Life of the Project without prior written approval of the Division. Such approval may be conditioned as determined to be appropriate by the Division, including a condition requiring repayment of all disbursed Project Funds or all or any portion of all remaining funds covered by this Agreement together with accrued interest and any penalty assessments that may be due.
17. State Cross-Cutters. Recipient represents that, as applicable, it complies and covenants to maintain compliance with the following for the term of the Agreement:
- a) The California Environmental Quality Act (CEQA), as set forth in Public Resources Code 21000 et seq. and in the CEQA Guidelines at Title 14, Division 6, Chapter 3, Section 15000 et seq.
 - b) Water Conservation requirements, including regulations in Division 3 of Title 23 of the California Code of Regulations.
 - c) Monthly Water Diversion Reporting requirements, including requirements set forth in Water Code section 5103.
 - d) Public Works Contractor Registration with Department of Industrial Relations requirements, including requirements set forth in Sections 1725.5 and 1771.1 of the Labor Code.
 - e) Volumetric Pricing & Water Meters requirements, including the requirements of Water Code sections 526 and 527.
 - f) Urban Water Management Plan requirements, including the Urban Water Management Planning Act (Water Code, § 10610 et seq.).
 - g) Urban Water Demand Management requirements, including the requirements of Section 10608.56 of the Water Code.
 - h) Delta Plan Consistency Findings requirements, including the requirements of Water Code section 85225 and California Code of Regulations, title 23, section 5002.
 - i) Agricultural Water Management Plan Consistency requirements, including the requirements of Water Code section 10852.
 - j) Charter City Project Labor Requirements, including the requirements of Labor Code section 1782 and Public Contract Code section 2503.
 - k) The Recipient agrees that it will, at all times, comply with and require its contractors and subcontractors to comply with directives or orders issued pursuant to Division 7 of the Water Code.
18. Financial Management Systems. The Recipient must comply with federal standards for financial management systems. The Recipient agrees that, at a minimum, its fiscal control and accounting procedures will be sufficient to permit preparation of reports required by the federal government and tracking of Project funds to a level of expenditure adequate to establish that such funds have not been

used in violation of federal or state law or the terms of this Agreement. To the extent applicable, the Recipient is bound by, and must comply with, the provisions and requirements of the federal Single Audit Act of 1984 and 2 CFR Part 200, subpart F, and updates or revisions, thereto.

19. Access and Inspection. In addition to the obligations set forth in section 2 of the General Terms and Conditions incorporated in Exhibit C of this Agreement, the Recipient must ensure that the United States Environmental Protection Agency, the Office of Inspector General, any member of Congress, or any authorized representative of the foregoing, will have safe and suitable access to the Project site at all reasonable times during the term of the Agreement.
20. Fraud, Waste, and Abuse. The Recipient shall prevent fraud, waste, and the abuse of Project Funds, and shall cooperate in any investigation of such activities that are suspected in connection with this Agreement. The Recipient understands that discovery of any evidence of misrepresentation or fraud related to reimbursement requests, invoices, proof of payment of invoices, or other supporting information, including but not limited to double or multiple billing for time, services, or any other eligible cost, may result in referral to the Attorney General's Office or the applicable District Attorney's Office for appropriate action. The Recipient further understands that any suspected occurrences of false claims, misrepresentation, fraud, forgery, theft or any other misuse of Project Funds may result in withholding of reimbursements and/or the termination of this Agreement requiring the immediate repayment of all funds disbursed hereunder.
21. Disputes. The Recipient must continue with the responsibilities under this Agreement during any dispute. The Recipient may, in writing, appeal a staff decision within 30 days to the Deputy Director of the Division or designee, for a final Division decision. The Recipient may appeal a final Division decision to the State Water Board within 30 days. The Office of the Chief Counsel of the State Water Board will prepare a summary of the dispute and make recommendations relative to its final resolution, which will be provided to the State Water Board's Executive Director and each State Water Board Member. Upon the motion of any State Water Board Member, the State Water Board will review and resolve the dispute in the manner determined by the State Water Board. Should the State Water Board determine not to review the final Division decision, this decision will represent a final agency action on the dispute. This provision does not preclude consideration of legal questions, provided that nothing herein shall be construed to make final the decision of the State Water Board, or any official or representative thereof, on any question of law. This section relating to disputes does not establish an exclusive procedure for resolving claims within the meaning of Government Code sections 930 and 930.4.
22. Additional Representations and Warranties. The Recipient makes the following representations and warranties:
 - a. [RESERVED].
 - b. The Recipient has not made any untrue statement of a material fact in its application for this financial assistance, or omitted to state in its application, a material fact that makes the statements in its application not misleading.
 - c. The Recipient agrees to fulfill all assurances, declarations, representations, and commitments in its application, accompanying documents, and communications filed in support of its request for funding under this Agreement.
 - d. The execution, delivery, and performance by Recipient of this Agreement, including all incorporated documents, do not violate any provision of any law or regulation in effect as of the date set forth on the first page hereof, or result in any breach or default under any contract, obligation, indenture, or other instrument to which Recipient is a party or by which Recipient is bound as of the date set forth on the Cover Page.

- e. Except as set forth in this paragraph, there are, as of the date of execution of this Agreement by the Recipient, no pending or, to Recipient's knowledge, threatened actions, claims, investigations, suits, or proceedings before any governmental authority, court, or administrative agency which materially affect the financial condition or operations of the Recipient, the Revenues, and/or the Project.
 - f. There are no proceedings, actions, or offers by a public entity to acquire by purchase or the power of eminent domain any of the real or personal property related to or necessary for the Project.
 - g. The Recipient is duly organized and existing and in good standing under the laws of the State of California. Recipient must at all times maintain its current legal existence and preserve and keep in full force and effect its legal rights and authority. Within the preceding ten years, the Recipient has not failed to demonstrate compliance with state or federal audit disallowances.
 - h. Any financial statements or other financial documentation of Recipient previously delivered to the State Water Board as of the date(s) set forth in such financial statements or other financial documentation: (a) are materially complete and correct; (b) present fairly the financial condition of the Recipient; and (c) have been prepared in accordance with GAAP. Since the date(s) of such financial statements or other financial documentation, there has been no material adverse change in the financial condition of the Recipient, nor have any assets or properties reflected on such financial statements or other financial documentation been sold, transferred, assigned, mortgaged, pledged or encumbered, except as previously disclosed in writing by Recipient and approved in writing by the State Water Board.
 - i. The Recipient is current in its continuing disclosure obligations associated with its material debt, if any.
 - j. The Recipient has no conflicting or material obligations, except as set forth in this paragraph.
 - k. The Recipient legally possesses all real property rights necessary for the purposes of this Agreement, not subject to third party revocation, which rights extend at least to the Records Retention End Date of this Agreement, except as set forth in this paragraph.
 - l. The Recipient and its principals, to the best of the Recipient's knowledge and belief, are not presently debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in any work overseen, directed, funded, or administered by the State Water Board program for which this grant funding is authorized; nor have they engaged or permitted the performance of services covered by this Agreement from parties that are debarred or suspended or otherwise excluded from or ineligible for participation in any work overseen, directed, funded, or administered by the State Water Board program for which this grant funding is authorized.
 - m. The Recipient possesses all water rights necessary for this Project.
23. Federal SRF Requirements. The Recipient acknowledges, warrants compliance with, and covenants to continuing compliance with the following federal terms and conditions for the Useful Life of the Project:
- a. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the Recipient shall not purchase "iron and steel products" produced outside of the United States on this Project. Unless the Recipient has obtained a waiver from USEPA on file with the State Water Board or unless this Project is not a project for the construction, alteration, maintenance or repair of a public water system or treatment work, the

Recipient hereby certifies that all "iron and steel products" used in the Project were or will be produced in the United States. For purposes of this section, the term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. "Steel" means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

- b. The Recipient must include in full the Wage Rate Requirements (Davis-Bacon) language incorporated by reference in Section 2 of this Agreement in all construction contracts and subcontracts.
- c. The Recipient shall notify the State Water Board and the USEPA contact of public or media events publicizing the accomplishment of significant events related to this Project and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.
- d. The Recipient shall comply with applicable EPA general terms and conditions found at <http://www.epa.gov/ogd>.
- e. No Recipient may receive funding under this Agreement unless it has provided its DUNS number to the State Water Board.
- f. [RESERVED]
- g. The Recipient represents and warrants that it and its principals are not excluded or disqualified from participating in this transaction as such terms are defined in Parts 180 and 1532 of Title 2 of the Code of Federal Regulations (2 CFR). If the Recipient is excluded after execution of this Agreement, the Recipient shall notify the Division within ten (10) days and shall inform the Division of the Recipient's exclusion in any request for amendment of this Agreement. The Recipient shall comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR. Such compliance is a condition precedent to the State Water Board's performance of its obligations under this Agreement. When entering into a covered transaction as defined in Parts 180 and 1532 of 2 CFR, the Recipient shall require the other party to the covered transaction to comply with Subpart C of Part 180 of 2 CFR, as supplemented by Subpart C of Part 1532 of 2 CFR.
- h. To the extent applicable, the Recipient shall disclose to the State Water Board any potential conflict of interest consistent with USEPA's Final Financial Assistance Conflict of Interest Policy at <https://www.epa.gov/grants/epas-final-financial-assistance-conflict-interest-policy>. A conflict of interest may result in disallowance of costs.
- i. USEPA and the State Water Board have the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement.
- j. Where an invention is made with Project Funds, USEPA and the State Water Board retain the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the Recipient. The Recipient must utilize the Interagency Edison extramural invention reporting system at <http://Edison.gov> and shall notify the Division when an invention report, patent report, or utilization report is filed.

- k. The Recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this Agreement shall contain the Disclosure statement set forth in Exhibit A.
- l. The Recipient acknowledges that it is encouraged to follow guidelines established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194, with respect to enabling individuals with disabilities to participate in its programs supported by this Project.
- m. The Recipient, its employees, contractors and subcontractors and their employees warrants that it will not engage in severe forms of trafficking in persons, procure a commercial sex act during the term of this Agreement, or use forced labor in the performance of this Agreement. The Recipient must include this provision in its contracts and subcontracts under this Agreement. The Recipient must inform the State Water Board immediately of any information regarding a violation of the foregoing. The Recipient understands that failure to comply with this provision may subject the State Water Board to loss of federal funds. The Recipient agrees to compensate the State Water Board for any such funds lost due to its failure to comply with this condition, or the failure of its contractors or subcontractors to comply with this condition. The State Water Board may unilaterally terminate this Agreement if the Recipient that is a private entity is determined to have violated the foregoing.
- n. The Recipient certifies to the best of its knowledge and belief that:
 - i. No federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - ii. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and notify the State Water Board.
 - iii. The Recipient shall require this certification from all parties to any contract or agreement that the Recipient enters into and under which the Recipient incurs costs for which it seeks disbursements under this Agreement.
- o. The Recipient must comply with the following federal non-discrimination requirements:
 - i. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP).
 - ii. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities.
 - iii. The Age Discrimination Act of 1975, which prohibits age discrimination.
 - iv. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex.
 - v. 40 CFR Part 7, as it relates to the foregoing.
 - vi. Executive Order 13798, including, to the greatest extent practicable and to the extent permitted by law, the requirement to respect and protect the freedom of persons and organizations to engage in political and religious speech
 - vii. All applicable federal civil rights regulations, including statutory and national policy requirements (2 CFR section 200.300).

- p. Executive Order No. 11246. The Recipient shall include in its contracts and subcontracts related to the Project the following provisions:

"During the performance of this contract, the contractor agrees as follows:"(a) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

"(b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

"(c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

"(d) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

"(e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

"(f) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

"(g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, That in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States."

- q. The Recipient agrees to comply with the requirements of USEPA's Program for Utilization of Small, Minority and Women's Business Enterprises as set forth in this Agreement.
- r. Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans; 42 USC § 7606; 33 USC § 1368. Except where the purpose of this Agreement is to remedy the cause of the violation, the Recipient may not procure goods, services, or materials from suppliers excluded under the federal System for Award Management: <http://www.sam.gov/>.
- s. Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended; 42 USC §§4601-4655. The Recipient must comply with the Act's implementing regulations at 49 CFR 24.101 through 24.105.
- t. The Recipient agrees that if its network or information system is connected to USEPA networks to transfer data using systems other than the Environmental Information Exchange Network or USEPA's Central Data Exchange, it will ensure that any connections are secure.
- u. All geospatial data created pursuant to this Agreement that is submitted to the State Water Board for use by USEPA or that is submitted directly to USEPA must be consistent with Federal Geographic Data Committee endorsed standards. Information on these standards may be found at www.fgdc.gov.
- v. If the Recipient is a water system that serves 500 or fewer persons, the Recipient represents that it has considered publicly-owned wells as an alternative drinking water supply.
- w. The Recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.
- x. The Recipient agrees to immediately notify the Project Manager in writing about any allegation of research misconduct involving research activities that are supported in whole or in part with EPA funds under this Project, including fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, or ordering, advising, or suggesting that subordinates engage in research misconduct.
- y. The Recipient agrees to comply with, and require all contractors and subcontractors to comply with, EPA's Scientific Integrity Policy, available at <https://www.epa.gov/osa/policy-epa-scientific-integrity>, when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue.
- z. The Recipient shall not suppress, alter, or otherwise impede the timely release of scientific findings or conclusions; intimidate or coerce scientists to alter scientific data, findings, or professional opinions or exert non-scientific influence on scientific advisory boards; knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty; or otherwise violate the EPA's Scientific Integrity Policy. The Recipient must refrain from acts of research misconduct, including publication or reporting, as described in EPA's Policy and Procedures for Addressing Research Misconduct, Section 9.C, and must ensure scientific findings are generated and

disseminated in a timely and transparent manner, including scientific research performed by contractors and subcontractors.

- aa. The Recipient agrees to comply with the Animal Welfare Act of 1966 (7 USC 2131-2156). Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training," available at <http://grants.nih.gov/grants/olaw/references/phspol.htm#USGovPrinciples>.
- bb. The Recipient certifies that no Project Funds will be used on:
 - i. Video surveillance or telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
 - ii. Telecommunications or video surveillance services produced by such entities;
 - iii. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country; or
 - iv. Other telecommunications or video surveillance services or equipment in violation of [2 CFR 200.216](#).



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Consideration of Revised City Council District Electoral Boundaries as Required by Elections Code Section 21621 - Public Hearing No. 4

SOURCE: Administrative Services

COMMENT: Every ten (10) years following the decennial census, cities with by-district election systems must use new census data to review and, if needed, redraw district lines to reflect how local populations have changed. This process, called redistricting, ensures all districts have a nearly equal population. The redistricting process for the City of Porterville must be completed by April 17, 2022.

The City adopted its current district boundaries in 2018, based on 2010 census data as required by law. The districts must now be redrawn using the 2020 census data and in compliance with the FAIR MAPS Act, which was adopted by the California legislature as AB 849 and took effect January 1, 2020.

Under the Act, the City Council shall draw and adopt boundaries using the following criteria in the listed order of priority (Elections Code 21621(c)):

1. Comply with the federal requirements of equal population and the Voting Rights Act
2. Be geographically contiguous
3. Undivided neighborhoods and “communities of interest” (socio-economic geographic areas that should be kept together)
4. Display easily identifiable boundaries
5. Be compact (do not bypass one group of people to get to a more distant group of people)
6. Shall not favor or discriminate against a political party

Once the prioritized criteria are met, other traditional districting principles can be considered, such as:

1. Minimize the number of voters delayed from voting in 2022 to 2024
2. Respect voters’ choices/continuity in office
3. Future population growth

By law, the City must hold at least four public hearings that enable community members to provide input on the drawing of district maps:

- At least one hearing must occur before the city or county draws draft maps

- At least two hearings must happen after the drawing of draft maps
- The fourth hearing can happen either before or after the drawing of draft maps
- City or county staff or consultants may hold a public workshop instead of one of the required public redistricting hearings

To increase the accessibility of these hearings, cities and counties must take the following steps:

- At least one hearing must occur on a Saturday, Sunday, or after 6:00 p.m. on a weekday
- If a redistricting hearing is consolidated with another local government meeting, the redistricting hearing must be begin at a pre-designated time
- Local public redistricting hearings must be made accessible with people with disabilities

Determining population balance is typically done by measuring the spread, or deviation, between the least populated district and the greatest populated district. Deviations of ten percent (10%) or less are generally considered acceptable under U.S. Supreme Court rulings on equal protection. The City's population is 62,889. The ideal population of a Council district is one-fifth of that population, or 12,577.

Analysis of the City's current district boundaries, adjusted for the 2020 Census data, shows the districts are no longer population balanced. District 2 is under populated by -7.38% and District 4 is over populated at 7.33% for a combined total deviation of 14.71%. The district boundaries must be adjusted to achieve a population balance of ten percent (10%) or less.

Another consideration in the drawing of district boundaries is the distribution of minority voters throughout the City and whether there is a possibility of creating a majority/minority voting district as required under the federal Voting Rights Act. It is important that the analysis of the 2020 Census Data review the ethnicity demographics, specifically voting age populations (VAP) and Citizen Voting Age Populations (CVAP). Upon review of the City's VAP and CVAP data, Districts 1, 2, 3 and 5 are currently majority/minority Hispanic voting districts. Upon rebalancing the populations, care will be taken to preserve those demographic characteristics.

Maps

The map and accompanying demographic information of the City's current districts is provided herein as Attachment 1. In the current district boundaries, four of the five districts (1, 2, 3 & 5) are majority/minority population. Regarding population, current district boundaries must be adjusted for population balance, as the total deviation is higher than the "acceptable" range at 14.71%.

At the previous Public Hearings, the Council provided direction to begin with a simple population rebalance of the existing districts. As such, the City's

Redistricting consultant prepared one draft map option for Council's consideration. Draft Map Option 1 and accompanying demographic information is attached to this report as Attachment 2. Further, an online tool for closely examining the boundaries, with zoom and search capabilities, may be found here:

[Map Link](#)

Map Option 1

Map Option 1 closely resembles the Council's current district boundaries, particularly with respect to geography and the core of the existing districts. In fact, by moving just four small population centers, the map was able to achieve a deviation of just .86% (less than one percent). The populations moved were in the south, where Districts 3 and 5 meet, in the center of the City just east of Sierra View medical center, and in the center of the City where Districts 2 and 5 meet, just north of Henderson Avenue between Indiana Avenue and N. Jaye Street. As stated above, the map is population balanced at just .86% deviation, and preserves Districts 1, 2, 3 and 5 as majority/minority Hispanic voting districts. A complete demographic breakdown of Map Option 1 is attached to this report (Attachment 2).

In addition to the one consultant drawn map, one map was received from a member of the public using the online mapping tool. It was presented at the hearing as Map Option 2.

Map Option 2

Option 2 was submitted by a member of the public. While retaining the center of existing districts, it does not resemble the current district boundaries and moves a significant number of voters from one district to another. Option 2 is population balanced, with a deviation of 5.22%. The map draws Districts 2-5 as majority/minority Hispanic voting districts, shifting from Districts 1, 2, 3 and 5 as in the current map and Option 1. A complete demographic breakdown of Map Option 2 is attached to this report (Attachment 3).

At the Hearing on February 1, 2022, the Council expressed a preference for Map Option 1 and requested staff bring back an Ordinance finalizing the selection of a preferred map.

The purpose of this Public Hearing is to receive continued input regarding communities of interest and other local factors that should be considered for district maps. After receiving public input, the Council may introduce the Ordinance finalizing the selection of a preferred map.

RECOMMENDATION:

That the City Council:

1. Conduct a Public Hearing to receive public input on district boundaries; and
2. Adopt the draft Ordinance, An Ordinance of the City Council of the City of Porterville Adjusting the Boundaries of City

Council Electoral Districts and Redefining the Boundaries of all City Council Electoral Districts of the City of Porterville, California; Give first reading by title only; and order the Ordinance to print.

ATTACHMENTS:

1. Redistricting Attachment 1_Current Map
2. Redistricting Attachment 2_Map Option 1
3. Redistricting Attachment 3_Map Option 2
4. Draft Ordinance

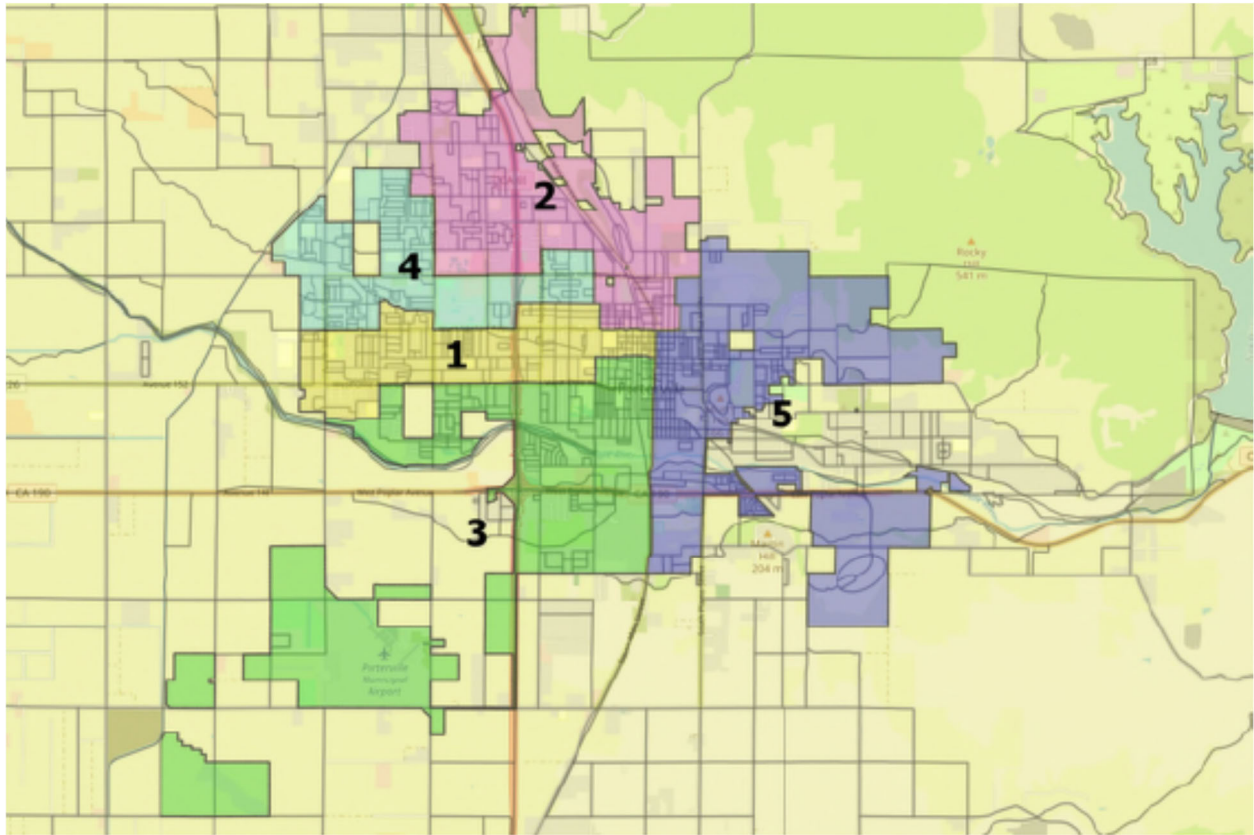
Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, Deputy City Manager

Final Approver: John Lollis, City Manager

Current Map with Demographic Analysis

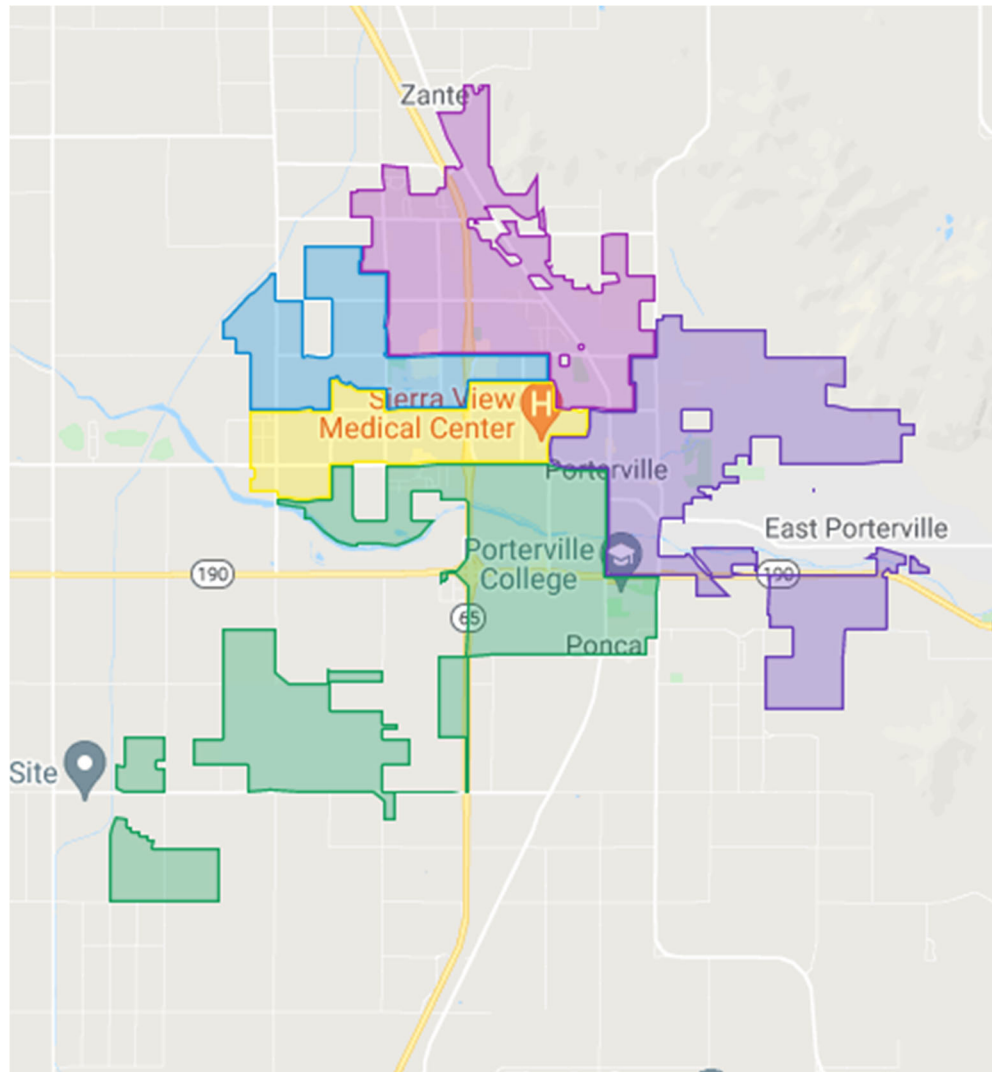


Existing Districts with 2020 Census Data Overlay

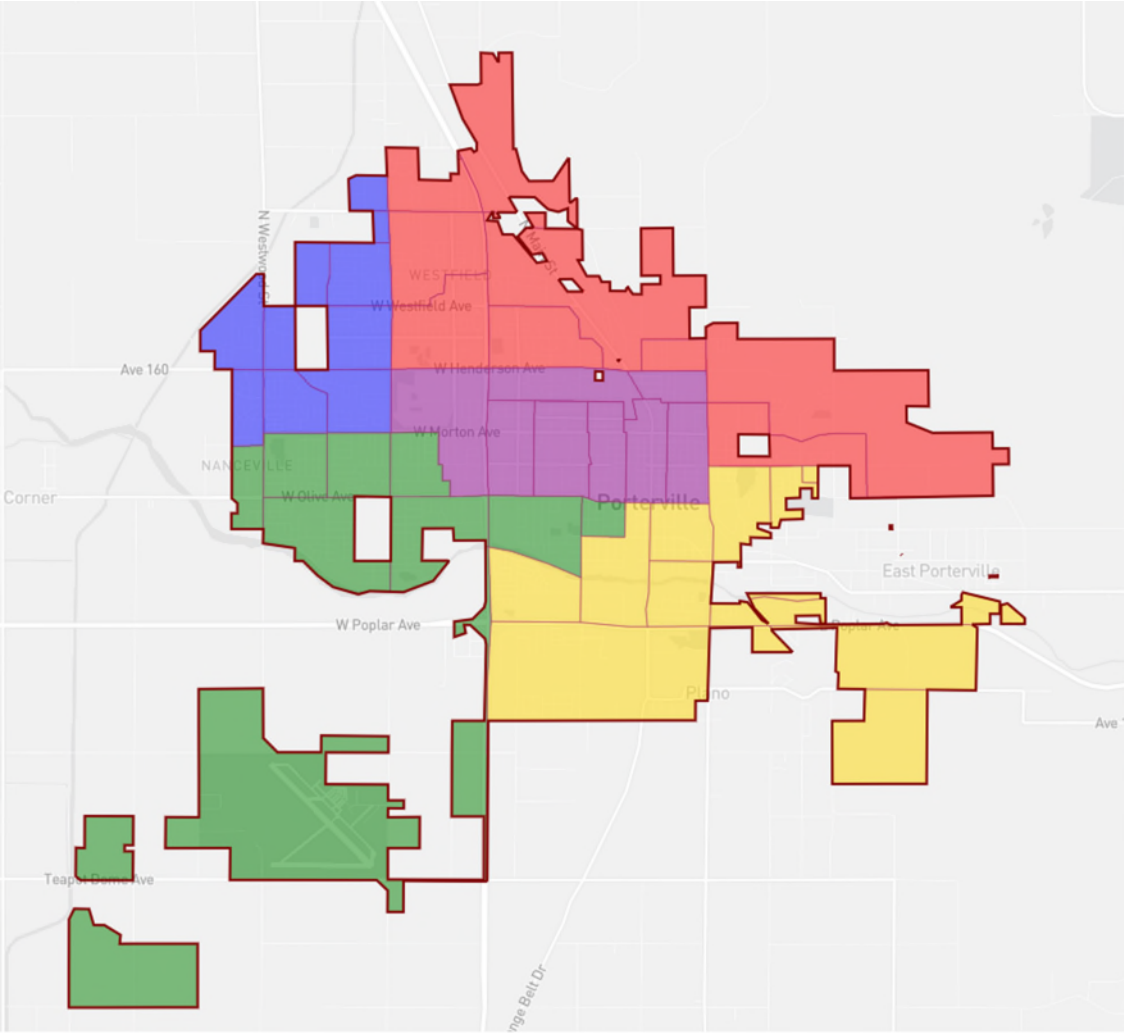
District	Total Pop	Raw Deviation	% Deviation	Latino	CVAP19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP19 NL Hispanic	CVAP19 Not Hispanic	CVAP19 NL AIAN	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
1	12,739	161.2	1.28%	8,543	6,699	2,377	95	3,437	3,245	59	513	17	22
2	11,650	-927.8	-7.38%	7,860	6,905	2,597	85	3,608	3,269	27	297	6	30
3	13,285	707.2	5.62%	10,079	6,437	2,112	12	3,807	2,625	74	288	12	6
4	13,500	922.2	7.33%	8,115	8,094	3,828	33	3,448	4,704	75	581	-	35
5	11,715	-862.8	-6.86%	9,126	5,873	2,397	62	3,208	2,636	50	31	-	14

Total Population: 62,889
 Ideal District Population: 12,577.8
 Total Deviation: 14.71%

Map Option 1 with Demographic Analysis

[illegible]

Map Option 2



Map Option 2 with 2020 Census Data Overlay

District	Total Pop	Raw Deviation	% Deviation	CVAP19 Total	CVAP19 NL White	CVAP19 NL Black	CVAP Hispanic	CVAP19 NL AIAN*	CVAP19 NL ASIAN	CVAP19 NL Hawaiian	CVAP19 NL Other
1	12128	-397	-3.17%	7323	47.51%	0.46%	41.29%	7.59%	2.64%	0.00%	1.87%
2	12732	207	1.66%	6825	38.90%	2.27%	49.92%	8.44%	0.57%	0.00%	2.47%
3	12522	-3	-0.02%	6013	35.26%	0.48%	56.96%	3.04%	3.04%	0.91%	2.80%
4	12479	-46	-0.36%	7180	41.31%	1.36%	50.21%	6.43%	0.28%	0.00%	2.02%
5	12762	237	1.90%	6259	32.78%	1.02%	60.97%	2.97%	2.12%	0.06%	2.66%

Total Population: 62,889

Ideal District Population: 12,578

Total Deviation: **5.07 %**

*AIAN = American Indian Alaskan Native

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE,
CALIFORNIA ADJUSTING THE BOUNDARIES OF CITY COUNCIL ELECTORAL
DISTRICTS AND REDEFINING THE BOUNDARIES OF ALL CITY COUNCIL
ELECTORAL DISTRICTS OF THE CITY OF PORTERVILLE, CALIFORNIA, AND
AMENDING EXHIBIT A TO SECTION 2-1.3 OF CHAPTER 2, ARTICLE I OF THE
PORTERVILLE MUNICIPAL CODE

The City Council of the City of Porterville, State of California, ordains as follows:

SECTION 1: The City Council (Council) finds and determines:

- a. The U.S. Census Bureau (Bureau) is required by Article I, Section 2, of the U.S. Constitution to conduct an accurate count of the population every ten years;
- b. California Elections Code Section 21620 et seq. requires that “[f]ollowing each federal decennial census for a city whose council is already elected using district-based elections, the council shall, by ordinance or resolution, adopt boundaries for all of the council districts of the city so that the council districts shall be substantially equal in population as required by the United States Constitution.”;
- c. The Elections Code requires that the Council adopt an ordinance or pass a resolution amending supervisorial/city council districts no later than April 17, 2022;
- d. The Council held public hearings on December 7, 2021, January 18, 2022, February 1, 2022 and February 15, 2022, to receive briefings from the City’s demographic consultant relating to the redistricting process and state and federal redistricting criteria and communities of interest, including the California Elections Code, the Voting Rights Act and the United Constitution, heard public testimony, and directed staff and the City’s demographic consultant to prepare draft district plans for consideration;
- e. In addition, City staff conducted public outreach by way of print and digital advertisements and established a dedicated redistricting website as a repository for the records of redistricting proceedings. During the public hearings public comment was received on redistricting criteria and communities of interest;
- f. At the four public hearings identified in subsection (d), the Council received a presentation on one draft map prepared by the City’s demographic consultant for compliance with applicable laws and standards and one additional map submitted by the public;
- g. At its February 1, 2022 public hearing, the City Council settled on Map 1, designating it the Preferred Map and directed that the Preferred Map be presented to the Council for adoption by an Ordinance introduced on February 15, 2022;

h. At each of the public hearings on redistricting, the Council heard testimony relating to “communities of interest,” which led the Council to reach the following determinations about communities of interest on the Preferred Map as required under federal and state law:

- (1) *The districts are geographically contiguous.* The districts are arrayed in a simple and logical form without any islands and minimal intrusions from the area of one district into another;
- (2) *To the extent practicable, the Preferred Map respects the geographic integrity of local neighborhoods and local communities of interest.* The Council heard testimony about what constitute communities of interest in the public eye.
- (3) *The districts are easily identifiable and understandable by residents.* The districts in the Preferred Map form a relatively simple pattern.
- (4) *To the extent practicable, the districts are geographically compact.* Their configurations for the most part are compact, simple shapes, with nearby populations included in the same districts.
- (5) *The districts are balanced in terms of total population and voting age population.* The districts are well within the one-person/one-vote deviations permitted under federal and state voting rights laws.
- (6) *The districts conform to concentration of minority voters.* The Preferred Map creates four majority/minority Hispanic voting districts.

k. All information in the staff reports, maps, presentations, Council debate and public testimony referenced above is hereby incorporated into this decision and serves as evidentiary basis for these findings and legislative decision.

SECTION 2: Pursuant to the provisions of the Fair Maps Act of 2019 as amended in 2020, codified at California Elections Code section 21620 to 21629, after giving consideration to those provisions and applicable decisions of the courts, the Council hereby adjusts, changes, and establishes the boundaries of the City Council electoral districts as set forth on the Preferred Map considered by the Council at its public hearing on February 1, 2022, and reflected in Exhibit A hereto, and they shall constitute and are hereby established as the boundaries of the City Council districts of the City of Porterville for subsequent elections until further readjustment is required by law.

SECTION 3: Exhibit A to this Ordinance hereby replaces Exhibit A to Porterville Municipal Code Section 2-1.3.A. of Article I, Chapter 2, previously adopted in 2018, as authorized in Section 2-1.3.B.

SECTION 4: Notwithstanding any other provision of this chapter, and pursuant to California Elections Code section 21626, subdivisions (a) and (b), each of the Council Members in office at the time this Chapter takes effect shall continue in office until the expiration of the full term to which he or she was elected and until his or her successor is

qualified, and any vacancy in a term currently underway shall be filled based on the districts in effect at the time the current supervisors were elected.

SECTION 5: All ordinances and resolutions, or parts thereof in conflict with this ordinance are hereby repealed.

SECTION 6: The City Manager is directed to take all necessary steps to give effect to this Ordinance. If necessary to facilitate the implementation of this Ordinance, the City Manager or his or her designee is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Manager shall consult with the City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

SECTION 7: This Ordinance is adopted following four noticed public hearings as required by Elections Code section 21627.1 and shall take effect and be in full force on the _____ day of _____, 2022.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2022.

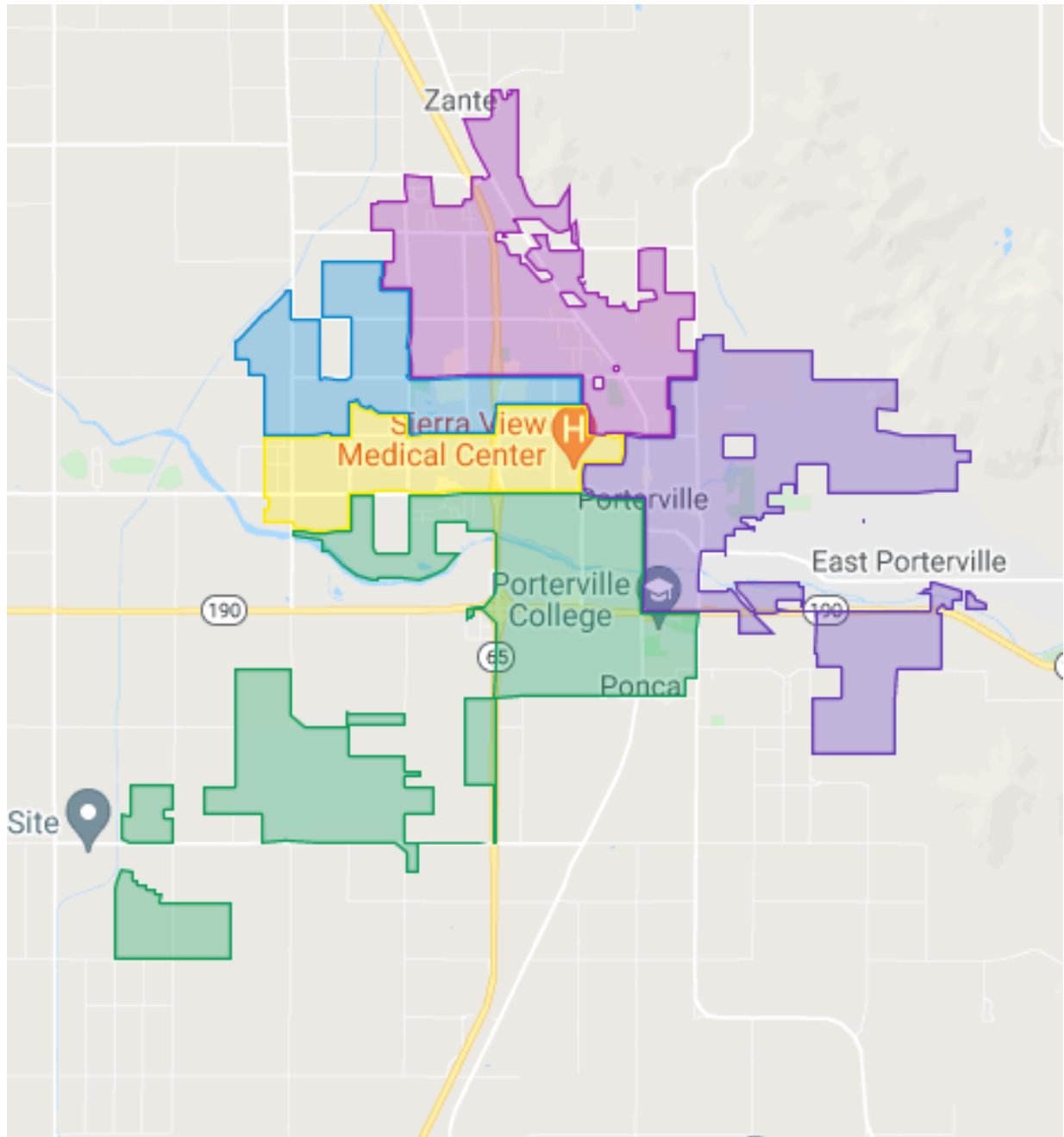
Adrian Monte Reyes, Mayor

ATTEST:

John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk

EXHIBIT A – MAP OF ADOPTED DISTRICT LINES





CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Consideration of Solid Waste Ordinance Revisions and SB 1383 Additions

SOURCE: Public Works

COMMENT: The purpose of Chapter 13 of the City's Municipal Code is to regulate the collection, transportation, and disposal of solid waste (garbage and refuse) in order to protect public safety, health and welfare, and to enhance the environment of the residents of Porterville.

Revisions to the Ordinance are required from time to time in order to facilitate modifications to the City's solid waste programs such as State mandates on waste diversion and recycling. In this case, Senate Bill 1383 (SB 1383) which was mandated January 1, 2022, is bringing new organics recycling regulations and requirements for the City, as well as for the businesses and residents of Porterville. SB 1383 is mandating the recycling or composting of all food waste and green waste in order to reduce methane emissions by keeping organic products out of landfills. The addition of Section 13-25 to Chapter 13 will outline those requirements as well as set the framework for enforceable actions the City may need to take in order to stay within the guidelines of SB 1383.

Other changes besides the addition of Section 13-25, include updating language to industry standard terminology and corresponding definitions thereof.

RECOMMENDATION: That the City Council adopt the draft Ordinance approving changes to Chapter 13, Garbage and Refuse, of the City's Municipal Code; give first reading, and order the Ordinance to print.

ATTACHMENTS:

1. Draft Ordinance
2. Proposed Ordinance Changes

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING CHAPTER 13 GARBAGE AND REFUSE , BY UPDATING
TERMINOLOGY AND DEFINITIONS, AND THE ADDITION OF SECTION 13-25
REGARDING SENATE BILL 1383 REGULATIONS AND ENFORCEMENT**

WHEREAS: On February 15, 2022, the City Council at its regularly scheduled meeting, held a public hearing to consider amendments to the Garbage and Refuse Ordinance;

WHEREAS: state organics recycling law, Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016, took effect on January 1, 2017 and set Statewide Organic Waste disposal reduction targets of 50 percent by 2020 and 75 percent by 2025, based on the 2014 organics waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code, and requires California's Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to reduce organics in landfills as a source of methane ("SB 1383 Regulations"); and

WHEREAS: the SB 1383 Regulations place requirements on multiple entities, including counties, cities, residential households, Commercial Businesses (including Multi-Family Residential Dwellings), Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Organizations, and Food Recovery Services to support achievement of statewide Organic Waste disposal reduction targets with compliance required beginning January 1, 2022; and

WHEREAS: by January 1, 2022, the SB 1383 Regulations require jurisdictions to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of the SB 1383 Regulations concerning regulation of organic waste collection services, generators of organic waste, waste haulers, and generators and processors of edible food, together with enforcement mechanisms and administrative civil penalties for violations of local regulations; and

WHEREAS: this Ordinance will also help reduce food insecurity by requiring Commercial Edible Food Generators to arrange to have the maximum amount of their Edible Food, that would otherwise be disposed, be recovered for human consumption; and

WHEREAS: other changes besides the addition of Section 13-25, includes updating language to industry standard terminology and corresponding definitions thereof;

WHEREAS: Pursuant to State and local environmental regulations, the proposed amendment to regulations contains new requirements based on the provisions of SB 1383 that are intended to strengthen requirements for handling of solid waste, do not involve or authorize any construction activities or the relaxation of standards that could lead to degradation of the environment, and consists solely of an action by a regulatory agency (the City) for the protection of the environment. Accordingly, the City Council finds and determines that adoption of Ordinance No. ____ is exempt from the California Environmental Quality Act under CEQA Guidelines Section 15038, Actions by Regulatory Agencies for Protection of the Environment.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Porterville as follows:

SECTION 1: Chapter 13 of the Porterville Municipal Code is hereby amended as follows:

CHAPTER 13
GARBAGE AND REFUSE

SECTION:

- 13-1: Declaration Of Policy
- 13-2: Definitions
- 13-3: Rules Established
- 13-4: Unlawful Acts
- 13-5: Mandatory Service
- 13-6: Unlawful Disposition Of Solid Waste Generally
- 13-7: Residential Solid Waste Collection Service
- 13-8: Solid Waste Receptacles
- 13-9: Reserved
- 13-10: General Provisions
- 13-11: Bin Container Pads And Enclosures
- 13-12: Special Pick Up, Disposal And Collection Event Services
- 13-13: Enforcement; Powers And Duties Of City Manager Or His Designee
- 13-14: Charges For Collection; Time And Manner Of Payment
- 13-15: Building Design Requirements
- 13-16: Unlawful To Burn Solid Waste
- 13-17: Penalty For Contamination Of Yard Waste
- 13-18: Collection Of Recyclable Materials
- 13-19: Recycling Hauler Permit Requirement And Application
- 13-20: Refusal To Issue Permit
- 13-21: Term And Renewal
- 13-22: Reporting Requirements
- 13-23: Home Generated Sharps Waste Management Program
- 13-24: Penalty For Violation
- 13-25: Compliance With The Act And SB 1383 Regulatory Compliance

13-1: DECLARATION OF POLICY:

It is hereby declared to be the purpose of this chapter to regulate the collection, transport, and disposal of solid waste in order to protect the public safety, health and welfare and to enhance the environment of the people of Porterville. Further, it is the purpose of this chapter to regulate the collection and disposition of recyclables generated within the city and to establish reporting requirements and guidelines that shall be followed by licensees to minimize the amount of such recyclables deposited into landfills. (Ord. 1494A, 7-20-1993)

13-2: DEFINITIONS:

For the purpose of this chapter, the following words and phrases shall have the meanings given herein unless their use in the text of this chapter clearly demonstrates a different meaning:

ACT: the California Integrated Waste Management Act of 1989 (sometimes referred to as “AB 939”), Public Resources Code § 40000 and following as it may be amended, and as implemented by the regulations of CalRecycle.

ALLEY SERVICE: Such service where solid waste containers are placed at the property line in through alleys.

BIN CONTAINER SERVICE: A stationary container supported on casters or skids and approved by the city manager or his designee for mechanical handling by the collection trucks.

CALRECYCLE: The California Department of Resources Recycling and Recovery, or its successor agency.

COMMERCIAL EDIBLE FOOD GENERATOR: includes a tier one or a tier two commercial edible food generator as defined in 14 CCR Section 18982(a)(73) and (a)(74).

COMPACTED WASTE: Solid waste which is mechanically compressed to reduce the dimensions of the waste.

CONSTRUCTION AND DEMOLITION WASTES: Shall mean and include the waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of pavements and structures.

CURB SERVICE: Such service where the solid waste containers are picked up by the city at the front curb line of the customer's property.

DISCARDED: Thrown away, abandoned, worthless, or having lack of economic value.

EDIBLE FOOD: Food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this chapter or as otherwise defined in 14 CCR Section 18982(a)(18), “edible food” is not solid waste if it is recovered and not discarded. Nothing in this chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.

FOOD RECOVERY ORGANIZATION: An entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

- A. A food bank as defined in Section 113783 of the Health and Safety Code;
- B. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and
- C. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

FOOD RECOVERY SERVICE: An entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery.

HAULER: A person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. “Hauler” includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.

HOUSEHOLD HAZARDOUS WASTE: Those wastes resulting from products purchased by the general public for household use which, because of their quantity,

concentration, or physical, chemical, or infectious characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed, or otherwise managed. The city manager or his designee shall determine those substances deemed hazardous for the purpose of the city's disposal system.

INDUSTRIAL WASTE: Solid wastes or waste material resulting or left over from industrial processes and manufacturing operations, including, but not limited to, fibers, fabrics, plastics, styrofoam, rubber, resins, metals, slag, wood products such as sawdust and shavings, packing materials, putrescible material from food processing plants and slaughterhouses, condemned foods, cinders and ashes from power plants and incinerators, and miscellaneous manufacturing wastes. Such industrial waste is distinguished from ordinary commercial refuse or so called trade wastes which emanate from stores, hotels, restaurants, and markets.

MULTIPLE-FAMILY DWELLING: A building designed for residential occupancy and shall include duplexes, triplexes, apartments of four (4) or more units, bungalows in a bungalow court, apartment houses, flats, condominium units, and mobile homes.

ORGANIC MATERIALS, ORGANICS, and ORGANIC WASTE: Food scraps and trimmings from food preparation, including but not limited to: meat, fish and dairy waste, fruit and vegetable waste, grain waste, stable matter, and acceptable food packaging items such as pizza boxes, paper towels, waxed cardboard, food-contaminated paper products, plant debris, such as palm, yucca and cactus, ivy, grass clippings, leaves, pruning, weeds, branches, brush, and holiday trees. Classification of materials subject to change pending Refuse Contractor processing capability.

ORGANIC WASTE GENERATOR: A person or entity that is responsible for the initial creation of organic waste, or as otherwise defined in 14 CCR Section 18982(a)(48) of SB 1383.

RECYCLABLES: Shall include those materials that have value and can be diverted from landfill disposal. "Recyclables" can further be defined as those materials that by collecting, sorting, cleansing, treating, reconstituting, and processing can be returned to the economic mainstream in the form of raw materials for new, reused, or reconstituted products.

REFUSE or GARBAGE: Rags, household ashes, wearing apparel, household goods and such worthless, useless, unused, rejected and cast off matter produced by and as the result of human habitation and the transaction of business within the city, that can be properly and safely collected and transported in a collection vehicle.

RESIDENTIAL PREMISES: All residentially zoned lots used for residential purposes, excluding premises with multi-family structures consisting of five or more units.

SB 1383: The Short-Lived Climate Pollutants: Methane Emissions: Dairy and Livestock: Organic Waste: Landfills Act of 2016. Article 4 Title 14, Division 4, Chapter 12 of the California Code of Regulations.

SELF-HAULER: A generator that collects solid waste at their premises or place of business for the purpose of hauling those materials in their own vehicles to a permitted solid waste facility in compliance with the requirements of this chapter.

SINGLE-FAMILY DWELLING: Any detached building used exclusively for occupancy by one family, excluding bungalows in a bungalow court, residential condominium units, and mobile homes.

SOLID WASTE: All putrescible and non-putrescible solid and semisolid wastes; including garbage, trash, refuse, paper, ashes, industrial wastes, demolition and construction

wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid waste" does not include hazardous, low level radioactive, or medical wastes. "Solid waste" as herein defined shall not include materials source-separated by the generator for the purpose of recycling, reuse, repair or composting.

SPECIAL PICK UP: The collection of solid waste that exceeds the scope of standard residential or commercial service as set forth in this chapter, or any material not defined in this section as solid waste.

STANDARD RESIDENTIAL CONTAINER: Roll out container(s) provided by city.

TIER ONE COMMERCIAL EDIBLE FOOD GENERATOR: A commercial edible food generator that is one of the following:

- A. Supermarkets with gross annual sales of \$2,000,000 or more.
- B. Grocery store with a total facility size equal to or greater than 10,000 square feet.
- C. Food service provider.
- D. Wholesale food vendor.

SB 1383 Tier 1 commercial edible food generators are required to comply with SB 1383 regulations by January 1, 2022 or face significant financial penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations) as determined by the City Manager and/or his or her designee.

TIER TWO COMMERCIAL EDIBLE FOOD GENERATOR: A commercial edible food generator that is one of the following:

- A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- B. Hotel with an on-site food facility and 200 or more rooms.
- C. Health facility with an on-site food facility and 100 or more beds.
- D. Large venue.
- E. Large event.
- F. A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- G. A local education agency facility with an on-site food facility.

SB 1383 Tier 2 Commercial edible food generators are required to comply with SB 1383 regulations by January 1, 2024 or face significant financial penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations), or any other applicable enforcement provision of this Code, as determined by the City Manager and/or his or her designee.

WASTE MATTER: Solid waste such as heavy or bulk materials which can be properly and safely collected and transported by special pick up vehicles. The city manager or his designee shall determine those materials suitable for special pick up service.

YARD WASTE: Lawn clippings, tree and shrubbery trimmings, and leaves that can be properly and safely collected and transported in a collection vehicle. (Ord. 1615, 10-1-2002)

13-3: RULES ESTABLISHED:

The following rules, as contained in this chapter, covering the handling of accumulations of garbage, refuse, yard waste, and waste matter to be observed by the occupants of places of

residence and places of business in the city are hereby established. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-4: UNLAWFUL ACTS:

A. Prohibitions:

1. Solid Waste Accumulations: It shall be unlawful for any person, owner or occupant of any building, lot or premises in the city to suffer, allow or permit the accumulation of solid waste of any description to become or remain offensive, unsightly or unsafe to public health or hazardous from fire, or to deposit, transport, keep, accumulate or permit or cause any solid waste to be deposited, placed or accumulated upon any lot or parcel of land, or any public or private container, place, street, land, alley or driveway except in the manner prescribed in this chapter.

2. Illegal Use Of Containers: It shall be unlawful for any person to deposit refuse into containers, bins, or roll off containers which are not assigned to the property at which the refuse is generated.

3. Illegal Collection Or Removal Of Recyclables: It shall be unlawful for any person, other than the city or the city's designee, to collect or remove materials which have been segregated for the purpose of recycling and placed in a designated recycling receptacle.

4. Placing Prohibited Materials In Recycling Receptacles: It shall be unlawful for any person to willingly place any materials in the recycling receptacles that do not meet the criteria defined under section 13-2 of this chapter.

5. Taking Or Pilfering Of Recyclables Or Any Other Item: It shall be unlawful for any person to take or pilfer, for his/her own use or benefit:

a. The recyclables of any other person.

b. The recyclables from any city operated drop off facilities. Recyclables donated to the drop off facility are considered the property of the city.

c. Any item placed into any city owned trash receptacle designated for disposal.

6. Refuse Disposal Into Or Near Recycling Drop Off Facilities: It shall be unlawful for any person to dispose of "refuse", as defined under section 13-2 of this chapter, into or around city operated drop off facilities.

B. Nuisance Declared: Each and all of the conditions specified in subsection A of this section constitute a public nuisance, and are unlawful, in violation of this chapter and are subject to immediate abatement by any officer of this city. Any costs associated with enforcement and abatement which the city incurs may be charged to the offending party or property owner for reimbursement.

C. Recycling Location An Individual Choice: Nothing herein shall prohibit a person from selling, giving away, or otherwise legally diverting their own recyclable materials to a location of their choice. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-5: MANDATORY SERVICE:

It shall be mandatory for every property owner within the city to receive city disposal service and billing therefor, except those industrial businesses whose volume of waste might exceed what services the city could offer. Minimum levels of city residential, commercial, and industrial refuse service shall be determined by city council and set by resolution. City refuse service above the minimum level may be required to protect public safety, health, and welfare, as required by this chapter. The necessity of such increased levels of service shall be

determined by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-6: UNLAWFUL DISPOSITION OF SOLID WASTE GENERALLY:

It shall be unlawful for any person to engage in or carry on the business of hauling or removing garbage, refuse or waste matter within the city without written permission from city manager. Any person engaging in or carrying on the business of hauling or removing recyclables must have the written permission of the city manager as set forth in section 13-19 of this chapter. Disputes over whether material should be classified as recyclable or solid waste will be resolved by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-7: RESIDENTIAL SOLID WASTE COLLECTION SERVICE:

A. Frequency, Amount, And Location Of Collection: The city shall provide collection service from all dwelling units in the city at frequencies and amounts to be determined by city council and set by resolution. Residential service shall be at curbside unless otherwise authorized by the city manager or his designee.

B. Responsibilities Of Curb Service Customers: All curb service customers shall place their solid waste containers at the curb or property line and shall remove the empty containers in accordance with time schedules as determined by the city manager or his designee.

C. Alley Service Customers; Placement Of Containers: Alley service will only be provided if criteria developed by the city manager or his designee is met, and such service is compatible with overall collection service objectives. Customers receiving alley service shall place their solid waste containers at the property line in through alleys and shall remove the empty containers in accordance with time schedules as determined by the city manager or his designee.

D. Container Service: Bin container service may be used in residential areas for apartments and multiple dwellings and for single-unit dwellings if approved by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1537 § B45, 8-6-1996; Ord. 1615, 10-1-2002)

13-8: SOLID WASTE RECEPTACLES:

The occupant, tenant or lessee of any house, dwelling, flat, apartment building, mobile home, motel, hotel, restaurant or other place of business or residence within the city where solid waste is produced or accumulated and where individual container service is authorized shall keep, in a place where it will not constitute a nuisance, a city approved container for receiving and holding all of the solid waste which accumulates on the premises between the time of successive collections. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-9: RESERVED:

(Ord. 1537 § B46, 8-6-1996; Ord. 1615, 10-1-2002)

13-10: GENERAL PROVISIONS:

A. Where commercial collections are made from private alleys and access ways, said approaches shall be maintained in such a manner as not to be a hazard to collection personnel

and equipment, and provide a safe and convenient entrance to and through the premises for the purpose of collecting refuse.

B. The approach to containers furnished by the city must be kept clear. An inaccessible container will not be dumped at the scheduled time. There will be an extra charge to dump a container other than at the regularly scheduled time, or if it is necessary to return to the collection site due to inaccessibility of the collection container.

C. Overfilled containers and excess trash on top of containers pose a hazard to collection vehicles and personnel and may not be dumped at the scheduled time. If an overfilled container is able to be dumped, it shall constitute a special haul and will require an extra charge.

D. Compacted commercial waste requires special handling due to increased weight associated with compaction. Compacted waste will be subject to increased collection charges and may require restrictions on the volume of waste accumulated between collection days.

E. All persons or businesses utilizing city owned containers are responsible for the sanitary conditions of each container or receptacle and the proximity thereof and must keep lids and doors closed when not in use. A charge may be assessed when steam cleaning of containers is requested by customers. All persons and businesses will be responsible for burned or damaged containers due to other than normal wear and tear and will be charged for necessary repairs. Bin containers may be fitted with lid locks at the request of the customer. A charge will be assessed for installation and repair of such locks.

F. Items that are likely to cause damage to regular city containers or the collection vehicles will not be regularly picked up. Such examples are, but are not limited to, timbers or tree trunks larger than four inches (4") in diameter or longer than five feet (5'), engine blocks, heads, transmissions, axles, spring assemblies, tires or draft shafts, all of which shall constitute a special haul. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-11: BIN CONTAINER PADS AND ENCLOSURES:

A. All bin container services shall require a concrete bin pad to ensure that the bin can be conveniently serviced. Each bin type container, regardless of the cubic yard capacity, shall require a concrete pad six inches (6") thick and six feet by ten feet (6' x 10') for each bin. The bin container pad shall be poured to the existing ground level, ensuring that the pad is neither too high nor too low, creating collection problems. There shall be a fence erected around the bin pad storage area. Such fencing shall conform with city specifications as specified by the city manager or his designee.

B. Temporary bin service may be provided at a residential or commercial site at the request of the customer for short term cleanup activities and do not require a bin enclosure. Temporary bin service shall not be utilized in lieu of permanent disposal service. Temporary bin location and on site duration may be limited so as not to constitute a public nuisance. Temporary bins determined to constitute a public nuisance may be immediately removed at the discretion of the city manager or his designee. (Ord. 1537 § B47, 8-6-1996; Ord. 1615, 10-1-2002; Ord. 1801, 12-3-2013)

13-12: SPECIAL PICK UP, DISPOSAL AND COLLECTION EVENT SERVICES:

A. The removal of dirt, sod, tree stumps, stones, broken concrete, furniture and appliances and other building materials is not considered to be normal household solid waste service. Periodic collection of accumulations of excess solid waste within the city, in addition

to that provided for above, shall be made on the request of a resident. These services will be handled on a special pick up basis for which an extra charge is made. Tree and shrub trimmings which cannot be accommodated in the city provided yard waste cart shall be handled on a special pick up basis for which an extra charge will be made.

B. The following services are considered "special requests" and will be charged an additional fee as determined by city council and set by resolution. "Special requests" include, but are not limited to: extra pick up of residential, commercial, and industrial containers; same day delivery, emptying, or removal of temporary bins; same day delivery, emptying, removal or relocation of temporary or permanent roll off containers; standby time of collection personnel at customer request or to accommodate customer needs; same day return to empty a container or bin that was inaccessible, overfilled, or contaminated.

C. The disposal of substances determined to be household hazardous materials shall be restricted to special collection events or sites as approved by city council.

D. The city manager or his designee shall determine those waste materials suitable for special pick up service. (Ord. 1537 § B48, 8-6-1996; Ord. 1615, 10-1-2002)

13-13: ENFORCEMENT; POWERS AND DUTIES OF CITY MANAGER OR HIS DESIGNEE:

A. The city manager or his designee shall supervise the collection and removal of all solid waste by the city and shall enforce the provisions of this chapter. He shall have the right to inspect any and all premises for the purpose of determining whether the provisions of this chapter are being observed. Any person denying or obstructing such inspection shall be subject to the penalties herein provided.

B. The city manager or his designee shall establish routes and days for collection and may change same from time to time. When such routes and days are established or changed, he shall give such notice thereof as he may deem advisable.

C. In all cases where he shall find practical difficulty in complying with the requirements of this chapter as to the placing of refuse for collection by the city, he shall designate where such solid waste shall be placed or kept for collection by the city and the conditions under which it shall be collected.

D. The city manager or his designee, with the approval of the city manager, shall make such rules and regulations not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper to effect the expeditious, economical and efficient collection and removal of solid waste by the city. Such rules and regulations may also relate to the required frequency of refuse collection at various locations, the type and number of refuse containers required, and the vehicles used in making such collections. The determination of the city manager or his designee shall be conclusive. (Ord. 1537 § B49, 8-6-1996; Ord. 1615, 10-1-2002)

13-14: CHARGES FOR COLLECTION; TIME AND MANNER OF PAYMENT:

A. Fees and charges for the collection and disposal of solid waste collection by the city will be fixed by resolution of the city council.

B. Solid waste collection charges shall be included in the regular city utility bill to customers who also have city water service. When the solid waste customer does not have city water service, a separate bill for solid waste service shall be mailed to the customer who owns or controls the premises serviced.

C. All charges for solid waste service included on utility bills, or if not a part of the city utility bill, shall be due and payable at the same time as other utility charges. If a bill for solid waste is not paid within thirty (30) days after billing date, a charge of ten percent (10%) as a penalty for said delinquency shall be made and added to the amount and become a part of said delinquent utility bill; and the city may discontinue all city utility service to the premises if the bill should remain delinquent on the forty fifth day after billing.

D. All solid waste service charges are the responsibility of the customer whose name appears on the utility billing for the service. If unpaid by the customer billed who controls the premises, they shall be secured at any time by filing for record in the office of the county recorder of any county, a certificate specifying the amount of such charges and the name and address of the customer liable therefor. From the time of recordation of the certificate, the amount required to be paid, together with interest and penalty, constitutes a lien upon all real property in the county owned by the customer or afterwards, and before the lien expires, acquired by him. The lien has the force, priority, and effect of and shall be regarded as a judgment lien, which may be extended, if unpaid, by the recording of a renewal certificate before the expiration of ten (10) years of the previously recorded certificate. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-15: BUILDING DESIGN REQUIREMENTS:

The design of any new, substantially remodeled or expanded building or other facility shall provide for proper storage or handling which will accommodate solid waste and recyclable material removal or collection. The design shall demonstrate to local land use and building permit issuing authorities that it includes the required provisions. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-16: UNLAWFUL TO BURN SOLID WASTE:

It shall be unlawful for any person to dispose of any solid waste by burning the same within the limits of the city. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-17: PENALTY FOR CONTAMINATION OF YARD WASTE:

Any customer whose yard waste container is contaminated with items other than "yard waste" as defined in section 13-2 of this chapter may be assessed an additional charge, the amount of which is set by resolution by the city council. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-18: COLLECTION OF RECYCLABLE MATERIALS:

The city may establish a separate collection service for recyclable materials, including compostable wastes, and establish specific guidelines for such service, which are consistent with the rules and regulations contained within this chapter. The city may also establish a permit for the collection of recyclable wastes. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-19: RECYCLING HAULER PERMIT REQUIREMENT AND APPLICATION:

In order to more effectively regulate, control, and monitor the amount of recyclables being deposited in landfills and document the amount diverted from the solid waste stream, it is in the best interest of the city to require those persons desiring to gather, collect, transport,

or otherwise dispose of recyclables to obtain from the city a permit to do so. Said permit to gather, collect, transport, or otherwise dispose of recyclables shall be nonexclusive. Each permit awarded hereunder shall specifically describe the type of recyclable material to be collected and disposed of. Any person desiring to obtain a recycling hauler permit to collect, gather, transport, or otherwise dispose of recyclables shall pay a fee and make an application as set forth in guidelines determined by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-20: REFUSAL TO ISSUE PERMIT:

Nothing in this chapter shall be deemed to prevent the city manager or his designee from refusing to grant or renew any application for a recycling hauler permit when it appears that such permittee's proposed services are inconsistent with the intent of this chapter as defined in section 13-1 of this chapter, or do not serve the best interest of the people of Porterville. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-21: TERM AND RENEWAL:

The term of the permit shall become effective upon notification by the granting authority, and shall be through the end of the calendar year it was awarded. A recycling hauler permit may be renewed with the hauler's business license according to terms set forth by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-22: REPORTING REQUIREMENTS:

To assist the city in meeting its diversion goals as specified by the California integrated waste management act of 1989 (AB 939) and other state or local laws, the permittee shall maintain records including the following information:

A. The description and nature of the material (e.g., bottles, cardboard, grease, etc.) collected.

B. The name(s) and address(es) of each collection site within the city of Porterville, including amount, weight, or tonnage of the recyclables collected at each site.

C. Name and address of the site(s) where the above recyclables were disposed.

The permittee shall maintain such records for a period of five (5) years and shall, upon reasonable request, make such records available for the city's inspection.

The permittee shall also supply additional information when requested by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-23: HOME GENERATED SHARPS WASTE MANAGEMENT PROGRAM:

A. Purposes: The city of Porterville finds and declares all of the following purposes for this section:

1. To achieve the mandates imposed by the integrated waste management act of 1989 (AB 939) on a regional basis;

2. To enact a comprehensive and innovative system for the proper and legal management of home generated "sharps" waste, as defined in subsection B of this section in the city of Porterville in accordance with section 118286 of the California Health And Safety Code;

3. To enact a law that establishes a program that is convenient for consumers and the public to return and ensure the safe and environmentally sound disposal of home generated sharps waste, and to provide a "no cost" system for consumers for the return of home generated sharps waste;

4. To assure that the costs associated with the handling and disposal of home generated sharps waste are the responsibility of the producers and retailers of home generated sharps waste, and not local governments or their service providers, state or local government, or taxpayers;

5. To reduce the likelihood of the illegal disposal of home generated sharps waste;

6. To ensure that all costs associated with the proper management of home generated sharps waste are internalized by the producers and retailers of home generated sharps waste at or before the point of purchase, and not at the point of discard;

7. To assure that manufacturers and retailers of sharps, while working to achieve the goals and objectives of this section, shall have the flexibility to partner with each other, with governmental programs, and with private and nonprofit business enterprises that provide collection and processing services, to develop and promote a safe and effective home generated sharps waste management system; and

8. To provide for the safe and convenient collection and disposal of one hundred percent (100%) of the home generated sharps waste discarded in the city of Porterville at no cost to the consumer and to comply with the requirements pursuant to state Health And Safety Code prohibiting the disposal of home generated sharps waste in trash, recycling, yard waste, or landfills as of August 1, 2014.

B. Definitions:

CONSUMER: An individual who has purchased sharps for personal use for humans or animals.

CONTAINED: All home generated "sharps" (as defined herein) waste is properly secured in a "receptacle" (as defined herein) prior to delivery to a retailer for disposal.

DISTRIBUTOR: A person who sells sharps to a retailer.

HOME GENERATED: All "sharps" as defined herein derived from a household, including a multi-family residence, or a single- family residence.

PORTERVILLE AREA: The geographic area that includes the boundaries of the city of Porterville, California.

PROPER DISPOSAL OF HOME GENERATED SHARPS WASTE: Disposal in compliance with the applicable provisions of the California Health And Safety Code by means of an approved/certified medical waste disposal company.

RECEPTACLE: An FDA approved, rigid and puncture resistant container with a sealable lid that is designed specifically for transporting sharps for disposal.

RETAILER: Any entity, including, but not limited to, a person or business, or whatever form of organization, which sells sharps to a consumer, including a manufacturer of sharps who sells directly to a consumer.

SHARPS: Hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications, to humans or animals.

C. Sharps Management:

1. By August 1, 2014, every retailer of sharps sold in the city of Porterville shall establish, within the retail outlet, a system for the acceptance and collection of home generated sharps waste for proper disposal.

2. Each system established by a retailer for the acceptance and collection of home generated sharps waste that is enclosed in sealed, puncture resistant receptacles during the retailer's normal hours of operation, for proper disposal shall, at a minimum, include all of the following elements:

a. A convenient location within the retail establishment for the "take back" from the consumer of home generated sharps waste at no cost to that consumer.

b. Appropriate signage, prominently displayed within five feet (5') of any entrance to the retail establishment and easily visible to the consumer, indicating that the retail establishment accepts and collects contained home generated sharps waste from consumers.

c. An appropriately secured receptacle or receptacles for the collection of contained home generated sharps waste within the retail establishment. The retailer shall assure that all home generated sharps waste is properly contained in a sharps receptacle and placed in a secured drop off location.

d. Assurance that the collected home generated sharps wastes are disposed within the time period established by applicable state law, as determined, from time to time by the Tulare County environmental health service department, acting as the local enforcement agency.

e. Comply with all applicable provisions of the California medical waste management act, Health And Safety Code section 117600 et seq.

3. A retailer who is required to accept contained home generated sharps waste shall, at a minimum, provide the following take back services:

a. The take back from the consumer of contained home generated sharps waste that the retailer sold or previously sold to the consumer, at no cost to that consumer. In that event, the retailer may require proof of purchase of the prior sales. The retailer shall only be required to accept contained home generated sharps waste in an amount not to exceed the amount previously sold to the consumer.

b. The take back of contained home generated sharps waste from a consumer purchasing sharps from the retailer, at no cost to the consumer. In that event, the retailer shall only be required to accept contained home generated sharps waste in an amount not to exceed the amount being purchased.

c. The take back from the consumer of contained home generated sharps waste that the retailer did not sell or previously sell to the consumer, at no cost to that consumer. The retailer shall only be required to accept contained home generated sharps waste in an amount not to exceed the equivalent of one 2-quart size sharps container per week, per consumer, from any consumer who resides in the city of Porterville area. (Ord. 1814, 6-17-2014)

13-24: PENALTY FOR VIOLATION:

Any person violating any of the provisions of this chapter or wilfully and knowingly refusing to comply with the rules, regulations and determination of the city manager shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not to exceed six (6) months, (or as otherwise specified in the Section 1-9 of this Municipal

Code), or by both fine and imprisonment. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002; Ord. 1814, 6-17-2014)

13-25: COMPLIANCE WITH THE ACT AND SB 1383 REGULATORY COMPLIANCE

A. Compliance with the Act: All residential premises, multifamily residential complexes, commercial customers, franchised haulers, generators, haulers, licensed haulers, and all other entities subject to the requirements of the Act shall fully comply with the Act and all other applicable law or be subject to any applicable penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations), or any other applicable enforcement provision of this Code, as determined by the City Manager and/or his or her designee.

B. SB 1383 Regulatory Compliance: Organic waste generators, haulers, and all other entities subject to the requirements of SB 1383 shall fully comply with all applicable requirements, including those summarized below, or be subject to the penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations), or any other applicable enforcement provision of this Code, as determined by the City Manager and/or his or her designee.

1. Organic waste generators.

SB 1383 requirements that apply to organic waste generators include, but are not necessarily limited to the following:

- a. All residential premises shall be automatically enrolled in the City's three-container collection services for garbage, recyclable materials, and organic waste including food waste.
- b. All commercial premises (including all multifamily residential complexes with five (5) or more units) must make arrangements for the diversion of recyclable materials and organic waste, either through a collection service with a solid waste franchised hauler, or by self-hauling to a permitted facility meeting the requirements specified in 14 CCR Section 18984.3. The City shall have the right to review the number and size of a generator's containers and frequency of collection, to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and commercial premises shall adjust their service level for their collection services as required by the City.
- c. Generator shall place organic waste, including food waste, in the designated organic waste container; recyclable materials in the designated recycling container; and garbage in the designated garbage container. Generators shall not place materials designated for the garbage container into the organic waste container or recycling container.
- d. Each commercial premise and multifamily residential complex property owner shall be responsible for ensuring and demonstrating its compliance with the following requirements:
 - i. Supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors (conforming with requirements described below) for employees, contractors, tenants, and customers, consistent with the City's collection service or, if self-

- hauling in compliance with self-hauling requirements in Section B.c. herein.
- ii. Excluding multifamily residential complexes, provide containers for the collection of organic waste and recyclable materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a commercial premises does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
 - 1. A body or lid that conforms with the container colors provided through the collection service provided by the City's franchised hauler, with either lids conforming to the color requirements or bodies conforming to the color requirements, or both lids and bodies conforming to color requirements. A commercial premises is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - 2. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant to 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
 - 3. Multifamily residential complexes are not required to comply with container placement requirements or labeling requirements in this Section pursuant to 14 CCR Section 18984.9(b).
 - iii. Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of source separated organic waste and source separated recyclable materials.
 - iv. Provide education information before or within fourteen (14) days of occupation of the premises by new tenants that describes requirements to keep source separated organic waste and source separated recyclable materials separate from garbage and the location of containers and the rules governing their use at each property.
 - v. Provide or arrange access for the City or its representative to their properties during all inspections conducted in accordance with SB 1383 to confirm compliance with the requirements of this Chapter.

- vi. Commercial premises, but not multifamily residential complexes, are also required to:
 - 1. To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the City's collection service.
 - 2. Periodically inspect organic waste, recycling, and garbage containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
 - vii. Nothing in this Chapter prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using a community composting site pursuant to 14 CCR Section 18984.9(c).
- e. Waivers for Generators
- i. City may waive a commercial customer's obligation (including a multifamily residential complex) to comply with some or all of the organic waste requirements of SB 1383 if the commercial customer provides documentation as described below, and the City finds that documentation supports the granting of a waiver.
 - 1. Commercial customers requesting a de minimis waiver shall submit an application specifying the services that they are requesting a waiver from and provide documentation that either:
 - a. The commercial customer's total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container or green container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - b. The commercial customer's total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in a blue container or green container comprises less than 10 gallons per week per applicable container of the business' total waste.
 - c. Notify City if circumstances change such that commercial customer's organic waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 - 2. Commercial customers or property owners may request a physical space waiver through the following process:
 - a. Submit an application specifying the services that they are requesting a waiver from.
 - b. Provide documentation that the premises lacks adequate space for blue containers and/or green containers

including documentation from its hauler, licensed architect, or licensed engineer.

- ii. Waivers shall apply for up to, but no longer than five (5) years, as determined by the Director and/or his or her designee.

2. Other entities

SB 1383 requirements that apply to other entities include, but are not necessarily limited to the following:

a. Commercial edible food generators

- i. Tier one commercial edible food generators shall comply with the requirements of 14 CCR Section 18991 commencing January 1, 2022. Tier two commercial edible food generators shall comply with the requirements 14 CCR Section 18991.3 commencing January 1, 2024.
- ii. A large venue or large event operator that does not provide food services, but allows for food to be provided, shall require food facilities operating at the large venue or large event to comply with the requirements of 14 CCR Section 18991.3.
- iii. Commercial edible food generators shall comply with the following requirements:
 - 1. Arrange to recover the maximum amount of edible food that would otherwise be disposed.
 - 2. Contract with or enter into a written agreement with food recovery organizations or food recovery services for: (i) the collection of edible food for food recovery; or (ii) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.
 - 3. Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
 - 4. Shall keep records as specified in 14 CCR Section 18991.4.
 - 5. Shall provide to the City a copy of any of the information they are required to track per Section 18991.4 within 30 days of request by the City.

b. Food recovery organizations and services

- i. Shall maintain records as specified in 14 CCR Section 18991.5, and shall provide a copy of those records to the City within 30 days of request by the City.

c. Self-hauler Requirements

- i. Any party wishing to self-haul material must apply for and receive written approval from the City.
- ii. Self-haulers shall source separate all recyclable materials and organic waste generated on-site from solid waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul organic waste to a high diversion organic waste processing facility as specified in 14 CCR Section 18984.3.
- iii. Self-haulers shall haul their source separated recyclable materials to a facility that recovers those materials; and haul their source separated green

container organic waste to a solid waste facility, operation, activity, or property that processes or recovers source separated organic waste. Alternatively, self-haulers may haul organic waste to a high diversion organic waste processing facility.

1. Self-haulers that are commercial customers (including multifamily residential complexes) shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the City. The records shall include the following information:
 - a. Delivery receipts and weight tickets from the entity accepting the waste.
 - b. The amount of material in cubic yards or tons transported by the generator to each entity.
 - c. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.
- d. Inspections and Investigations by the City
 - i. The City's representatives, its designated entity, and/or designees are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or source separated materials to confirm compliance with this ordinance by organic waste generators, commercial premises (including multifamily residential complexes), property owners, commercial edible food generators, haulers, self-haulers, food recovery services, and food recovery organizations, subject to applicable laws. This section does not allow the City to enter the interior of a private residential property for inspection.
 - ii. A regulated entity shall provide or arrange for access to their properties during all inspections and shall cooperate with the City's employee or its designated entity/designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for access to an entity's premises or access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described.
 - iii. Any records obtained by the City during its inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

- iv. The City's representatives, its designated entity, and/or designees are authorized to conduct any inspections, remote monitoring, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.
- v. The City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 regulations, including receipt of anonymous complaints.

SECTION 2: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED, AND ADOPTED this 15th day of February, 2022.

Adrian Monte Reyes, Mayor

ATTEST:
John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk

CHAPTER 13

GARBAGE AND REFUSE

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13-1: DECLARATION OF POLICY:

It is hereby declared to be the purpose of this chapter to regulate the collection, transport, and disposal of solid waste in order to protect the public safety, health and welfare and to enhance the environment of the people of Porterville. Further, it is the purpose of this chapter to regulate the collection and disposition of recyclables generated within the city and to establish reporting requirements and guidelines that shall be followed by licensees to minimize the amount of such recyclables deposited into landfills. (Ord. 1494A, 7-20-1993)

13-2: DEFINITIONS:

For the purpose of this chapter, the following words and phrases shall have the meanings given herein unless their use in the text of this chapter clearly demonstrates a different meaning:

ACT: the California Integrated Waste Management Act of 1989 (sometimes referred to as "AB 939"), Public Resources Code § 40000 and following as it may be amended, and as implemented by the regulations of CalRecycle.

ALLEY SERVICE: Such service where solid waste containers are placed at the property line in through alleys.

BIN CONTAINER SERVICE: A stationary container supported on casters or skids and approved by the city manager or his designee for mechanical handling by the collection trucks.

CALRECYCLE: The California Department of Resources Recycling and Recovery, or its successor agency.

COMMERCIAL EDIBLE FOOD GENERATOR: includes a tier one or a tier two commercial edible food generator as defined in 14 CCR Section 18982(a)(73) and (a)(74).

COMPACTED WASTE: Solid waste which is mechanically compressed to reduce the dimensions of the waste.

CONSTRUCTION AND DEMOLITION WASTES: Shall mean and include the waste building materials, packaging, and rubble resulting from construction, remodeling, repair, and demolition of pavements and structures.

CURB SERVICE: Such service where the solid waste containers are picked up by the city at the front curb line of the customer's property.

DISCARDED: Thrown away, abandoned, worthless, or having lack of economic value.

EDIBLE FOOD: Food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this chapter or as otherwise defined in 14 CCR Section 18982(a)(18), "edible food" is not solid waste if it is recovered and not discarded. Nothing in this chapter or in 14 CCR, Division 7, Chapter 12 requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.

FOOD RECOVERY ORGANIZATION: An entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

- A. A food bank as defined in Section 113783 of the Health and Safety Code;
- B. A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and
- C. A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

FOOD RECOVERY SERVICE: An entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery.

HAULER: A person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. "Hauler" includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.

HOUSEHOLD HAZARDOUS WASTE: Those wastes resulting from products purchased by the general public for household use which, because of their quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial known or potential

hazard to human health or the environment when improperly treated, disposed, or otherwise managed. The city manager or his designee shall determine those substances deemed hazardous for the purpose of the city's disposal system.

INDUSTRIAL WASTE: Solid wastes or waste material resulting or left over from industrial processes and manufacturing operations, including, but not limited to, fibers, fabrics, plastics, styrofoam, rubber, resins, metals, slag, wood products such as sawdust and shavings, packing materials, putrescible material from food processing plants and slaughterhouses, condemned foods, cinders and ashes from power plants and incinerators, and miscellaneous manufacturing wastes. Such industrial waste is distinguished from ordinary commercial refuse or so called trade wastes which emanate from stores, hotels, restaurants, and markets.

MULTIPLE-FAMILY DWELLING: A building designed for residential occupancy and shall include duplexes, triplexes, apartments of four (4) or more units, bungalows in a bungalow court, apartment houses, flats, condominium units, and mobile homes.

ORGANIC MATERIALS, ORGANICS, and ORGANIC WASTE: Food scraps and trimmings from food preparation, including but not limited to: meat, fish and dairy waste, fruit and vegetable waste, grain waste, stable matter, and acceptable food packaging items such as pizza boxes, paper towels, waxed cardboard, food-contaminated paper products, plant debris, such as palm, yucca and cactus, ivy, grass clippings, leaves, pruning, weeds, branches, brush, and holiday trees. Classification of materials subject to change pending Refuse Contractor processing capability.

ORGANIC WASTE GENERATOR: A person or entity that is responsible for the initial creation of organic waste, or as otherwise defined in 14 CCR Section 18982(a)(48) of SB 1383.

RECYCLABLES: Shall include those materials that have value and can be diverted from landfill disposal. "Recyclables" can further be defined as those materials that by collecting, sorting, cleansing, treating, reconstituting, and processing can be returned to the economic mainstream in the form of raw materials for new, reused, or reconstituted products.

REFUSE or GARBAGE: Rags, household ashes, wearing apparel, household goods and such worthless, useless, unused, rejected and cast off matter produced by and as the result of human habitation and the transaction of business within the city, that can be properly and safely collected and transported in a collection vehicle.

RESIDENTIAL PREMISES: All residentially zoned lots used for residential purposes, excluding premises with multi-family structures consisting of five or more units.

SB 1383: The Short-Lived Climate Pollutants: Methane Emissions: Dairy and Livestock: Organic Waste: Landfills Act of 2016. Article 4 Title 14, Division 4, Chapter 12 of the California Code of Regulations.

SELF-HAULER: A generator that collects solid waste at their premises or place of business for the purpose of hauling those materials in their own vehicles to a permitted solid waste facility in compliance with the requirements of this chapter.

SINGLE-FAMILY DWELLING: Any detached building used exclusively for occupancy by one family, excluding bungalows in a bungalow court, residential condominium units, and mobile homes.

SOLID WASTE: All putrescible and non-putrescible solid and semisolid wastes; including garbage, trash, refuse, paper, ashes, industrial wastes, demolition and construction wastes,

abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid waste" does not include hazardous, low level radioactive, or medical wastes. "Solid waste" as herein defined shall not include materials source-separated by the generator for the purpose of recycling, reuse, repair or composting.

SPECIAL PICK UP: The collection of solid waste that exceeds the scope of standard residential or commercial service as set forth in this chapter, or any material not defined in this section as solid waste.

STANDARD RESIDENTIAL CONTAINER: Roll out container(s) provided by city.

TIER ONE COMMERCIAL EDIBLE FOOD GENERATOR: A commercial edible food generator that is one of the following:

- A. Supermarkets with gross annual sales of \$2,000,000 or more.
- B. Grocery store with a total facility size equal to or greater than 10,000 square feet.
- C. Food service provider.
- D. Wholesale food vendor.

SB 1383 Tier 1 commercial edible food generators are required to comply with SB 1383 regulations by January 1, 2022 or face significant financial penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations) as determined by the City Manager and/or his or her designee.

TIER TWO COMMERCIAL EDIBLE FOOD GENERATOR: A commercial edible food generator that is one of the following:

- A. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- B. Hotel with an on-site food facility and 200 or more rooms.
- C. Health facility with an on-site food facility and 100 or more beds.
- D. Large venue.
- E. Large event.
- F. A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- G. A local education agency facility with an on-site food facility.

SB 1383 Tier 2 Commercial edible food generators are required to comply with SB 1383 regulations by January 1, 2024 or face significant financial penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations), or any other applicable enforcement provision of this Code, as determined by the City Manager and/or his or her designee.

WASTE MATTER: Solid waste such as heavy or bulk materials which can be properly and safely collected and transported by special pick up vehicles. The city manager or his designee shall determine those materials suitable for special pick up service.

YARD WASTE: Lawn clippings, tree and shrubbery trimmings, and leaves that can be properly and safely collected and transported in a collection vehicle. (Ord. 1615, 10-1-2002)

13-3: RULES ESTABLISHED:

The following rules, as contained in this chapter, covering the handling of accumulations of garbage, refuse, yard waste, and waste matter to be observed by the occupants of places of residence and places of business in the city are hereby established. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-4: UNLAWFUL ACTS:

A. Prohibitions:

1. Solid Waste Accumulations: It shall be unlawful for any person, owner or occupant of any building, lot or premises in the city to suffer, allow or permit the accumulation of solid waste of any description to become or remain offensive, unsightly or unsafe to public health or hazardous from fire, or to deposit, transport, keep, accumulate or permit or cause any solid waste to be deposited, placed or accumulated upon any lot or parcel of land, or any public or private container, place, street, land, alley or driveway except in the manner prescribed in this chapter.

2. Illegal Use Of Containers: It shall be unlawful for any person to deposit refuse into containers, bins, or roll off containers which are not assigned to the property at which the refuse is generated.

3. Illegal Collection Or Removal Of Recyclables: It shall be unlawful for any person, other than the city or the city's designee, to collect or remove materials which have been segregated for the purpose of recycling and placed in a designated recycling receptacle.

4. Placing Prohibited Materials In Recycling Receptacles: It shall be unlawful for any person to willingly place any materials in the recycling receptacles that do not meet the criteria defined under section 13-2 of this chapter.

5. Taking Or Pilfering Of Recyclables Or Any Other Item: It shall be unlawful for any person to take or pilfer, for his/her own use or benefit:

a. The recyclables of any other person.

b. The recyclables from any city operated drop off facilities. Recyclables donated to the drop off facility are considered the property of the city.

c. Any item placed into any city owned trash receptacle designated for disposal.

6. Refuse Disposal Into Or Near Recycling Drop Off Facilities: It shall be unlawful for any person to dispose of "refuse", as defined under section 13-2 of this chapter, into or around city operated drop off facilities.

B. Nuisance Declared: Each and all of the conditions specified in subsection A of this section constitute a public nuisance, and are unlawful, in violation of this chapter and are subject to immediate abatement by any officer of this city. Any costs associated with enforcement and abatement which the city incurs may be charged to the offending party or property owner for reimbursement.

C. Recycling Location An Individual Choice: Nothing herein shall prohibit a person from selling, giving away, or otherwise legally diverting their own recyclable materials to a location of their choice. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-5: MANDATORY SERVICE:

It shall be mandatory for every property owner within the city to receive city disposal service and billing therefor, except those industrial businesses whose volume of waste

might exceed what services the city could offer. Minimum levels of city residential, commercial, and industrial refuse service shall be determined by city council and set by resolution. City refuse service above the minimum level may be required to protect public safety, health, and welfare, as required by this chapter. The necessity of such increased levels of service shall be determined by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-6: UNLAWFUL DISPOSITION OF SOLID WASTE GENERALLY:

It shall be unlawful for any person to engage in or carry on the business of hauling or removing garbage, refuse or waste matter within the city without written permission from city manager. Any person engaging in or carrying on the business of hauling or removing recyclables must have the written permission of the city manager as set forth in section 13-19 of this chapter. Disputes over whether material should be classified as recyclable or solid waste will be resolved by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-7: RESIDENTIAL SOLID WASTE COLLECTION SERVICE:

A. Frequency, Amount, And Location Of Collection: The city shall provide collection service from all dwelling units in the city at frequencies and amounts to be determined by city council and set by resolution. Residential service shall be at curbside unless otherwise authorized by the city manager or his designee.

B. Responsibilities Of Curb Service Customers: All curb service customers shall place their solid waste containers at the curb or property line and shall remove the empty containers in accordance with time schedules as determined by the city manager or his designee.

C. Alley Service Customers; Placement Of Containers: Alley service will only be provided if criteria developed by the city manager or his designee is met, and such service is compatible with overall collection service objectives. Customers receiving alley service shall place their solid waste containers at the property line in through alleys and shall remove the empty containers in accordance with time schedules as determined by the city manager or his designee.

D. Container Service: Bin container service may be used in residential areas for apartments and multiple dwellings and for single-unit dwellings if approved by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1537 § B45, 8-6-1996; Ord. 1615, 10-1-2002)

13-8: SOLID WASTE RECEPTACLES:

The occupant, tenant or lessee of any house, dwelling, flat, apartment building, mobile home, motel, hotel, restaurant or other place of business or residence within the city where solid waste is produced or accumulated and where individual container service is authorized shall keep, in a place where it will not constitute a nuisance, a city approved container for receiving and holding all of the solid waste which accumulates on the premises between the time of successive collections. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-9: RESERVED:

(Ord. 1537 § B46, 8-6-1996; Ord. 1615, 10-1-2002)

13-10: GENERAL PROVISIONS:

A. Where commercial collections are made from private alleys and access ways, said approaches shall be maintained in such a manner as not to be a hazard to collection personnel and equipment, and provide a safe and convenient entrance to and through the premises for the purpose of collecting refuse.

B. The approach to containers furnished by the city must be kept clear. An inaccessible container will not be dumped at the scheduled time. There will be an extra charge to dump a container other than at the regularly scheduled time, or if it is necessary to return to the collection site due to inaccessibility of the collection container.

C. Overfilled containers and excess trash on top of containers pose a hazard to collection vehicles and personnel and may not be dumped at the scheduled time. If an overfilled container is able to be dumped, it shall constitute a special haul and will require an extra charge.

D. Compacted commercial waste requires special handling due to increased weight associated with compaction. Compacted waste will be subject to increased collection charges and may require restrictions on the volume of waste accumulated between collection days.

E. All persons or businesses utilizing city owned containers are responsible for the sanitary conditions of each container or receptacle and the proximity thereof and must keep lids and doors closed when not in use. A charge may be assessed when steam cleaning of containers is requested by customers. All persons and businesses will be responsible for burned or damaged containers due to other than normal wear and tear and will be charged for necessary repairs. Bin containers may be fitted with lid locks at the request of the customer. A charge will be assessed for installation and repair of such locks.

F. Items that are likely to cause damage to regular city containers or the collection vehicles will not be regularly picked up. Such examples are, but are not limited to, timbers or tree trunks larger than four inches (4") in diameter or longer than five feet (5'), engine blocks, heads, transmissions, axles, spring assemblies, tires or draft shafts, all of which shall constitute a special haul. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-11: BIN CONTAINER PADS AND ENCLOSURES:

A. All bin container services shall require a concrete bin pad to ensure that the bin can be conveniently serviced. Each bin type container, regardless of the cubic yard capacity, shall require a concrete pad six inches (6") thick and six feet by ten feet (6' x 10') for each bin. The bin container pad shall be poured to the existing ground level, ensuring that the pad is neither too high nor too low, creating collection problems. There shall be a fence erected around the bin pad storage area. Such fencing shall conform with city specifications as specified by the city manager or his designee.

B. Temporary bin service may be provided at a residential or commercial site at the request of the customer for short term cleanup activities and do not require a bin enclosure. Temporary bin service shall not be utilized in lieu of permanent disposal service. Temporary bin location and on site duration may be limited so as not to constitute a public

nuisance. Temporary bins determined to constitute a public nuisance may be immediately removed at the discretion of the city manager or his designee. (Ord. 1537 § B47, 8-6-1996; Ord. 1615, 10-1-2002; Ord. 1801, 12-3-2013)

13-12: SPECIAL PICK UP, DISPOSAL AND COLLECTION EVENT SERVICES:

A. The removal of dirt, sod, tree stumps, stones, broken concrete, furniture and appliances and other building materials is not considered to be normal household solid waste service. Periodic collection of accumulations of excess solid waste within the city, in addition to that provided for above, shall be made on the request of a resident. These services will be handled on a special pick up basis for which an extra charge is made. Tree and shrub trimmings which cannot be accommodated in the city provided yard waste cart shall be handled on a special pick up basis for which an extra charge will be made.

B. The following services are considered "special requests" and will be charged an additional fee as determined by city council and set by resolution. "Special requests" include, but are not limited to: extra pick up of residential, commercial, and industrial containers; same day delivery, emptying, or removal of temporary bins; same day delivery, emptying, removal or relocation of temporary or permanent roll off containers; standby time of collection personnel at customer request or to accommodate customer needs; same day return to empty a container or bin that was inaccessible, overfilled, or contaminated.

C. The disposal of substances determined to be household hazardous materials shall be restricted to special collection events or sites as approved by city council.

D. The city manager or his designee shall determine those waste materials suitable for special pick up service. (Ord. 1537 § B48, 8-6-1996; Ord. 1615, 10-1-2002)

13-13: ENFORCEMENT; POWERS AND DUTIES OF CITY MANAGER OR HIS DESIGNEE:

A. The city manager or his designee shall supervise the collection and removal of all solid waste by the city and shall enforce the provisions of this chapter. He shall have the right to inspect any and all premises for the purpose of determining whether the provisions of this chapter are being observed. Any person denying or obstructing such inspection shall be subject to the penalties herein provided.

B. The city manager or his designee shall establish routes and days for collection and may change same from time to time. When such routes and days are established or changed, he shall give such notice thereof as he may deem advisable.

C. In all cases where he shall find practical difficulty in complying with the requirements of this chapter as to the placing of refuse for collection by the city, he shall designate where such solid waste shall be placed or kept for collection by the city and the conditions under which it shall be collected.

D. The city manager or his designee, with the approval of the city manager, shall make such rules and regulations not inconsistent with the provisions of this chapter as may be necessary, reasonable and proper to effect the expeditious, economical and efficient collection and removal of solid waste by the city. Such rules and regulations may also relate to the required frequency of refuse collection at various locations, the type and number of refuse containers required, and the vehicles used in making such collections. The determination of the city manager or his designee shall be conclusive. (Ord. 1537 § B49, 8-6-1996; Ord. 1615, 10-1-2002)

13-14: CHARGES FOR COLLECTION; TIME AND MANNER OF PAYMENT:

A. Fees and charges for the collection and disposal of solid waste collection by the city will be fixed by resolution of the city council.

B. Solid waste collection charges shall be included in the regular city utility bill to customers who also have city water service. When the solid waste customer does not have city water service, a separate bill for solid waste service shall be mailed to the customer who owns or controls the premises serviced.

C. All charges for solid waste service included on utility bills, or if not a part of the city utility bill, shall be due and payable at the same time as other utility charges. If a bill for solid waste is not paid within thirty (30) days after billing date, a charge of ten percent (10%) as a penalty for said delinquency shall be made and added to the amount and become a part of said delinquent utility bill; and the city may discontinue all city utility service to the premises if the bill should remain delinquent on the forty fifth day after billing.

D. All solid waste service charges are the responsibility of the customer whose name appears on the utility billing for the service. If unpaid by the customer billed who controls the premises, they shall be secured at any time by filing for record in the office of the county recorder of any county, a certificate specifying the amount of such charges and the name and address of the customer liable therefor. From the time of recordation of the certificate, the amount required to be paid, together with interest and penalty, constitutes a lien upon all real property in the county owned by the customer or afterwards, and before the lien expires, acquired by him. The lien has the force, priority, and effect of and shall be regarded as a judgment lien, which may be extended, if unpaid, by the recording of a renewal certificate before the expiration of ten (10) years of the previously recorded certificate. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-15: BUILDING DESIGN REQUIREMENTS:

The design of any new, substantially remodeled or expanded building or other facility shall provide for proper storage or handling which will accommodate solid waste and recyclable material removal or collection. The design shall demonstrate to local land use and building permit issuing authorities that it includes the required provisions. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-16: UNLAWFUL TO BURN SOLID WASTE:

It shall be unlawful for any person to dispose of any solid waste by burning the same within the limits of the city. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-17: PENALTY FOR CONTAMINATION OF YARD WASTE:

Any customer whose yard waste container is contaminated with items other than "yard waste" as defined in section 13-2 of this chapter may be assessed an additional charge, the amount of which is set by resolution by the city council. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-18: COLLECTION OF RECYCLABLE MATERIALS:

The city may establish a separate collection service for recyclable materials, including compostable wastes, and establish specific guidelines for such service, which are consistent with the rules and regulations contained within this chapter. The city may also establish a permit for the collection of recyclable wastes. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-19: RECYCLING HAULER PERMIT REQUIREMENT AND APPLICATION:

In order to more effectively regulate, control, and monitor the amount of recyclables being deposited in landfills and document the amount diverted from the solid waste stream, it is in the best interest of the city to require those persons desiring to gather, collect, transport, or otherwise dispose of recyclables to obtain from the city a permit to do so. Said permit to gather, collect, transport, or otherwise dispose of recyclables shall be nonexclusive. Each permit awarded hereunder shall specifically describe the type of recyclable material to be collected and disposed of. Any person desiring to obtain a recycling hauler permit to collect, gather, transport, or otherwise dispose of recyclables shall pay a fee and make an application as set forth in guidelines determined by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-20: REFUSAL TO ISSUE PERMIT:

Nothing in this chapter shall be deemed to prevent the city manager or his designee from refusing to grant or renew any application for a recycling hauler permit when it appears that such permittee's proposed services are inconsistent with the intent of this chapter as defined in section 13-1 of this chapter, or do not serve the best interest of the people of Porterville. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-21: TERM AND RENEWAL:

The term of the permit shall become effective upon notification by the granting authority, and shall be through the end of the calendar year it was awarded. A recycling hauler permit may be renewed with the hauler's business license according to terms set forth by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-22: REPORTING REQUIREMENTS:

To assist the city in meeting its diversion goals as specified by the California integrated waste management act of 1989 (AB 939) and other state or local laws, the permittee shall maintain records including the following information:

A. The description and nature of the material (e.g., bottles, cardboard, grease, etc.) collected.

B. The name(s) and address(es) of each collection site within the city of Porterville, including amount, weight, or tonnage of the recyclables collected at each site.

C. Name and address of the site(s) where the above recyclables were disposed.

The permittee shall maintain such records for a period of five (5) years and shall, upon reasonable request, make such records available for the city's inspection.

The permittee shall also supply additional information when requested by the city manager or his designee. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002)

13-23: HOME GENERATED SHARPS WASTE MANAGEMENT PROGRAM:

A. Purposes: The city of Porterville finds and declares all of the following purposes for this section:

1. To achieve the mandates imposed by the integrated waste management act of 1989 (AB 939) on a regional basis;
2. To enact a comprehensive and innovative system for the proper and legal management of home generated "sharps" waste, as defined in subsection B of this section in the city of Porterville in accordance with section 118286 of the California Health And Safety Code;
3. To enact a law that establishes a program that is convenient for consumers and the public to return and ensure the safe and environmentally sound disposal of home generated sharps waste, and to provide a "no cost" system for consumers for the return of home generated sharps waste;
4. To assure that the costs associated with the handling and disposal of home generated sharps waste are the responsibility of the producers and retailers of home generated sharps waste, and not local governments or their service providers, state or local government, or taxpayers;
5. To reduce the likelihood of the illegal disposal of home generated sharps waste;
6. To ensure that all costs associated with the proper management of home generated sharps waste are internalized by the producers and retailers of home generated sharps waste at or before the point of purchase, and not at the point of discard;
7. To assure that manufacturers and retailers of sharps, while working to achieve the goals and objectives of this section, shall have the flexibility to partner with each other, with governmental programs, and with private and nonprofit business enterprises that provide collection and processing services, to develop and promote a safe and effective home generated sharps waste management system; and
8. To provide for the safe and convenient collection and disposal of one hundred percent (100%) of the home generated sharps waste discarded in the city of Porterville at no cost to the consumer and to comply with the requirements pursuant to state Health And Safety Code prohibiting the disposal of home generated sharps waste in trash, recycling, yard waste, or landfills as of August 1, 2014.

B. Definitions:

CONSUMER: An individual who has purchased sharps for personal use for humans or animals.

CONTAINED: All home generated "sharps" (as defined herein) waste is properly secured in a "receptacle" (as defined herein) prior to delivery to a retailer for disposal.

DISTRIBUTOR: A person who sells sharps to a retailer.

HOME GENERATED: All "sharps" as defined herein derived from a household, including a multi-family residence, or a single- family residence.

PORTERVILLE AREA: The geographic area that includes the boundaries of the city of Porterville, California.

PROPER DISPOSAL OF HOME GENERATED SHARPS WASTE: Disposal in compliance with the applicable provisions of the California Health And Safety Code by means of an approved/certified medical waste disposal company.

RECEPTACLE: An FDA approved, rigid and puncture resistant container with a sealable lid that is designed specifically for transporting sharps for disposal.

RETAILER: Any entity, including, but not limited to, a person or business, or whatever form of organization, which sells sharps to a consumer, including a manufacturer of sharps who sells directly to a consumer.

SHARPS: Hypodermic needles, pen needles, intravenous needles, lancets, and other devices that are used to penetrate the skin for the delivery of medications, to humans or animals.

C. Sharps Management:

1. By August 1, 2014, every retailer of sharps sold in the city of Porterville shall establish, within the retail outlet, a system for the acceptance and collection of home generated sharps waste for proper disposal.

2. Each system established by a retailer for the acceptance and collection of home generated sharps waste that is enclosed in sealed, puncture resistant receptacles during the retailer's normal hours of operation, for proper disposal shall, at a minimum, include all of the following elements:

a. A convenient location within the retail establishment for the "take back" from the consumer of home generated sharps waste at no cost to that consumer.

b. Appropriate signage, prominently displayed within five feet (5') of any entrance to the retail establishment and easily visible to the consumer, indicating that the retail establishment accepts and collects contained home generated sharps waste from consumers.

c. An appropriately secured receptacle or receptacles for the collection of contained home generated sharps waste within the retail establishment. The retailer shall assure that all home generated sharps waste is properly contained in a sharps receptacle and placed in a secured drop off location.

d. Assurance that the collected home generated sharps wastes are disposed within the time period established by applicable state law, as determined, from time to time by the Tulare County environmental health service department, acting as the local enforcement agency.

e. Comply with all applicable provisions of the California medical waste management act, Health And Safety Code section 117600 et seq.

3. A retailer who is required to accept contained home generated sharps waste shall, at a minimum, provide the following take back services:

a. The take back from the consumer of contained home generated sharps waste that the retailer sold or previously sold to the consumer, at no cost to that consumer. In that event, the retailer may require proof of purchase of the prior sales. The retailer shall only be required to accept contained home generated sharps waste in an amount not to exceed the amount previously sold to the consumer.

b. The take back of contained home generated sharps waste from a consumer purchasing sharps from the retailer, at no cost to the consumer. In that event, the retailer shall only be required to accept contained home generated sharps waste in an amount not to exceed the amount being purchased.

c. The take back from the consumer of contained home generated sharps waste that the retailer did not sell or previously sell to the consumer, at no cost to that consumer. The

retailer shall only be required to accept contained home generated sharps waste in an amount not to exceed the equivalent of one 2-quart size sharps container per week, per consumer, from any consumer who resides in the city of Porterville area. (Ord. 1814, 6-17-2014)

13-24: PENALTY FOR VIOLATION:

Any person violating any of the provisions of this chapter or wilfully and knowingly refusing to comply with the rules, regulations and determination of the city manager shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not to exceed six (6) months, (or as otherwise specified in the Section 1-9 of this Municipal Code), or by both fine and imprisonment. (Ord. 1494A, 7-20-1993; Ord. 1615, 10-1-2002; Ord. 1814, 6-17-2014)

13-25: COMPLIANCE WITH THE ACT AND SB 1383 REGULATORY COMPLIANCE

A. Compliance with the Act: All residential premises, multifamily residential complexes, commercial customers, franchised haulers, generators, haulers, licensed haulers, and all other entities subject to the requirements of the Act shall fully comply with the Act and all other applicable law or be subject to any applicable penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations), or any other applicable enforcement provision of this Code, as determined by the City Manager and/or his or her designee.

B. SB 1383 Regulatory Compliance: Organic waste generators, haulers, and all other entities subject to the requirements of SB 1383 shall fully comply with all applicable requirements, including those summarized below, or be subject to the penalties as prescribed in 14 CCR Section 18997.2, City Code Chapter 13-24 (Penalty for Violation), or City Code Chapter 2 Article XIV (Administrative Citations), or any other applicable enforcement provision of this Code, as determined by the City Manager and/or his or her designee.

1. Organic waste generators.

SB 1383 requirements that apply to organic waste generators include, but are not necessarily limited to the following:

a. All residential premises shall be automatically enrolled in the City's three-container collection services for garbage, recyclable materials, and organic waste including food waste.

b. All commercial premises (including all multifamily residential complexes with five (5) or more units) must make arrangements for the diversion of recyclable materials and organic waste, either through a collection service with a solid waste franchised hauler, or by self-hauling to a permitted facility meeting the requirements specified in 14 CCR Section 18984.3. The City shall have the right to review the number and size of a generator's containers and frequency of collection, to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and commercial premises shall adjust their service level for their collection services as required by the City.

c. Generator shall place organic waste, including food waste, in the designated organic waste container; recyclable materials in the designated recycling container; and

garbage in the designated garbage container. Generators shall not place materials designated for the garbage container into the organic waste container or recycling container.

c. Each commercial premise and multifamily residential complex property owner shall be responsible for ensuring and demonstrating its compliance with the following requirements:

- i. Supply and allow access to adequate number, size, and location of collection containers with sufficient labels or colors (conforming with requirements described below) for employees, contractors, tenants, and customers, consistent with the City's collection service or, if self-hauling in compliance with self-hauling requirements in Section B.c. herein.
- ii. Excluding multifamily residential complexes, provide containers for the collection of organic waste and recyclable materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a commercial premises does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:
 1. A body or lid that conforms with the container colors provided through the collection service provided by the City's franchised hauler, with either lids conforming to the color requirements or bodies conforming to the color requirements, or both lids and bodies conforming to color requirements. A commercial premises is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 2. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant to 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.
 3. Multifamily residential complexes are not required to comply with container placement requirements or labeling requirements in this Section pursuant to 14 CCR Section 18984.9(b).
- iii. Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of source separated organic waste and source separated recyclable materials.

- iv. Provide education information before or within fourteen (14) days of occupation of the premises by new tenants that describes requirements to keep source separated organic waste and source separated recyclable materials separate from garbage and the location of containers and the rules governing their use at each property.
- v. Provide or arrange access for the City or its representative to their properties during all inspections conducted in accordance with SB 1383 to confirm compliance with the requirements of this Chapter.
- vi. Commercial premises, but not multifamily residential complexes, are also required to:
 - 1. To the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the City's collection service.
 - 2. Periodically inspect organic waste, recycling, and garbage containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).
- vii. Nothing in this Chapter prohibits a generator from preventing or reducing waste generation, managing organic waste on site, or using a community composting site pursuant to 14 CCR Section 18984.9(c).
- d. Waivers for Generators
 - i. City may waive a commercial customer's obligation (including a multifamily residential complex) to comply with some or all of the organic waste requirements of SB 1383 if the commercial customer provides documentation as described below, and the City finds that documentation supports the granting of a waiver.
 - 1. Commercial customers requesting a de minimis waiver shall submit an application specifying the services that they are requesting a waiver from and provide documentation that either:
 - a. The commercial customer's total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container or green container comprises less than 20 gallons per week per applicable container of the business' total waste; or,
 - b. The commercial customer's total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in a blue container or green container comprises less than 10 gallons per week per applicable container of the business' total waste.
 - c. Notify City if circumstances change such that commercial customer's organic waste exceeds threshold required for waiver, in which case waiver will be rescinded.
 - 2. Commercial customers or property owners may request a physical space waiver through the following process:
 - a. Submit an application specifying the services that they are requesting a waiver from.

- b. Provide documentation that the premises lacks adequate space for blue containers and/or green containers including documentation from its hauler, licensed architect, or licensed engineer.
 - ii. Waivers shall apply for up to, but no longer than five (5) years, as determined by the Director and/or his or her designee.
 - 2. Other entities

SB 1383 requirements that apply to other entities include, but are not necessarily limited to the following:

 - a. Commercial edible food generators
 - i. Tier one commercial edible food generators shall comply with the requirements of 14 CCR Section 18991 commencing January 1, 2022. Tier two commercial edible food generators shall comply with the requirements 14 CCR Section 18991.3 commencing January 1, 2024.
 - ii. A large venue or large event operator that does not provide food services, but allows for food to be provided, shall require food facilities operating at the large venue or large event to comply with the requirements of 14 CCR Section 18991.3.
 - iii. Commercial edible food generators shall comply with the following requirements:
 - 1. Arrange to recover the maximum amount of edible food that would otherwise be disposed.
 - 2. Contract with or enter into a written agreement with food recovery organizations or food recovery services for: (i) the collection of edible food for food recovery; or (ii) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.
 - 3. Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
 - 4. Shall keep records as specified in 14 CCR Section 18991.4.
 - 5. Shall provide to the City a copy of any of the information they are required to track per Section 18991.4 within 30 days of request by the City.
 - b. Food recovery organizations and services
 - i. Shall maintain records as specified in 14 CCR Section 18991.5, and shall provide a copy of those records to the City within 30 days of request by the City.
 - c. Self-hauler Requirements
 - i. Any party wishing to self-haul material must apply for and receive written approval from the City.
 - ii. Self-haulers shall source separate all recyclable materials and organic waste generated on-site from solid waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2, or shall haul organic waste to a high diversion organic waste processing facility as specified in 14 CCR Section 18984.3.
 - iii. Self-haulers shall haul their source separated recyclable materials to a

facility that recovers those materials; and haul their source separated green container organic waste to a solid waste facility, operation, activity, or property that processes or recovers source separated organic waste. Alternatively, self-haulers may haul organic waste to a high diversion organic waste processing facility.

1. Self-haulers that are commercial customers (including multifamily residential complexes) shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the City. The records shall include the following information:

- a. Delivery receipts and weight tickets from the entity accepting the waste.
- b. The amount of material in cubic yards or tons transported by the generator to each entity.
- c. If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-hauler's vehicle in a manner that allows it to determine the weight of materials received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.

d. Inspections and Investigations by the City

- i. The City's representatives, its designated entity, and/or designees are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or source separated materials to confirm compliance with this ordinance by organic waste generators, commercial premises (including multifamily residential complexes), property owners, commercial edible food generators, haulers, self-haulers, food recovery services, and food recovery organizations, subject to applicable laws. This section does not allow the City to enter the interior of a private residential property for inspection.
- ii. A regulated entity shall provide or arrange for access to their properties during all inspections and shall cooperate with the City's employee or its designated entity/designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, edible food recovery activities, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for access to an entity's premises or access to records for any Inspection or investigation is a violation of this Chapter and may result in penalties described.
- iii. Any records obtained by the City during its inspections and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- iv. The City's representatives, its designated entity, and/or designees are authorized to conduct any inspections, remote monitoring, or other

investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.

- v. The City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 regulations, including receipt of anonymous complaints.



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Approval for Community Civic Event - Porterville Breakfast Rotary - Run for Life - May 7, 2022

SOURCE: Finance

COMMENT: The Porterville Breakfast Rotary Club is requesting approval to hold the "Run for Life" event on May 7, 2022, beginning at 8:00 a.m. The event is a 5k Run / Walk starting and finishing at Granite Hills High School. The Club is requesting the use of sidewalks along Putnam Avenue, Olive Avenue, Crestview Street, Morton Avenue and Conner Street.

This request is made under the Community Civic Event Ordinance No. 1326, as amended. The application has been routed according to the Ordinance regulations and reviewed by all City Departments involved. All requirements are listed on the attached copy of the Application and Agreement, Exhibit A and Exhibit B. The City Council's COVID-19 Ad Hoc Committee reviewed and approved the application. Event organizers are required to adhere to all local, State and Federal guidelines and limitations pertaining to COVID-19.

RECOMMENDATION: That the City Council approve the Porterville Breakfast Rotary application for a community civic event permit to hold the 'Run for Life' event on May 7, 2022, subject to the restrictions and requirements contained in the Application and Agreement, Exhibit A and Exhibit B.

ATTACHMENTS:

1. Community Civic Event Application and Agreement, Exhibit A, Exhibit B, Map, Outside Amplifier Permit, and Certificate of Liability Insurance

Appropriated/Funded:

Review By:

Department Director:
Maria Bemis, Finance Director

Final Approver: Patrice Hildreth, Deputy City Manager

CITY OF PORTERVILLE

291 N. Main Street, Porterville, CA 93257
559-782-7451 Fax: 784-4569 www.ci.porterville.ca.us



(Incomplete applications can delay permit process)

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

DO YOU HAVE? Event Flyer? E-mail address? Website?

Application date: 12-29-2021 Event date: May 7th, 2022
Event time: 8 am

Name of Event: Porterville Breakfast Rotary Run for Life

Sponsoring organization: Porterville Breakfast Rotary Phone # 559-359-9815
Address: P.O. Box 149 Porterville CA

Authorized representative: Mandy Lalanne Phone # 559-781-6617
Address: 140 E Morton Ave Porterville CA 93257

Event chairperson: Mandy Lalanne Phone # 559-359-9815 cell.

Location of event: Granite Hills High School
(Location map must be attached)

Type of event: 5K Run/Walk

Non-profit organization status: (501(c)3 91-1797687
(IRS Determination)

City services requested (fees associated with these services will be billed separately):

Barricades (quantity):	Street sweeping	Yes <u>X</u>	No
Police protection	Refuse pickup	Yes <u>X</u>	No <u>✓</u>
Other: <u>100 cones, signal control, Police escort</u> <u>2 barriers</u>			

Parks facility application required: Yes No X Attached

Assembly permit required: Yes No X Attached

STAFF COMMENTS (list special requirements or conditions for event):

Appr.	Deny	
_____	_____	Bus. Lic. Spvr.
_____	_____	Pub. Works Dir.
_____	_____	Comm. Dev. Dir.
_____	_____	Field Svcs. Mgr.
_____	_____	Fire Chief
_____	_____	Parks Dir.
_____	_____	Police Chief
_____	_____	Admin. Svcs. Dir.

CITY OF PORTERVILLE

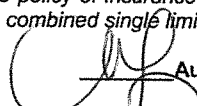
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

What constitutes a Community Civic Event?

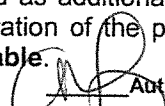
A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures. This application must be submitted **NO LESS THAN 30 DAYS PRIOR** to the date of the event in order to obtain City Council approval.

All City Code requirements are described in ordinance 15-20 (e) 1-23 and as amended in ordinance 1613. For a full description please visit our City of Porterville website at www.ci.porterville.ca.us/govt/CityClerk/, Porterville Municipal Codes. For questions or concerns please call 559-782-7451 or 559-782-7457. Any person who violates the provisions in this code, shall be deemed guilty of either a misdemeanor or an infraction, with penalties of one hundred (\$100) for the first violation.

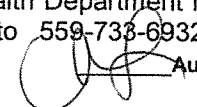
Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. **The City of Porterville and Successor Agency to the Porterville Redevelopment Agency shall be named as additional insured.** A Certificate of Liability Insurance and Additional Insured Endorsement sample forms are enclosed for your convenience. **This original certificate and endorsement shall be submitted to the Finance Department prior to the City of Porterville Council's approval.** *The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than one million dollars (\$1,000,000.00) per occurrence of bodily injury and property damage, combined single limit. (Ordinance 15-20(e) 18)*


Authorized Representative Initials

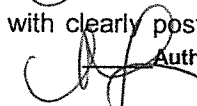
Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include **full liquor liability** in an amount not less than one million dollars (\$1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permitted, his/her agents or representatives pursuant the permit. **Claims-made policies are not acceptable.**


Authorized Representative Initials

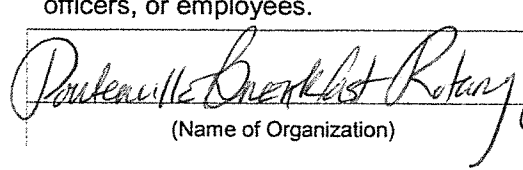
Health permit: Organization/Applicant **will obtain or ensure** that all participants obtain a 'Temporary Food Facilities' permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental Health Department located at 5957 S. Mooney Blvd., Visalia, CA, 93277, call 559-733-6441, or fax information to 559-733-6932; or visit their website: www.tularehhsa.org.

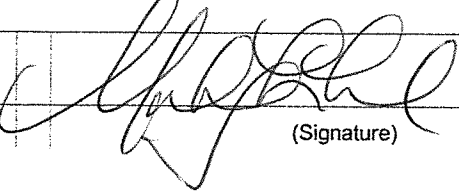

Authorized Representative Initials

First aid station: Organization/Applicant will establish a first aid station, with clearly posted signs, to provide basic emergency care, such as ice/hot packs, bandages, and compresses.


Authorized Representative Initials

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 15-20(e), as amended, and the terms and conditions set forth by City Council and stated in Exhibit 'A.' The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind or character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of any kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees.


(Name of Organization)


(Signature)

12-29-2021
(Date)

TO BE HELD ON PUBLIC PROPERTY

Name of event: Monteville Breakfast Rotary Kanton Lote

Sponsoring organization: Porterville Breakfast Rotary

Location: Granite Hills High School Event date: 5/7/2022 Event time: 8 am

[illegible]

The nonprofit sponsor shall collect said fee and remit the fee to the city within five (5) working days following the CCE. Said remittance shall be accompanied by a complete list of participants and consecutively numbered receipts written in triplicate, containing the name, address and telephone number of the licensee, and the licensee's California seller's permit number. Said receipts shall be furnished by the city. One copy of the receipt shall be furnished to the licensee, one copy filed with the finance department of the city, and one copy retained by the CCE sponsor for a period of three (3) years for audit purposes.

CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Porterville Breakfast Rotary Run for Life

Sponsoring organization: Porterville Breakfast Rotary Club

Event date: 5/7/2022 Hours: 6 am - 11 am

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

Closed

Street Name	From	To	Activity
Putnam			5K run/walk
Olive			
Crestview			
Morton			
Conner			
Putnam	conner	tulsa	
tulsa	putnam	olive	

Sidewalks	From	To	Activity
Putnam			
Olive			
Crestview			
Morton			
Conner			

Parking lots and spaces	Location	Activity
Granite Hills High School		participant parking

Requirements for Community Civic Event

Porterville Breakfast Rotary
Run for Life
May 7, 2022

City Engineer:
D. Cervantez

Community Development Director:
J. Ridenour

Public Works Director:
M. Knight

Fire Marshal:
C. Dignam

No comments.

Parks and Leisure Services Director:
D. Moore

No comments.

Police Lieutenant:
R. Carrillo

Please see Exhibit B.

Deputy City Manager:
P. Hildreth

Risk Management will require a Certificate of Insurance with evidence of \$2,000,000 in liability coverage, naming the City of Porterville as an additional insured. Risk Management also requires that all participants sign a waiver of liability and that event organizer adhere to all COVID-19 related mandates.

Field Services Superintendent:
B. Spry

No comments.

Field Services Superintendent – Streets:
J. Baeza

Please coordinate pickup and return of cones and barricades, signal control and street sweeping with Joe Baeza at 555 N. Prospect Street, 559-782-1600.

Requirements for Community Civic Event

Sponsor: Porterville Breakfast Rotary
Event: Run for Life 5K Run / Walk
Event Chairman: Marty Lalanne
Location: Granite Hills High School, Porterville CA
Date of Event: May 7, 2022 (8:00 a.m.)

RISK MANAGEMENT: Conditions of Approval

That the Porterville Breakfast Rotary provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than \$2,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as 'Additional Insured' against all claims arising from, or in connection with, the Permitted operation and sponsorship of the aforementioned Community Civic Event. If the event is located in the City of Porterville's Redevelopment Agency area, the same conditions apply.

- A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than \$1,000.
- B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A: VII, and the insurance company must be an 'admitted' insurer in the State of California.

PORTERVILLE POLICE DEPARTMENT

Conditions/Requirements for Special Event

Porterville Breakfast Rotary Cancer Run Saturday, May 7th, 2022

- ▶ Aid stations and check points must be out of the roadway and not in a position to interfere with traffic.
- ▶ Staff at aid stations and check points should have a means of communication by which they may summon assistance in the event of an emergency.
- ▶ Event staff on the race route should wear highly visible attire.
- ▶ Participants should be directed to stay to the side of the roadway and not disrupt the normal flow of traffic.
- ▶ Event organizers should contact the Police Dept. (Special Events Coordinator) to obtain police support and/or assistance, with the goal of ensuring a safe event. Please contact Lieutenant Ron Moore at 782-7410 if you have any questions or require further assistance.

Rick Carrillo, Lieutenant
Porterville Police Department

CITY OF PORTERVILLE
OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-9 & 18-14)



This application must be submitted ten (10) days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

- 1 Name and home address of the applicant: Marty Lulanne
1345 N. Lotus Way Porterville CA 93257
- 2 Address where amplification equipment is to be used: Granite Hills High School 1701 E Redman
- 3 Names and addresses of all persons who will use or operate the amplification equipment: _____
- 4 Type of event for which amplification equipment will be used: 5K Run/Walk
- 5 Dates and hours of operation of amplification equipment: May 7th, 2022 12:00 to 11:00 am
- 6 A general description of the sound amplifying equipment to be used: _____

Section 18-9

It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, jukebox, record player, loudspeaker, musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort.

The operation of any such instrument, phonograph, jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100') from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code § 6311)

Section 18-14

It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 6312)

Penal Code Section 415 (2) Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

I hereby certify that I have read and answered all statements on this registration form and that they are true and correct.

[Signature]
Signature of Applicant

12-29-2022
Date

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

City of Porterville, Chief of Police/Designee

Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/29/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, Inc. 2850 Golf Road Rolling Meadows IL 60008	CONTACT NAME: Ali Sulita	
	PHONE (A/C, No, Ext): 1-833-3ROTARY FAX (A/C, No): 630-285-4062	
	E-MAIL ADDRESS: rotary@ajg.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Lexington Insurance Company	19437
INSURED All Active US Rotary Clubs & Districts Porterville Breakfast Rotary 50222 Dist 5230 ATTN: Risk Management Dept. 1560 Sherman Ave. Evanston, IL 60201-3698	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES

CERTIFICATE NUMBER: 899307648

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Liquor Liability Included GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y	015375594	7/1/2021	7/1/2022	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
A	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY		015375594	7/1/2021	7/1/2022	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$		NOT APPLICABLE			EACH OCCURRENCE \$ AGGREGATE \$ \$
	☐ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	NOT APPLICABLE			PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Certificate Holder is included as an additional insured where required by written contract or permit subject to the terms and conditions of the general liability policy, but only to the extent bodily injury or property damage is caused in whole or in part by the acts or omissions of the insured.

CERTIFICATE HOLDER

CANCELLATION

City of Porterville
Successor Agency to the Porterville Redevelopment Agency
291 N Main Street
Porterville, Ca 93257

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Cynthia L. DeMonte

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ENDORSEMENT #15

This endorsement, effective 12:01 AM 07/01/2021

Forms a part of policy no.: 015375594

Issued to: US ROTARY CLUBS & DISTRICTS
C/O ROTARY INTERNATIONAL

By: LEXINGTON INSURANCE COMPANY

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

(Based on CG 2026 04/13)

This endorsement modifies insurance provided by the following:

COMMERCIAL GENERAL LIABILITY POLICY

SCHEDULE

Name of Additional Insured Person(s) or Organization(s)

City of Porterville and Successor Agency to the Porterville Redevelopment Agency
291 N. Main Street
Porterville, CA 93257

RE: Rotary Club of Porterville Breakfast - Relay
Run for Life 5/7/2022

Information required to complete this Schedule, if not shown above, will be shown in the
Declarations

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations;
whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations

All other terms and conditions of the policy remain the same.

A handwritten signature in black ink, appearing to be "J.R.B." followed by a long horizontal stroke.

Authorized Representative



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Consideration of City Fireworks Ordinance

SOURCE: Fire

COMMENT: At its meeting on January 18, 2022, the City Council approved Mayor Reyes' request to consider and review the City's Fireworks Ordinance for potential amendments. At its meeting on February 1, 2022, due to the Mayor's absence, the Council directed staff to carry over the item to its meeting of February 15, 2022.

As the Council is aware, in Spring 2021, the Council authorized various amendments to the Ordinance, including:

- A prohibition on the use of certain fireworks commonly marketed under the name "Piccolo Pete" and "Whistling Phantom", which emit loud shrill sounds. These particular fireworks are also known to be manipulated after the sale to create explosive devices.
- The addition of a violations clause of the current fireworks Ordinance to include differentiation between prohibited legal and illegal fireworks, as well as higher fees for violations, and also to create increasingly higher fines for repeat offenders.
- The addition of a "Host" component, which will aid in the enforcement activities where it might otherwise be difficult to discern who within a given party has actually ignited an illegal firework; the property owner could then be held liable regardless of who ignites the illegal firework.
- The addition of a rewards program that would further enhance staff's ability to locate and cite those who choose not to comply with the City's fireworks regulations. Rewards of \$50 per complaint can be awarded if the tip results in a citation.

The Fireworks Ordinance is herein presented for Council's consideration. Also provided for the Council's reference is a five-year citations collection report, as well as a comprehensive enforcement report dated July 2021.

RECOMMENDATION: That the City Council consider the City's Fireworks Ordinance and provide direction as determined.

ATTACHMENTS: 1. Ordinance No. 1882

Item No. 15.

2. 5-Year Fireworks Citation Collections
3. 2021 Fireworks Enforcement Report

Appropriated/Funded:

Review By:

Department Director:
Bryan Cogburn, Deputy Fire Chief

Final Approver: John Lollis, City Manager

ORDINANCE NO. 1882

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING AND RESTATING ARTICLE II OF CHAPTER 12 OF THE
PORTERVILLE MUNICIPAL CODE RELATED TO THE REGULATION OF
FIREWORKS**

WHEREAS: The City allows sale and discharge of "safe and sane" fireworks within the City limit in honor of the Independence Day holiday (June 28 through July 4, annually); and

WHEREAS: The City of Porterville ("City") has experienced an increase in the use of dangerous fireworks, which create a threat to the health and safety of the community and are considered a public nuisance; and

WHEREAS: The Porterville Community, comprised of local individuals, expressed concerns to the council regarding the discharge of both "safe and sane" fireworks, and the continuous discharge of illegal and "dangerous" fireworks; and

WHEREAS: Use of fireworks in the City interferes with the health, safety, quality of life, quiet enjoyment and general welfare of the community; and

WHEREAS: Research indicated that other communities have implemented various methods that focus on a combination of enforcement, education, and incentive programs; and

WHEREAS: Clarification of the actions meriting assessment of penalties was needed for enforcement purposes; and

WHEREAS: California Health and Safety Code Section 12541 authorizes the City to regulate or prohibit the sale, use, or discharge of fireworks; and

WHEREAS: The City Council has determined it is necessary to regulate fireworks, including "safe and sane" fireworks, as well as dangerous fireworks; and

WHEREAS: A public hearing was held before the City Council on April 20, 2021, pursuant to the Municipal Code of the City.

NOW, THEREFORE, BE IT ORDAINED: That the Council of the City of Porterville does ordain as follows:

SECTION 1. Purpose: The purpose of this ordinance is to address issues that have arisen since the last update of the ordinance related to the inappropriate discharge and misuse of fireworks.

SECTION 2. Chapter 12, Article II, is amended and restated as follows:

12-2.1: DEFINITIONS:

For the purposes of this article, definitions shall have the respective meaning ascribed to them in section 12500 et seq., of the Health And Safety Code of the State of California, and, unless

otherwise apparent from the context, certain words and phrases used in this article are defined as follows:

CITY: The city of Porterville.

DANGEROUS FIREWORKS: Any fireworks specified as such in the state fireworks law, section 12500 et seq., of the Health And Safety Code of the state and such other fireworks as may be determined to be dangerous by the state fire marshal.

ELIGIBLE ORGANIZATION: An organization which has met all of the following criteria for a continuous period of not less than one full year preceding submittal of an application for the permit required by this article (and which continues to do so thereafter):

- A. The organization must be a duly organized not for profit charitable, religious, civic, patriotic or community service organization;
- B. The organization must be headquartered within and clearly affiliated or identified with Porterville;
- C. The organization must be one which provides direct and regular community services and benefits to the citizens of the city; and
- D. The organization must hold its regularly scheduled meetings within the city;
- E. Must maintain a bona fide membership of at least twenty (20) members;
- F. The organization must have a tax exempt identification number assigned to them;
- G. One application per tax exempt ID number will be allowed; and
- H. One permit per tax exempt number will be allowed.

FIRE CHIEF: The fire chief or his/her duly authorized designee.

FIREWORKS: Any combustible or explosive composition, or any substance or combination of substances, or device prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, sparklers or other devices of like construction and any devices containing any explosive or flammable compound, or any tablet or other device containing an explosive substance; except that the term "fireworks" shall not include any auto flares, paper caps containing not in excess of an average of twenty five one- hundredths (0.25) of a grain of explosive content per cap and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times.

SAFE AND SANE FIREWORKS: Any fireworks which do not fall within the definition of "dangerous fireworks" or "exempt fireworks" per Health and Safety Code section 12529. The California state fire marshal's seal of registration shall be applied to all classified fireworks and pyrotechnic devices by a licensed manufacturer, importer, exporter or wholesaler and shall indicate the classification assigned by the state fire marshal.

STAND: Any building, counter, or other structure of a temporary nature used in the sale or offering for sale of fireworks pursuant to a permit duly issued. (Ord. 1650 § 2, 4-6-2004; Ord. 1776, 4-5-2011; Ord. 1799, 11-5-2013)

12-2.2: SALES OF FIREWORKS; PERMITS REQUIRED:

- A. It shall be unlawful for any person to sell or offer for sale any dangerous fireworks in the city.
- B. It shall be unlawful for any person to sell or offer for sale any "safe and sane" fireworks in the city without first obtaining a permit therefor. (Ord. 1650 § 3, 4-6-2004)

12-2.3: PUBLIC DISPLAYS OF FIREWORKS:

The fire chief shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by a jurisdiction, fair associations, amusement parks, other organizations or for use of fireworks by artisans in pursuit of their trade. Every such use or display shall be handled by a licensed operator approved by the fire chief and shall be of such character and so located, discharged or fired so as, in the opinion of the fire chief after proper investigation, not to be hazardous to property or endanger any person. Said rules and regulations are as follows:

- A. Applications: Applications for permits shall be made in writing at least ten (10) days in advance of the date of the display. After such privilege shall be granted, sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable.
- B. Bond For Fireworks Display Required: The permittee shall furnish a bond or certificate of insurance in an amount deemed adequate by the city's risk manager for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees or subcontractors.
- C. Disposal of Unfired Fireworks: Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining. (Ord. 1650 § 3, 4-6-2004; Ord. 1776, 4-5-2011)

12-2.4: NUMBER OF PERMITS LIMITED/PREAPPLICATION:

The maximum number of permits to sell "safe and sane" fireworks which may be issued pursuant to this article during any one calendar year shall not exceed one permit for each four thousand (4,000) residents of the city, or major fraction thereof, based on the most recent population figure as determined by the federal decennial census and updated annually by the California state department of finance. If the number of preapplications received up to and including the last day for making applications pursuant to this article exceeds the number of permits to be issued for the city, the fire chief shall thereafter supervise a public drawing to determine an order of priority for each preapplication. Preapplications can be obtained at the fire department or online at the city of Porterville's website between January 1 and the last business day of January. All

applicants will be assigned a number in the order in which the preapplication is received. The drawing will be held between February 16 and February 28 each year. (Ord. 1799, 11-5-2013)

12-2.5: SALES OF SAFE AND SANE FIREWORKS; APPLICATIONS FOR PERMITS:

Permits to sell "safe and sane" fireworks shall be issued by the fire chief. Application packets for a permit will be furnished to eligible organizations whose number has been drawn. Each organization must meet all the applicable requirements set forth in the application for permits section and the permit issuance section.

- A. Any eligible organization desiring to sell "safe and sane" fireworks in the city of Porterville shall obtain a permit application from the fire department. Permit applications shall be obtained during the period commencing the first business day of March and ending the last business day in March.
- B. Such applications shall be signed by a bona fide officer of the eligible organization, wherein the officer, on behalf of the organization and its agents, shall agree to abide by state laws and administrative regulations and all the stipulations of this code and the permit if permission to operate a fireworks stand shall be granted to the organization.
- C. Completed applications shall be returned to the fire department no later than five o'clock (5:00) P.M. on the last business day of March each year. Any eligible organization making an application for such permit to sell "safe and sane" fireworks that fails to return the completed application prior to five o'clock (5:00) P.M. on the last regular business day in March shall not be issued a permit to sell "safe and sane" fireworks.
- D. The licensee shall use the net proceeds derived from its operations under such license only for such nonprofit, charitable, religious or eleemosynary service projects that shall be of direct benefit to the city of Porterville and for no other purpose. (Ord. 1650 § 3, 4-6-2004; Ord. 1776, 4-5-2011; Ord. 1799, 11-5-2013)

12-2.6: PERMIT ISSUANCE BASED ON DRAWING SELECTIONS:

- A. All eligible organizations shall obtain and submit to the fire department the following forms supplied by the fire department. Forms will be supplied to those organizations whose drawn assigned number is sequentially within the total number of permits to be issued. All other applicants will be placed on a waiting list in the sequence of their drawn assigned number. If an applicant does not satisfy the requirements of this section within the time periods identified in this section, the next drawn assigned number on the waiting list will be notified and provided with the following paperwork:
 - 1. The property owner's release form signed by the property owner authorizing permission to erect a fireworks stand on his property;
 - 2. The fireworks storage form indicating where and how the fireworks will be stored when not in the approved stand;
 - 3. The state fire marshal's license to sell safe and sane fireworks;

4. A copy of the temporary seller's permit issued by the state board of equalization; and
 - a. The certificate of insurance required by section 12-2.14 of this article.
 - b. A statement of organization eligibility.
 - c. A site plan indicating location of stand, distance to nearest building, ingress, egress, parking, etc.
- B. These forms must be returned to the fire department by the last business day of March.
- C. No permit issued or authorized shall be transferable or assignable.
- D. When all the application requirements have been completed and the fireworks stand location has been approved, the fire department shall authorize the erection of a fireworks stand. Each qualified organization shall pay to the administrative services director or designee a permit fee amount as listed in the master administrative fee schedule amended from time to time by resolution of the city council. This fee will include a refundable cleanup deposit. Each permit shall be for only one stand per eligible organization and shall be forwarded to the fire department for delivery as set forth in subsection E of this section.
- E. Permits will be effective only when issued by the fire department after the final inspection of the stand shows compliance with all the requirements of this article. (Ord. 1650 § 3, 4-6-2004; Ord. 1776, 4-5-2011; Ord. 1799, 11-5-2013)

12-2.7: PERIOD OF DISCHARGE:

Safe and sane fireworks, as defined by section 12529 of the California Health And Safety Code, as amended ("fireworks"), may be discharged within the city limits of the city of Porterville ("city") during the period beginning at twelve o'clock (12:00) noon on June 28 and ending at eleven fifty nine o'clock (11:59) P.M. on July 4 of any year. (Ord. 1776, 4-5-2011)

12-2.8: PROHIBITIONS ON DISCHARGE:

It shall be unlawful for any person to ignite, explode, project, or otherwise fire or use, or permit the ignition, explosion or projection of any fireworks upon, over, or onto the private property of another, or to ignite, explode, project, or otherwise fire or make use of any fireworks within fifteen feet (15') of any residence, dwelling or any other structure, public property, fields or waterway. (Ord. 1776, 4-5-2011)

12-2.9: TIME PERIOD FOR SALE:

"Safe and sane fireworks" may be sold within the city limits of the city of Porterville during the period beginning twelve o'clock (12:00) noon on June 28 and ending at ten o'clock (10:00) P.M. on July 4. The hours of operation of any stand shall be limited to nine o'clock (9:00) A.M. to ten o'clock (10:00) P.M. daily during the days identified in this article, except that hours of operation of any stand on June 28 shall commence at twelve o'clock (12:00) noon. (Ord. 1650 § 3, 4-6-2004)

12-2.10: PROHIBITIONS:

- A. The manufacture of fireworks is prohibited within the jurisdiction.
- B. No person shall possess, sell, deliver, deal in, use, explode or fire, or cause to be used, exploded or fired, any form of fireworks designated as "dangerous fireworks" by section 12505 of the Health And Safety Code of the state of California.
- C. The possession, sale, delivery, dealing in, use, exploding or firing of any form of fireworks designated as "safe and sane fireworks" by section 12529 of the Health and Safety Code of the state of California is expressly prohibited, except as limited by this article.
- D. It shall be unlawful to store any fireworks in any residence, home, garage, or automobile within the city of Porterville. It shall also be unlawful to store any fireworks in any building or other place within the city of Porterville without having first applied for and received a permit pursuant to section 12-2.2 of this article.
- E. No fireworks shall be stored within one hundred feet (100') of any gasoline service station or any garage located within twenty five feet (25') of any other structure. Any facility for the storage of fireworks shall maintain a minimum setback from the street curbing of ten feet (10').
- F. No person shall light, or cause or permit to be lighted, any fireworks, or any other article or material, within any structure approved for fireworks storage, or within fifty feet (50') thereof.
- G. No smoking shall be allowed in any structure that is used for storing fireworks nor within fifty feet (50') of said structure. "No Smoking" signs shall be prominently displayed. (Ord. 1650 § 4, 4-6-2004; Ord. 1776, 4-5-2011)
- H. Notwithstanding anything to the contrary, "piccolo pete", "whistling pete", or "whistling phantom" type fireworks (including other fireworks of similar design, construction and performance) shall not be manufactured, possessed, delivered, used, discharged, displayed, or sold separately or in combination with otherwise allowed fireworks. The possession, manufacture, storage, sale, handling, use, and discharge of fireworks of this type are subject to the penalties outlined in Section 12-2.20.A of this Code.

12-2.11: REGULATIONS RELATED TO FIRE WORKS SALES:

- A. It shall be unlawful for any eligible organization to which a permit has been issued:
 - 1. To operate in violation of California Code of Regulations title 19, chapter 6, regulating the storage, transportation, sale and use of fireworks.
 - 2. To obtain or use more than one permit for one stand per year.
 - 3. To fail to clear all flammable or burnable materials within thirty feet (30') from any fireworks stand and to maintain such conditions during the period prescribed for the sale of fireworks.

4. To allow smoking within fifty feet (50') of any such business location or stand or to fail to post "No Smoking" signs with such wording in red letters not less than four inches (4") in height on a white background on all sides of any such stand.
 5. To fail to have immediately available within the stand a certified fire extinguisher or other fire extinguishing device of a type approved by the fire department.
 6. To sell fireworks earlier than twelve o'clock (12:00) noon on June 28 or later than ten o'clock (10:00) P.M. on July 4.
 7. To fail to dismantle and remove any stand or structure of any nature where fireworks were sold as of five o'clock (5:00) P.M. July 8.
 8. To sell fireworks to persons under sixteen (16) years of age.
- B. No person other than a member (or their spouse) of the organization or a volunteer who is associated with the organization having a permit shall be permitted to sell or otherwise participate in the sale of fireworks. All fireworks stands shall have the safety regulations posted inside the stand in an approved location. The size of the safety poster will be approved and provided by the fire department. A maximum of one member for every four (4) linear feet of stand is permitted within the stand at any one time (i.e., if the stand is 32 feet long, 32 divided by 4 equals 8 members allowed in the stand) and all persons selling fireworks must be at least eighteen (18) years old.
- C. No sleeping inside the fireworks stand will be permitted at any time.
- D. No person shall use or handle fireworks while under the influence of intoxicating liquids or narcotics. Alcohol and narcotics are prohibited within the fireworks stand.
- E. All electrical/spark producing appliances (fans, coolers, air conditioners, etc.) are prohibited inside the fireworks stands and shall not block the means of egress. (Ord. 1650 § 4, 4-6-2004; Ord. 1776, 4-5-2011; Ord. 1799, 11-5-2013)
- F. Those fireworks which are classified as "dangerous" fireworks under Section 12505 of the California Health and Safety Code are prohibited, except that such fireworks as are defined and classified as "safe and sane fireworks" in Section 12529 of the California Health and Safety Code may be displayed, sold and used pursuant to the provisions of this chapter and not otherwise. Notwithstanding anything to the contrary, "piccolo pete", "whistling pete", or "whistling phantom" type fireworks (including other fireworks of similar design, construction and performance) shall not be manufactured, possessed, delivered, used, discharged, displayed, or sold separately or in combination with otherwise allowed fireworks. The possession, manufacture, storage, sale, handling, use, and discharge of fireworks of this type are subject to the penalties outlined in Section 12-2.20.A of this Code.

12-2.12: FIREWORKS STANDS; REQUIREMENTS:

All retail sales of "safe and sane fireworks" shall be permitted only from within a temporary fireworks stand and sales from any other building or structure is prohibited. Temporary stands shall be subject to the following provisions:

- A. No fireworks stand shall be located within twenty five feet (25') of any other building or within one hundred feet (100') of a gasoline pump, or within one hundred feet (100') of another fireworks stand, when measured closest point to closest point. Canopies within ten feet (10') of a stand shall be considered an extension of the stand for measurement of setback distances. Minimum setback from the street curbing, alley, or driveway shall be ten feet (10'). Stands shall not cover or impede any public rights of way.
- B. No stand shall have a floor area in excess of four hundred (400) square feet. The width and length of each stand shall be a maximum of ten feet by forty feet (10' x 40'), respectively.
- C. Each stand must have at least two (2) exits located on separate walls. Fireworks stands with only three (3) sides and open from the back will not require exits. Fireworks stands shall have exits at least thirty inches (30") in width at both ends of the structure. An aisle with a minimum width of thirty inches (30") shall lead to each exit. Exits shall remain unobstructed. No supplies or other materials shall be stored in front of exit doors. All exit doors shall remain unlocked and unlatched whenever the stand is occupied.
- D. Each stand shall keep easily accessible a minimum of one 2 1/2-gallon water pressure type fire extinguisher and one 2A10BC rated dry chemical fire extinguisher and each shall be in good working order and bear a current inspection sticker. Extinguishers must be of a type approved for such use by the Porterville fire department.
- E. All stands must be constructed of solid wood or metal.
- F. After hours, stands must be properly secured or a security guard must be provided to patrol the premises. Under no circumstances shall the night watchman sleep within the fireworks stand.
- G. All unsold stock and accompanying litter shall be removed from the location by five o'clock (5:00) P.M. July 5.
- H. Fireworks stand may be brought to the site one week prior to June 28 and must be dismantled and removed by five o'clock (5:00) P.M. July 8.
- I. Temporary lighting may be installed in the fireworks stands. Approved temporary lights must have a guard protecting the bulb/fixture and all wiring and fixtures must be 3-wire and grounded.
- J. Primary power to the temporary lighting may be by means of on site commercial power in a fixed facility or by means of an on site portable generator. Generators must be located at least twenty five feet (25') from the fireworks stand. Location of portable generators must be approved by fire department.

- K. Fuel for portable generators is not allowed to be kept on the premises.
- L. No switches, electrical receptacles (plug ins), or splices are permitted within the stand.
- M. Extension cords to the stand are to be heavy duty, minimum of fifteen (15) amp capacity, and protected from vehicular damage. Romex is not an acceptable extension cord.
- N. All trash shall be removed from the premises and the fireworks stand each evening at the close of business.
- O. No person shall light, or cause or permit to be lighted, any fireworks or any other article or material within any such stand, or within fifty feet (50') thereof.
- P. No alcoholic beverages shall be allowed on the premises. No person who is under the influence of alcoholic beverages shall enter or be allowed into the sales booth.
- Q. Signage will be clearly displayed at each site providing for the fines as specified in section 12-2.20 of this article.
- R. Canopies within twenty five feet (25') of a stand must be labeled by the manufacturer as fire resistive. The total allowable canopy area within twenty five feet (25') of a stand shall be no larger than two hundred (200) square feet.
- S. Canopies within twenty five feet (25') of a stand shall meet the requirements set forth in the California code of regulations title 24, part 9, chapter 24 and title 19, division 1. (Ord. 1650 § 4, 4-6-2004; Ord. 1776, 4-5-2011; Ord. 1799, 11-5-2013)

12-2.13: FIREWORKS STANDS; LOCATIONS:

- A. In no instance shall any fireworks stand be located within a residential zoned district.
- B. No stand shall be located closer than one hundred feet (100') from another. (Ord. 1776, 4-5-2011)

12-2.14: CERTIFICATE OF INSURANCE:

Prior to the issuance of a permit, the eligible organization shall procure a certificate of insurance acceptable to the city. The certificate shall name the city of Porterville, its officers, agents, employees and volunteers as "additional insured". The certificate shall evidence coverage in an amount determined by the city's risk manager; providing, however, the amount shall not be less than one million dollars (\$1,000,000.00) combined bodily injury and property damage for each occurrence, and the deductible, if any, shall not be greater than one thousand dollars (\$1,000.00). The certificate shall specify the time, location, and dates to be covered by the policy. The certificate shall be provided to the fire department no later than five o'clock (5:00) P.M. on the last regular business day in March of the subject year or at such other time as the chief of the fire department may allow. (Ord. 1330, 5-7-1985; Ord. 1568, 1-19-1999; Ord. 1601, 5-1-2001; Ord. 1799, 11-5-2013)

12-2.15: STATE FIREWORKS LAW:

The provisions of this article shall be construed so as not to conflict with the state fireworks law. (Ord. 1330, 5-7-1985; Ord. 1568, 1-19-1999; Ord. 1601, 5-1-2001)

12-2.16: REVOCATION OF PERMITS:

Any violation of this article or other city laws, or the terms and conditions of the permit, or state laws or administrative regulations, or safety rules of the fire department shall be grounds for the immediate revocation of the permit. All officers, agents, and employees of the eligible organization shall be responsible for compliance with all the provisions of this article. (Ord. 1330, 5-7-1985; Ord. 1568, 1-19-1999; Ord. 1601, 5-1-2001)

12-2.17: NONISSUANCE OF PERMITS:

The final decision to issue permits shall rest with the fire chief. In cases such as civil unrest, severe drought conditions, or any other such situation deemed to be harmful or to have the possibility of creating an extreme hazard to persons and/or property the fire chief shall be the final authority in granting permits for fireworks sales. The right to refuse permits to applicants who have violated the regulations in this article in previous years shall also rest with the fire chief. (Ord. 1330, 5-7-1985; Ord. 1568, 1-19-1999; Ord. 1601, 5-1-2001)

12-2.18: SEIZURE OF FIREWORKS:

The fire chief shall have the authority to seize, take, remove, or cause to be removed at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored, or held in violation of this article. (Ord. 1776, 4-5-2011)

12-2.19: EXCEPTIONS:

Nothing in this article shall be construed as prohibiting the use of torpedoes, flares, or fuses by railroads or other transportation agencies for signal purposes of illumination; or the sale or use of blank cartridges for ceremonial purposes, athletic, or sports events or military ceremonies or demonstrations; or the sale, discharge or display of fireworks by permittees having a permit as herein provided; or the use and display of fireworks of whatever nature by any person engaged in the production of motion pictures, theatricals, or operas when such use and display is a necessary part of such production; or the transportation of fireworks through the city in regular course, and in original packages or containers from any point outside of the city to any other point outside the city. (Ord. 1330, 5-7-1985; Ord. 1568, 1-19-1999; Ord. 1601, 5-1-2001)

12-2.20: VIOLATIONS; PENALTIES:

A. The maximum fines for any violation related to the improper use, or any violation of the provisions outlined in this Chapter for the manufacture, possession, sale, delivery, use, or discharge of "Safe and Sane" fireworks within the City of Porterville, or any other violation of this Chapter other than the violations set forth in subsection (B) below, or unless otherwise specified in this Chapter, shall be:

1. One-thousand dollars (\$1,000) for the first offense; and

2. Two-thousand five hundred dollars (\$2,500) for the second offense within 36 months of the previous violation; and
3. Five-thousand dollars (\$5,000) for each subsequent offense within 36 months of the previous violation.

B. The maximum fines for the manufacture, possession, sale, delivery, use, or discharge of dangerous fireworks within the city of Porterville shall be:

1. Two-thousand five hundred dollars (\$2,500) for the first offense; and
2. Five-thousand dollars (\$5,000) for the second offense within 36 months of the previous violation; and
3. Ten-thousand dollars (\$10,000) for each subsequent offense within 36 months of the previous violation.

C. Any administrative fine or administrative civil penalty assessed pursuant to this Chapter 12-2, shall provide for cost reimbursement to the Office of the State Fire Marshal and the collection of disposal costs pursuant to Health and Safety Code Section 12557.

D. Chapter 12-2 shall be limited to apply only to a person, organization, group, association, etc., who possesses or the seizure of 25 pounds or less of dangerous fireworks.

E. Any administrative fine or administrative civil penalty collected pursuant to this Chapter 12-2, shall not be subject to Health and Safety Code Section 12706, Disposition of Fines and Forfeitures. (Ord. 1799, 11-5-2013)

12-2.21: SOCIAL HOST:

A. Findings, Intent and Purpose.

1. Findings. The City Council, pursuant to the police powers delegated to it by the California Constitution, has the authority to enact laws which promote the public health, safety and general welfare of its residents. The illegal possession, manufacture, storage, sale, handling, use, and discharge of fireworks, defined as "Dangerous Fireworks" in Section 12-2.1 of this code, on private property is harmful to and creates a threat to public health, safety, quiet enjoyment of residential property and the general welfare. While the discharge of illegal fireworks can be tied to a particular residence or property, it is often difficult to tell who at the residence or property discharged the illegal firework(s). The owner or tenant of the premises is often in the best position to control, and knows or should know of the possession, manufacture, storage, sale, handling, use, or discharge of illegal fireworks on his/her residence or commercial premises. The City Council finds that in too many cases, persons having possession or control of private property where the illegal possession, manufacture, storage, sale, handling and use of fireworks occurs, have failed to ensure that illegal fireworks are not possessed, manufactured, stored, sold,

handled, used, or discharged on their property. Furthermore, problems associated with the illegal possession, manufacture, storage, sale, handling, use and discharge of fireworks are difficult to prevent and deter unless the Fire Chief, Police Chief, or other designated official of the City of Porterville has the legal authority to cite the owner or tenant of the premises where illegal fireworks are possessed, manufactured, stored, sold, handled, used or discharged.

2. Intent. The intent of this section is to protect the public health, safety, quiet enjoyment of residential property, and general welfare, rather than to punish. An ordinance that imposes liability on property owners or tenants for allowing the possession, manufacture, storage, sale, handling or use of illegal fireworks on their property is necessary to deter and prevent such possession, manufacture, storage, sale, handling, use, or discharge and to deter persons who actively and passively aid, allow, or tolerate such activities on their property.

3. Purposes. The purposes of this section are to protect the public health, safety and general welfare, to deter the possession, manufacture, storage, sale, handling, use or discharge of illegal fireworks, and to reduce the costs of providing police, fire, and other emergency response services to areas where illegal fireworks are being possessed, manufactured, stored, sold, handled, used, or discharged. These purposes are implemented by the imposition of a civil money penalty against social hosts (landowners or tenants) who actively or passively aid, allow or tolerate the possession, manufacture, storage, sale, handling, use, or discharge of illegal fireworks on their property.

4. Declaration. For these reasons, the City Council declares that the possession, manufacture, storage, sale, handling, use, or discharge of illegal fireworks is a threat to the peace, health, safety and general welfare of the public. Such actions constitute a public nuisance as they affect at the same time the entire community of the City of Porterville as well as the neighborhoods in which they occur. The nuisance created thereby presents an immediate threat to the public health and safety, warranting summary abatement by the Fire Chief, Police Chief, or other City of Porterville designated official under Government Code Section 38773.

B. Definitions. For the purposes of this section, the following terms shall have the following meanings:

1. "Responsible person" means a person or persons with a right of possession of the residence or other private property at which illegal fireworks are possessed, manufactured, stored, handled, used or discharged, including but not limited to:

a. Any owner of the residence or other private property, meaning the record owner of the title to property as of the time of the possession, manufacture,

storage, sale, handling or use of illegal fireworks, wherever that person or entity resides at that time;

b. A tenant or lessee of the residence or other private property at the time when illegal fireworks are possessed, manufactured, stored, handled, used or discharged;

c. The person(s) in charge of the residence or other private property at the time when illegal fireworks are possessed, manufactured, stored, sold, handled, used or discharged;

d. The person(s) who organizes, supervises, officiates, conducts or controls the gathering or any other person(s) accepting responsibility for such a gathering where illegal fireworks are possessed, manufactured, stored, sold, handled, used or discharged.

A responsible person need not be present at the time illegal fireworks are possessed, manufactured, stored, sold, handled, used, or discharged in order for the City of Porterville to impose civil money penalties upon such responsible person. Prior knowledge of the possession, use, manufacture, storage, sale, handling, use, or discharge of illegal fireworks is not prerequisite to a finding that any specific individual is a responsible person as defined by this section.

2. "Residence" or "other private property" means a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall, meeting room, office, land or building, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, business, or location for parties or other social functions, and whether owned, leased, rented, or used with or without compensation.

C. Responsibility for Proper Property Management. Every owner, occupant, lessee, tenant or holder of any possessory interest of a residence or other private property within the City of Porterville is required to maintain, manage and supervise the property and all persons thereon in a manner so as not to violate the provision of this section. The owner of the property may remain liable for such violations regardless of any contract or agreement with any third party regarding the property.

D. Penalties for Violation.

1. It is a civil violation of this section, and a public nuisance constituting an immediate threat to public health and safety warranting all remedies otherwise permitted by this Code including but not limited to summary abatement, for any responsible person to conduct or allow illegal possession, manufacture, storage, sale, handling, use, or discharge of fireworks on his/her residential or other private property. Such a violation

additionally subjects any and all responsible persons to the civil money penalties specified in Section 12-2.10.B of this code.

2. In the event that a juvenile hosts a gathering at a residence or other private property at which illegal possession, manufacture, storage, sale, handling, use, or discharge of fireworks occurs, then the parents or guardians of that juvenile will be jointly and severally liable for any penalties incurred pursuant to this section.

E. Social host liability.

1. The City, in its discretion, may opt to not hold a private property owner liable under this section for a violation of Sections 12-2.7, 12-2.8, or 12-2.10, on that property if the owner can demonstrate that at the time of such violation if they:

- a. had rented or leased the property to another,
- b. were not present,
- c. had no prior knowledge of, or reason to know of the violation, and
- d. there has been no prior notice of violation or citation issued to the particular occupant at the premises.

2. No person who has the right to use, possess or occupy a unit in a multifamily residential property under a lease, rental agreement or contract shall be liable under this section for violations of Sections 12-2.7, 12-2.8, or 12-2.10 occurring in the common areas of the property, solely on the basis of that right to use, possess or occupy that unit.

3. Nothing in this section shall limit the liability of any social host for a violation of Section 12-2.7, 12-2.8, or 12-2.10 by the social host.

F. Additional Remedies/Penalties. Violations may be deemed a misdemeanor or infraction. Any person who violates any provision of this chapter is guilty of an infraction or a misdemeanor at the discretion of the city attorney. Upon conviction, the person is subject to punishment by as prescribed in Section 1-9 and any other applicable available remedies in this Code. To the fullest extent permitted by law, that person shall also be responsible for all costs associated with the safe disposal of all confiscated fireworks as well as all expenses, costs, fees and fines associated with the investigation of the charges, as well as all expenses and costs associated with any emergency response, by fire, police, building and safety and code enforcement departments as a result of a violation.

G. Administrative citation and fine.

1. A peace officer or code enforcement officer may issue an administrative citation and fine for the violation of any of the provisions of this chapter as provided in Chapter 2, Article XIV of the Porterville Municipal Code, without prior issuance of a notice of violation. In addition to the proscribed penalties, and to the fullest extent permitted by law, the person shall also be responsible for all costs associated with the safe disposal

of all confiscated fireworks as well as all expenses, costs, fees and fines associated with the investigation of the charges, as well as all expenses and costs associated with any emergency response, by fire, police, animal control, building and safety, and code enforcement departments as a result of a violation.

2. The administrative citation fines shall be as defined in Section 12-2.20
3. All administrative citation procedures, including appeal procedures, as set forth in Chapter 2, Article XIV of the Porterville Municipal Code shall be applicable to administrative citations issued for violations of this chapter.

H. Remedies cumulative.

The remedies provided in this chapter are not to be construed as exclusive remedies and, in the event of violation, the city may pursue any proceedings or remedies otherwise provided by law.

I. Assessment against property for unpaid costs.

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Sections 12-2.18, 12-2.20, and this section 12-2.21 are not paid within thirty days of the date of the order, or the final disposition of an appeal therefrom, such costs may be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and may be transmitted to the tax collector for collection. Said assessment shall have the same priority as other city taxes.

J. Cost assessment.

If the City opts for enforcement pursuant to subsection I. above, City officials investigating the firework abatement matter shall keep an account of the cost of abatement on each separate lot or parcel of land where the work is done. After confirmation of an account report, on or before August 10 of each year, a certified copy of the confirmed report shall be filed with the Tulare County auditor for the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll. They shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for property taxes. All laws and ordinances applicable to the levy collection and enforcement of city taxes are made applicable to such special assessments, and the lien of said assessment shall have priority of the taxes with which it is collected.

12-2.22: REWARD PROGRAM:

The City Council is authorized to establish, by Resolution, a reward program, using funds consisting of fines collected from firework violations, to pay to individuals providing information leading to the identification and successful criminal or civil prosecution of any person violating the Porterville City Code related to the unlawful possession, use, manufacture, storage, sale, handling, use, or discharge of dangerous fireworks.

SECTION 3. This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED AND ADOPTED this 4th day of May, 2021.

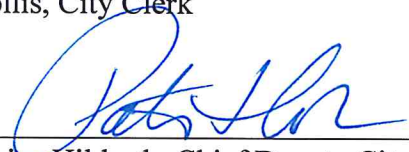


Adrian Monte Reyes, Mayor

ATTEST:

John D. Lollis, City Clerk

By:



Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) (SS)
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly qualified City Clerk of the City of Porterville do hereby certify:

THAT the foregoing ordinance is a true and correct copy of Ordinance No. 1882, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 4th day of May, 2021, that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance to become effective on the 3rd day of June, 2021, at which time said ordinance is deemed to be in full force and effect.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

COUNCIL:	PEÑALOZA	REYES	FLORES	STOWE	CARRILLO
AYES:	X		X	X	X
NOES:					
ABSTAIN:		X			
ABSENT:					

JOHN D. LOLLIS, City Clerk


By: Fernando Gabriel-Moraga, Deputy City Clerk

Cite #	Inc St Dir	Inc St	Issued for	Section	Issue Date	Time	Officer	Fine	Paid	Disposition
1276	S	Jennifer	Fireworks	12-2.10.8.	7/4/2017	2035	Pisani	\$1,500	NO	COLLECTIONS
1251	W	Nancy	Fireworks	12-2.10.8.	7/4/2017	2048	Figueroa	\$1,500	UNK	
1121	S	Leggett	Fireworks	12-2.10.8.	7/4/2017	2053	Dignam	\$1,500	NO	COLLECTIONS
1226	N	Belmont	Fireworks	12-2.10.8.	7/4/2017	2105	Clark	\$1,500	YES THRU PP	
1277	W	Wall	Fireworks	12-2.10.8.	7/4/2017	2106	Pisani	\$1,500	NO	COLLECTIONS
1122	W	Cheryll	Fireworks	12-2.10.8.	7/4/2017	2114	Dignam	\$1,500	YES THRU PP	
1227	N	Verdugo	Fireworks	12-2.10.8.	7/4/2017	2120	Clark	\$1,500	NO	COLLECTIONS
1252	W	Pioneer	Fireworks	12-2.10.8.	7/4/2017	2122	Figueroa	\$1,500	YES THRU PP	
1253	N	Salisbury	Fireworks	12-2.10.8.	7/4/2017	2135	Figueroa	\$1,500	NO	COLLECTIONS
1228	N	Colby	Fireworks	12-2.10.8.	7/4/2017	2142	Clark	\$1,500	UNK	
1229	N	Ellis	Fireworks	12-2.10.8.	7/4/2017	2207	Clark	\$1,500	YES THRU PP	
1278	W	Westfield	Fireworks	12-2.10.8.	7/4/2017	2208	Pisani	\$1,500	NO	COLLECTIONS
1123	W	Putnam	Fireworks	12-2.10.8.	7/4/2017	2217	Dignam	\$1,500	UNK	
1279	N	Lowery	Fireworks	12-2.10.8.	7/4/2017	2225	Pisani	\$1,500	NO	COLLECTIONS
1376	W	Olive	Fireworks	12-2.10.8.	11/2/2017	1630	Clark	\$1,500	YES THRU PP	
1377	W	Olive	Fireworks	12-2.10.8.	11/14/2017	1630	Clark	\$1,500	NO	COLLECTIONS
1378	W	Olive	Fireworks	12-2.10.8.	11/14/2017	1630	Clark	\$1,500	YES	
Cite #	Inc St Dir	Inc St	Issued for	Section	Issue Date	Time	Officer	Fine	Paid	Disposition
1151	N	Howland	Fireworks	12-2.10.8.	1/4/2018	1320	Clark	\$1,500	YES 10/15/18	
1567	N	Prospect	Fireworks	12-2.10.8.	7/2/2018	1545	Dignam	\$1,500	NO	COLLECTIONS
1431	N	Third	Fireworks	12-2.10.8.	7/4/2018	2042	Dignam	\$1,500	YES 6/25/19	
1600	N	San Carlos	Fireworks	12-2.10.8.	7/4/2018	2050	Figueroa	\$1,500	YES 2/25/20	
1458	E	Date	Fireworks	12-2.10.8.	7/4/2018	2103	Mariscal	\$1,500	NO	FAILED PP
1432	E	Bellevue	Fireworks	12-2.10.8.	7/4/2018	2105	Dignam	\$1,500	YES 10/30/19	
1601	W	Sandra	Fireworks	12-2.10.8.	7/4/2018	2105	Figueroa	\$1,500	NO	COLLECTIONS
1478	W	Phillips	Fireworks	12-2.10.8.	7/4/2018	2115	Garcia	\$1,500	NO	COLLECTIONS
1433	N	South Pl	Fireworks	12-2.10.8.	7/4/2018	2123	Dignam	\$1,500	NO	COLLECTIONS
1434	N	South Pl	Fireworks	12-2.10.8.	7/4/2018	2125	Dignam	\$1,500	NO	COLLECTIONS
1435	N	South Pl	Fireworks	12-2.10.8.	7/4/2018	2127	Dignam	\$1,500	NO	COLLECTIONS
1459	E	Morton	Fireworks	12-2.10.8.	7/4/2018	2128	Mariscal	\$1,500	YES 8/27/19 THRU PP	
1602	W	Yates	Fireworks	12-2.10.8.	7/4/2018	2140	Figueroa	\$1,500	YES 7/23/18	
1436	N	Sierra	Fireworks	12-2.10.8.	7/4/2018	2146	Dignam	\$1,500	YES 8/1/19	
1603	W	Memory	Fireworks	12-2.10.8.	7/4/2018	2155	Figueroa	\$1,500	YES 7/9/18	
1437	E	Dixie	Fireworks	12-2.10.8.	7/4/2018	2205	Dignam	\$1,500	YES 5/28/19	
1438	E	Oak	Fireworks	12-2.10.8.	7/4/2018	2212	Dignam	\$1,500	YES 4/15/19 THRU PP	
1460	E	Vandalia	Fireworks	12-2.10.8.	7/4/2018	2214	Mariscal	\$1,500	YES 7/13/18	
1439			Fireworks	12-2.10.8.	7/4/2018	2224	Dignam	\$1,500	NO	COLLECTIONS
1461	S	Camellia	Fireworks	12-2.10.8.	7/4/2018	2241	Mariscal	\$1,500	YES 1/1/19	
1604	W	Bellevue	Fireworks	12-2.10.8.	7/4/2018	2245	Figueroa	\$1,500	YES 10/1/20 THRU PP	
1462	S	A	Fireworks	12-2.10.8.	7/4/2018	2309	Mariscal	\$1,500	NO	COLLECTIONS
1479			Fireworks	12-2.10.8.	7/4/2018	2325	Garcia	\$1,500	YES 1/22/19THRU PP	
1605	N	Greenfield	Fireworks	12-2.10.8.	7/4/2018	2335	Figueroa	\$1,500	NO	COLLECTIONS
1568			Fireworks	12-2.10.8.	7/6/2018	1435	Dignam	\$1,500	NO	COLLECTIONS
1569			Fireworks	12-2.10.8.	7/6/2018	1520	Dignam	\$1,500	NO FAILED PP	COLLECTIONS
1570			Fireworks	12-2.10.8.	7/6/2018	1525	Dignam	\$1,500	YES 3/31/20	
Cite #	Inc St Dir	Inc St	Issued for	Section	Issue Date	Time	Officer	Fine	Paid	Disposition
1629			Fireworks	12-2.10.8.	7/4/2019	0015	Dignam	\$1,500	YES THRU PP 4/1/20	
1975	N	Balmoral	Fireworks	12-2.10.8.	7/4/2019	2043	Hosfeldt	\$1,500	YES 8/30/19	
1630	N	Fourth	Fireworks	12-2.10.8.	7/4/2019	2106	Dignam	\$1,500	YES THRU PP 6/22/20	
1631	N	Fourth	Fireworks	12-2.10.8.	7/4/2019	2109	Dignam	\$1,500	YES THRU PP 5/13/20	
1632	N	Second	Fireworks	12-2.10.8.	7/4/2019	2121	Dignam	\$1,500	YES THRU PP 6/18/20	
1633	N	Second	Fireworks	12-2.10.8.	7/4/2019	2131	Dignam	\$1,500	FAILED PP	
1976			Fireworks	12-2.10.8.	7/4/2019	2132	Hosfeldt	\$1,500	FAILED PP	COLLECTIONS
1634	N	Second	Fireworks	12-2.10.8.	7/4/2019	2142	Dignam	\$1,500	FAILED PP	
2025	E	Mohoff	Fireworks	12-2.10.8.	7/4/2019	2144	Segovia	\$1,500	FAILED PP	
2026	E	Cleveland	Fireworks	12-2.10.8.	7/4/2019	2155	Segovia	\$1,500	FAILED PP	
1977	E	Springville	Fireworks	12-2.10.8.	7/4/2019	2208	Hosfeldt	\$1,500	YES 8/19/19	
2027	E	Cleo	Fireworks	12-2.10.8.	7/4/2019		Segovia	\$1,500	MAKING PYMTS	
1635	W	Cheryll	Fireworks	12-2.10.8.	7/4/2019	2243	Dignam	\$1,500	NO	COLLECTIONS
1636	W	Memory	Fireworks	12-2.10.8.	7/5/2019	1555	Dignam	\$1,500	NO	
3621	W	Pioneer	Fireworks	12-2.10.8.	11/15/2019	1013	Garcia	\$1,500	FAILED PP	
1643	S	Indiana	Disch. FW ou	12-2.7	12/7/2019		Dignam	\$100	NO	
Cite #	Inc St Dir	Inc St	Issued for	Section	Issue Date	Time	Officer	Fine	Paid	Disposition
1644	N	Newcomb	Fireworks	12-2.7, 2-	1/13/2020	1115	Dignam	\$100	YES	
3125	N	Prospect	Fireworks	12-2.10.8.	6/24/2020	1600	Dignam	\$1,500	NO	
3325	W	Memory	Fireworks	12-2.10.8.	6/30/2020	900	Dignam	\$1,500	YES 8/13/20	
4850	N	Patsy	Fireworks	12-2.10.8.	7/4/2020	2027	Garcia	\$1,500	NO	
4851	N	Mathew	Fireworks	12-2.10.8.	7/4/2020	2040	Garcia	\$1,500	YES THRU PP 11/18/20	
3127	N	Second	Fireworks	12-2.10.8.	7/4/2020	2049	Dignam	\$1,500	NO	
4852	N	Newcomb	Fireworks	12-2.10.8.	7/4/2020	2055	Garcia	\$1,500	PP MAKING PYMTS	
4853	N	Patsy	Fireworks	12-2.10.8.	7/4/2020	2105	Garcia	\$1,500	YES THRU PP 9/23/20	
3128	N	Jaye	Fireworks	12-2.10.8.	7/4/2020	2111	Dignam	\$1,500	YES THRU PP 3/18/21	
3129	W	McComb	Fireworks	12-2.10.8.	7/4/2020	2117	Dignam	\$1,500	NO	
3130	W	Theta	Fireworks	12-2.10.8.	7/4/2020	2129	Dignam	\$1,500	YES 3/29/21	
4854	W	Morton	Fireworks	12-2.10.8.	7/4/2020	2130	Garcia	\$1,500	NO	
4855	W	School	Fireworks	12-2.10.8.	7/4/2020	2140	Garcia	\$1,500	YES	
3131	W	Mulberry	Fireworks	12-2.10.8.	7/4/2020	2151	Dignam	\$1,500	YES	
4856	N	Wellington	Fireworks	12-2.10.8.	7/4/2020	2155	Garcia	\$1,500	YES	
4857	W	Bellevue	Fireworks	12-2.10.8.	7/4/2020	2211	Garcia	\$1,500	NO	
3132	N	Beverly	Fireworks	12-2.10.8.	7/4/2020	2214	Dignam	\$1,500	FAILED PP	
3133	N	Prospect	Fireworks	12-2.10.8.	7/4/2020	2225	Dignam	\$1,500	PP MAKING PYMTS	
4858	N	Balmayne	Fireworks	12-2.10.8.	7/4/2020	2225	Garcia	\$1,500	YES	
4859	W	Date	Fireworks	12-2.10.8.	7/4/2020	2300	Garcia	\$1,500	YES	
4860	N	Maston	Fireworks	12-2.10.8.	7/4/2020	2350	Garcia	\$1,500	FAILED PP	
3175	W	Pamela	Fireworks	12-2.10.8.	7/4/2020		Clark	\$1,500	NO	
2845	N	Westside	Fireworks	12-2.10.8.	7/4/2020		Balanga	\$1,500	NO	
2846		Kessing	Fireworks	12-2.10.8.	7/4/2020		Balanga	\$1,500	NO	
2847	N	Patsy Cr	Fireworks	12-2.10.8.	7/4/2020		Balanga	\$1,500	NO	
2848	S	Beverly	Fireworks	12-2.10.8.	7/4/2020		Balanga	\$1,500	NO	
2849	W	Tomah Av	Fireworks	12-2.10.8.	7/4/2020		Balanga	\$1,500	NO	
3176	W	Della	Fireworks	12-2.10.8.	7/5/2020	0005	Clark	\$1,500	NO	
3327	S	Leggett	Fireworks	12-2.10.8.	7/6/2020	1135	Dignam	\$1,500	NO	
3328	N	Balmayne	Fireworks	12-2.10.8.	7/6/2020	1140	Dignam	\$1,500	NO	

2017 Paid/payment plan Unpaid/failed PP/collections Percentage paid
17 6 11 35.29%
\$25,500.00 \$9,000.00 \$16,500.00

2018 Paid/payment plan Unpaid/failed PP/collections Percentage paid
27 15 12 55.56%
\$40,500.00 \$22,500.00 \$18,000.00

2019 Paid/payment plan Unpaid/failed PP/collections Percentage paid
16 7 9 43.75%
\$22,600.00 \$10,500.00 \$12,100.00

2020 Paid/payment plan Unpaid/failed PP/collections Percentage paid
32 13 19 40.63%
\$46,600.00 \$18,100.00 \$28,500.00

2213	N	Lowery St	Fireworks	12-2.10.B	9/1/2020	1620	Balanga	\$1,500	NO	
2216	W	Monte Av	Fireworks	12-2.10.B	9/14/2020	905	Balanga	\$1,500	NO	
Cite #	Inc St Dir	Inc St	Issued for	Section	Issue Date	Time	Officer	Fine	Paid	Disposition
3333			FW	12-2.10.B	6/14/2021	1143	Dignam	\$2,500	YES	
3334	W	Vandalia	FW	12-2.10.B	6/14/2021	1147	Dignam	\$2,500	NO	
3335	S	Jaye	FW	12-2.10.B	6/28/2021	1149	Dignam	\$2,500	NO	
5171			FW	12-2.10b	6/29/2021	900	Balanga	\$2,500	NO	
5170			FW	12-2.10b	6/29/2021	840	Balanga	\$2,500	NO	
5172	W	Mulberry	FW	12-2.10b	6/29/2021	935	Balanga	\$2,500	NO	
5173	N	Lombardi	FW	12-2.10b	6/29/2021	1005	Balanga	\$2,500	FAILED PP	
5174	S	Jaye St.	FW	12-2.10b	6/29/2021	1025	Balanga	\$2,500	YES	
5174	S	Jaye St.	FW	12-2.10b	6/29/2021	1030	Balanga	\$2,500	FAILED PP	
3765	W	Union Ave	FW	12-2.10b	6/29/2021	920	Garcia	\$2,500	NO	
5100	N	Walch	FW	12-2.10b	6/29/2021	1105	Garcia	\$2,500	NO	
3766	S	C Street	FW	12-2.10b	6/30/2021	1534	Garcia	\$2,500	YES	
3683	N	Salisbury	FW	12-2.10.B	7/3/2021	2051	Balanga	\$2,500	NO	
5081	E	Putnam	FW	12-2.10.B	7/3/2021	2100	Pendergra	\$2,500	NO	
3136	N	Third	FW	12-2.10.B	7/3/2021	2104	Dignam	\$2,500	NO	
3684	W	Heritage	FW	12-2.10.B	7/3/2021	2114	Balanga	\$2,500	YES	
5053	N	Salisbury	FW	12-2.10.B	7/4/2021	2020	Hosfeldt	\$2,500	YES	
3685	N	Douglas	FW	12-2.10.B	7/4/2021	2030	Balanga	\$2,500	NO	
4976	E	Vandalia	FW	12-2.10.B	7/4/2021	2030	Graves	\$2,500	NO	
5054	W	Morton	FW	12-2.10.B	7/4/2021	2040	Hosfeldt	\$2,500	NO	
5101	W	Morton Av	FW	12-2.10.B	7/4/2021	2045	Garcia	\$2,500	NO	
5055	W	Bel Aire	FW	12-2.10.B	7/4/2021	2055	Hosfeldt	\$2,500	NO	
3686	W	Mulberry	FW	12-2.10.B	7/4/2021	2100	Balanga	\$2,500	YES	
4984	S	Wisconsin	FW	12-2.10.B	7/4/2021	2030	Graves	\$2,500	NO	
5102	W	Thurman	FW	12-2.10.B	7/4/2021	2110	Garcia	\$2,500	NO	
4977	W	River Edge	FW	12-2.10.B	7/4/2021	2110	Graves	\$2,500	YES	
4978	W	Mcintire	FW	12-2.10.B	7/4/2021	2120	Graves	\$2,500	NO	
3687	W	Putnam Av	FW	12-2.10.B	7/4/2021	2121	Balanga	\$2,500	NO	
5057	W	Tomah	FW	12-2.10.B	7/4/2021	2125	Hosfeldt	\$2,500	NO	
5103	W	Westfield	FW	12-2.10.B	7/4/2021	2130	Garcia	\$2,500	NO	
4979	W	Jordan	FW	12-2.10.B	7/4/2021	2130	Graves	\$2,500	YES	
3688	N	Lombardi	FW	12-2.10.B	7/4/2021	2140	Balanga	\$2,500	NO	
3689	N	Lombardi	FW	12-2.10.B	7/4/2021	2147	Balanga	\$2,500	YES THRU PAY PLAN	
5058	W	Nancy	FW	12-2.10.B	7/4/2021	2150	Hosfeldt	\$2,500	NO	
3690	W	Oakmont	FW	12-2.10.B	7/4/2021	2203	Balanga	\$2,500	YES	
5059	W	Santa Mar	FW	12-2.10.B	7/4/2021	2209	Hosfeldt	\$2,500	NO	
4980	N	E	FW	12-2.10.B	7/4/2021	2220	Graves	\$2,500	NO	
3691	W	Pioneer Av	FW	12-2.10.B	7/4/2021	2226	Balanga	\$2,500	YES	
4981	E	Putnam	FW	12-2.10.B	7/4/2021	2230	Graves	\$2,500	NO	
4982	E	Thurman	FW	12-2.10.B	7/4/2021	2252	Graves	\$2,500	YES	
5060	N	York	FW	12-2.10.B	7/4/2021	2253	Hosfeldt	\$2,500	NO	
3692	W	Santa Mar	FW	12-2.10.B	7/4/2021	2325	Balanga	\$2,500	NO	
3693	W	Bel Aire	FW	12-2.10.B	7/4/2021	2308	Balanga	\$2,500	YES	
5061	W	Green Acr	FW	12-2.10.B	7/4/2021	2340	Hosfeldt	\$2,500	NO	
4983	W	Swearinge	FW	12-2.21 M	7/4/2021	2340	Graves	\$2,500	YES	
5063	N	Jaye St.	FW	2-2.10b, 1	7/4/2021	2345	Garcia	\$2,500	dismissed per hearing	
5062	N	Lindley	FW	12-2.10.B	7/4/2021	2340	Hosfeldt	\$2,500	NO	
5143	W	Westfield	FW	12-2.10	8/13/2021	946	Pendergra	\$2,500	NO	
5144	S	Sierra Vist	FW	12-2.10,12	8/13/2021	1121	Pendergra	\$2,500	NO	
5146	W	Bellevue	FW	12-2.10, 1	8/13/2021	1439	Pendergra	\$2,500	NO	
5147	N	F St.	FW	12-2.21.12	8/9/2021	1056	Pendergra	\$2,500	NO	

2021 Paid/payment plan Unpaid/failed PP/collections Percentage paid
50 14 36 28.00%
\$125,000.00 \$35,000.00 \$90,000.00

There were 51 Cites issued in 2021, 1 was overturned so I removed it from this calculation



CITY COUNCIL AGENDA – JULY 20, 2021

SUBJECT: 2021 Fireworks Enforcement Review

SOURCE: Fire

COMMENT: This informational report item is to provide the City Council an update related to illegal fireworks activity during this year's Independence Day celebrations.

Illegal fireworks do not carry the "Safe and Sane" seal of the California State Fire Marshal. Illegal fireworks include skyrockets, bottle rockets, roman candles, aerial shells, firecrackers and other types of fireworks that explode, go into the air, or move on the ground in an uncontrollable manner. The use of illegal fireworks on and around the Independence Day holiday generates a high volume of calls to the Porterville Police Department (PPD).

At its meeting on April 20, 2021, the Council conducted its first reading of Ordinance 1882, amending the Porterville City Code sections that apply to fireworks violations. These code changes included increasing fine amounts for both "Safe and Sane" and Illegal fireworks, providing for additional bans of Piccolo Pete style fireworks, adding a Social Host violation, and creating a reward program. The second reading was conducted at the Council's meeting on May 4, 2021, and Ordinance 1882 went into full effect June 4, 2021.

Beginning June 4, 2021, PPD Detectives and Officers were proactive in enforcement work and their significant efforts resulted in the confiscation of over twelve hundred (1,200) pounds of illegal fireworks prior to the July 4th Holiday weekend. These efforts resulted in multiple felony and misdemeanor arrests. Code Enforcement issued 12 Administrative Citations as a result of these efforts.

A formal fireworks detail was deployed over three nights, July 2nd through July 4th, which included Fire personnel, Code Enforcement Officers, and Police Officers. These teams patrolled neighborhoods and responded to calls for service. Over the three nights, 106 fireworks calls for service were received by PPD dispatch. The detail was successful in issuing thirty-five (35) Administrative Citations and confiscating approximately one hundred (100) pounds of illegal fireworks. The Fire Department responded to thirty-five (35) calls for service over the three day period, which a breakdown of the calls is as follows:

Porterville Fire Department Calls 7/2-7/4/2021:

Type of call	#
Grass fire	9
Dumpster or other outside trash receptacle fire	2
EMS call, excluding vehicle accident with injury	9
Chemical release, reaction, or toxic condition	1
Assist invalid	2
Cover assignment, standby	1
Dispatched, cancelled en route, false alarm/call	5

No incident found on arrival at dispatch address	3
Smoke scare, odor of smoke	2
Smoke detector activation due to malfunction	1

The combined efforts and collaboration between the Porterville Police and Fire Departments over the period of June 4, 2021 through July 4, 2021 resulted in a response to 214 calls for service specific to fireworks, a total seizure of over 12,800 illegal fireworks totaling 1,347 pounds, and the issuance of \$117,500 in fines from 47 Administrative Citations.

Confiscated Fireworks 2021:

Type of Fireworks	#	weight
Mortars	1277	
Cakes, boxes	309	
Roman candles	1446	
Fire crackers	8000	
Bottle rockets	1742	
Mortar launch tubes	26	
Weight, lbs.		1347.3
Total	12,800	1,347.3

For historical reference included is a breakdown of Administrative Cites issued for illegal fireworks over the preceding 5 years:

Historical Fireworks Cites:

YEAR	CITES	FINE
2016	12	\$18,000
2017	17	\$25,500
2018	27	\$40,500
2019	15	\$22,500
2020	30	\$45,000
2021	47	\$117,500

RECOMMENDATION: Information Only

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:

Dave LaPere, Fire Chief

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Consideration of Litter Abatement Program

SOURCE: Community Development

COMMENT: At its meeting on May 17, 2021, the Tulare County Association of Governments (TCAG) Board of Directors authorized Tulare County Transportation Authority (TCTA) Measure R funds through Resolution No. 2021-101, for a 3-year Litter Abatement Pilot (LAP) Program in the City of Porterville, to service two State highways (SR-190 and SR-65) within the city limits. At its meeting on June 15, 2021, with the consideration of the budget, the City Council appropriated up to \$50,000 in funding to develop a litter abatement program. The program is planned to be completed in partnership with the California Department of Transportation (Caltrans) District 6 and TCAG. Subsequently, staff reached out to local non-profit agencies that have the capacity to operate a litter abatement program and provide employment opportunities for individuals experiencing homelessness.

The proposed program includes one crew of four individuals and one supervisor completing two cleaning cycles per month on State Route 65 and State Route 190 within the city limits, as well as off-ramps and other transportation rights of way near the state routes where litter accumulates. TCAG allocated funds specifically for the Porterville SR 190 and SR 65 corridor improvement component with Measure “R” funds. The California Department of Transportation District 6 has also committed to matching local funds as well as utilizing Clean California funds to support the program, allocating \$80,000 for the Porterville Delegated Maintenance Agreement for three years. TCAG has committed \$42,000 of Measure R TCTA funds annually. The TCAG Board will consider an additional appropriation of \$20,000 of Measure R funds to cover the estimated expenses of purchasing the required equipment for the first year of the program. This cross jurisdictional approach brings a variety of funding sources (state/regional/local) to address the litter problem as it overlaps jurisdictions and provides employment opportunities for individuals experiencing homelessness. The use of Caltrans funds will be limited to state highways. The proposed funding for the Litter Abatement program is broken down below.

3 Year Program

Source of Funding	Year 1	Year 2	Year 3
TCAG	\$62,000	\$42,000	\$42,000
Caltrans	\$80,000	\$80,000	\$80,000
City of Porterville	\$50,000	\$50,000	\$50,000

Total	\$192,000	\$172,000	\$172,000
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The program requires that the City enter into a Delegated Maintenance with Caltrans (Attachment 2) for the ability to access the state funding and perform the cleanup efforts in the State right of way.

Staff is requesting that the Council allocate up to \$50,000 of Measure I funds annually for three years for the implementation of a litter abatement program, and approve the Delegated Maintenance Agreement with Caltrans.

Additionally, staff is requesting that the Council approve the attached draft agreement with a local non-profit agency that can execute the program. Through outreach to the local non-profit agencies, staff has identified Community Services and Employment Training, Inc. (CSET). CSET currently operates similar litter abatement programs within Tulare County that provide employment and training opportunities for individuals experiencing homelessness. The agreement will enable CSET to operate as the contractor for the Litter Abatement Program for the City. CSET has noted that they have the capacity and experience to begin the LAP in a timely manner.

RECOMMENDATION: That the City Council:

1. Approve the State of California Department of Transportation Delegated Maintenance Agreement;
2. Approve the agreement with CSET for the execution of the Litter Abatement Program;
3. Authorize the Mayor and City Manager to execute all necessary documents; and
4. Appropriate up to \$50,000 of Measure I funds per year for three (3) years to support the Litter Abatement Program

ATTACHMENTS:

1. Draft Delegated Maintenance Agreement
2. Draft Independent Contractor's Agreement
3. Locator Map
4. Tulare County Association of Governments Resolution No. 2021-101

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Community Development Director

Final Approver: John Lollis, City Manager

**DELEGATED MAINTENANCE AGREEMENT
WITH THE CITY OF PORTERVILLE**

THIS AGREEMENT, is made effective this _____ day of _____, 2021, by and between the State of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE," and the CITY of Porterville; hereinafter referred to as "CITY"; and collectively referred to as "PARTIES".

AGREEMENT

1. The PARTIES desire to provide that CITY perform specific maintenance functions on the STATE highways within the CITY as authorized in Section 130 of the Streets and Highways Code.
2. The CITY will perform such maintenance work as is specifically delegated to it, on the identified State highway routes, or portions thereof, all as hereinafter described under this agreement and Exhibit A.
3. The degree or extent of maintenance work to be performed, and the standards therefore, shall be in accordance with the provisions of Section 27 of the Streets and Highways Code and the then current edition of the State Maintenance Manual.
4. The functions and levels of maintenance service delegated to the CITY in the attached Exhibit A, have been considered in setting authorized total dollar amounts. The CITY may perform additional work if desired, but the STATE will not reimburse the CITY for more than the authorized dollar limits established herein.
5. The STATE will reimburse the CITY for the actual cost of all routine maintenance work performed by the CITY as delegated under Exhibit A and B to this Agreement. It is agreed that during any fiscal year, the maximum expenditure on any route shall not exceed the amount as shown in Exhibit A to this Agreement unless such expenditure is revised by an amended Agreement or otherwise adjusted or modified as hereinafter provided for.
6. Upon written request by CITY the expenditure per route for routine maintenance work, as referred to in Exhibit A, may be increased, decreased, redistributed between routes, or additional expenditures for specific projects may be made by STATE. However, such adjustments should be authorized in writing by the District Director or his authorized representative and accepted by in writing by CITY. Exhibit A need not be amended.
7. Additional expenditures or an adjustment of expenditures, once authorized shall apply only for the fiscal year designated therein and shall not be deemed to permanently modify or change the basic maximum expenditure per route as

specified in Exhibit A. An adjustment of any said maximum expenditure, either an increase or decrease, shall not affect other terms of the Agreement.

8. Exhibits A can be amended as necessary by written concurrence of PARTIES to reflect any future changes, deletion or additions or to ensure an equitable annual cost allocation.
9. The CITY will submit bills in a consistent periodic sequence (monthly, quarterly, semiannually, or annually). Bills for less than \$500 shall not be submitted more than once each quarter. Bills must be submitted promptly following the close of STATE's fiscal year on each June 30th and should be coded according to the Caltrans HM Program Code as outlined in this Agreement. Bills submitted for periods prior to the last fiscal year will be deemed waived and will not be honored.
10. Maintenance services provided by contract or on a unit-rate basis with overhead costs included shall not have these above-mentioned charges added again. An actual handling charge by the CITY for the direct cost of processing this type of bill will be allowed.

11. LEGAL RELATIONS AND RESPONSIBILITIES

- 11.1. Nothing in the provisions of this Agreement is intended to create duties or obligations to or rights in third parties not PARTIES to this contract or to affect the legal liability of either PARTY to the contract by imposing any standard of care respecting the maintenance of State highways different from the standard of care imposed by law.
- 11.2. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction conferred upon CITY under this Agreement. It is understood and agreed that CITY will fully defend, indemnify, and save harmless STATE and all its officers and employees from all claims, suits, or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CITY under this Agreement.
- 11.3. Neither CITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE, under or in connection with any work, authority or jurisdiction conferred upon STATE under this Agreement. It is understood and agreed that STATE will fully defend, indemnify, and save harmless CITY and all its officers and employees from all claims, suits, or actions of every name, kind and description

brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.

12. PREVAILING WAGES:

- 12.1. Labor Code Compliance- If the work performed under this Agreement is done under contract and falls within the Labor Code section 1720(a)(1) definition of a "public works" in that it is construction, alteration, demolition, installation, or repair; or maintenance work under Labor Code section 1771. CITY must conform to the provisions of Labor Code sections 1720 through 1815, and all applicable provisions of California Code of Regulations found in Title 8, Chapter 8, Subchapter 3, Articles 1-7. CITY agrees to include prevailing wage requirements in its contracts for public works. Work performed by CITY'S own forces is exempt from the Labor Code's Prevailing Wage requirements.
- 12.2. Prevailing Wage Requirements in Subcontracts - CITY shall require its contractors to include prevailing wage requirements 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. Subcontracts shall include all prevailing wage requirements set forth in CITY's contracts.

13. INSURANCE:

- 13.1. SELF-INSURED - CITY is self-insured. CITY agrees to deliver evidence of self-insured coverage providing general liability insurance, coverage of bodily injury liability and property damage liability, naming STATE, its officers, agents and employees as the additional insured in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. Coverage shall be evidenced by a certification of self-insurance letter ("Letter of Self-Insurance"), satisfactory to STATE, certifying that CITY meets the coverage requirements of this section. This Letter of Self-Insurance shall also identify the _____ location as depicted in EXHIBIT A. CITY shall deliver to STATE the Letter of Self-Insurance with a signed copy of this AGREEMENT. A copy of the executed Letter of Self-Insurance shall be attached hereto and incorporate as Exhibit B.
- 13.2. SELF-INSURED using Contractor - If the work performed under this Agreement is done by CITY's contractor(s), CITY shall require its contractor(s) to maintain in force, during the term of this agreement, a policy of general liability insurance, including coverage of bodily injury liability and property damage liability, naming the STATE, its officers, agents and employees as the additional insured

in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. Coverage shall be evidenced by a certificate of insurance in a form satisfactory to the STATE that shall be delivered to the STATE with a signed copy of this Agreement.

14.STATE costs and expenses assumed under the terms of this Agreement are conditioned upon the passage of the annual State of California Budget by the Legislature, the allocation of funding by the California Transportation Commission as appropriate, and the encumbrance of funding to the District Office of STATE to pay the billing by CITY.

15.TERMINATION - This Agreement may be terminated by mutual written consent by PARTIES or by STATE for cause. CITY's failure to comply with the provisions of this Agreement may be grounds for a Notice of Termination by STATE.

16.TERM OF AGREEMENT - This Agreement shall become effective on the date first shown on its face sheet and shall remain in full force and effect until amended or terminated as set forth in Article 8 above.

PARTIES are empowered by Streets and Highways Code section 116 to enter into this Agreement and have delegated to the undersigned the authority to execute this Agreement on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Agreement.

IN WITNESS WHEREOF, PARTIES hereto have set their hands and seals the day and year first above written.

THE CITY OF PORTERVILLE

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

By: _____
Mayor/Chairmen

TOKS OMISHAKIN
Director of Transportation

Initiated and Approved

By: _____
City Manager

By: _____
Deputy District Director
Maintenance District

ATTEST:

By: _____
City Clerk

As to Form and Procedure:

By: _____
City Attorney

By: _____
Attorney
Department of Transportation

EXHIBIT A

DELEGATION OF MAINTENANCE

TABLE 1
FY February (Estimate) 2022 – June 2025)
(Litter Pickup in Shoulder and Landscape Areas)

Route No.	Length Miles	Description of Routing	Program Delegated	Maximum Annual Authorized Expenditure
65	5.44	Porterville – PM 16.119 to 21.559	HM2D	\$50,000
190	3.94	Porterville – PM 15.09 to 19.03	HM2D	\$30,000

*HM2D – Program Function Roadside Litter/Debris Pickup

TOTAL AUTHORIZED EXPENDITURE PER YEAR: \$80,000

EXHIBIT A

MAINTENANCE FUNCTION DESCRIPTION

CITY will provide Litter/Debris pickup at locations listed on Table listed above. The CITY will provide the STATE's Caltrans Area Superintendent a monthly litter removal schedule, in advance, no less than 24-hour notice, prior to any litter removal activity involving STATE highways, or the STATE's right-of-way. CITY agrees to utilize a crew/or crews approved by the STATE and appropriately supervised and trained to work on State rights-of-way within the City of Porterville area. City is to utilize one or more crews and one working supervisor. CITY will notify STATE before 8:00 a.m. on days CITY crews are unable to work. CITY will also advise the Contract Manager one week in advance of permanent changes to schedules.

STATE is to provide the necessary safety instruction to CITY crews. STATE will furnish and place safety warning signs when necessary. STATE agrees, at its sole expense, to provide technical direction to oversee the work being performed under the terms of this agreement. STATE will provide a shadow vehicle (as STATE deems necessary) for clean ups scheduled on State rights-of-way. STATE will provide bags for the containment of litter. STATE will provide for the removal of all bags and disposal of litter collected. In the event CITY is willing to provide for the removal of bags and disposal of litter collected, this Agreement may be amended, and the cost these services added to this contract.

EXHIBIT B

Insert (CT District) addressee information

_____2021

ATTN: (name of CT representative)

City of Porterville

Department of Finance

RE: Statement of Self Insurance for _____ Related to _____ Maintenance Agreement with State of California Department of Transportation ("STATE") for the _____ along Highway _____ at _____

Dear _____

The purpose of this letter is to certify that the CITY is self-insured and self-funded covering third-party claims arising out of its general operations (for example, commercial general liability and automobile liability insurance). Further the CITY is self-insured covering workers' compensation claims and has received the consent of the State Department of Industrial Relations to do so.

Each fiscal year, as a part of its budgetary process, the CITY appropriates funds specifically to satisfy valid third-party claims and workers' compensation claims, which may be brought against the CITY.

The CITY certifies its self-insured, general liability coverage for bodily injury liability and property damage liability, meets the required coverage amounts in section 15.1 (INSURANCE) of the Maintenance Agreement, specifically general liability insurance, coverage of bodily injury liability and property damage liability in an amount of \$1 million per occurrence and \$2 million in aggregate and \$5 million in excess. The CITY further represents that regarding any claims made in connection with the Maintenance Agreement by the STATE, the STATE will be first-in-line regarding the reserved, self-insured amounts.

If you need any additional information regarding this letter, please direct those inquiries through my office.

Sincerely,

FINANCE MANAGER

AGREEMENT NO. _____

INDEPENDENT CONTRACTOR'S AGREEMENT

THIS AGREEMENT is made and entered into on _____, by and between the **CITY OF PORTERVILLE**, a municipal corporation, ("CITY" herein) and **COMMUNITY SERVICES & EMPLOYMENT TRAINING INC.** ("CONTRACTOR" herein).

RECITALS

WHEREAS, CONTRACTOR represents CONTRACTOR is experienced and well qualified in the field of litter removal.

NOW, THEREFORE, incorporating the foregoing recitals herein, CITY and CONTRACTOR mutually agree as follows:

1. SCOPE OF WORK. CONTRACTOR shall, using its own trained labor force, manually gather, bag, and pile litter and debris from alongside designated roadways. One crew of four (4) people each and one (1) working supervisor from Contractor will gather, bag and pile all litter found along the roadway on a schedule as determined by CITY. CONTRACTOR'S crew will clean to a level of cleanliness as determined by CITY. CONTRACTOR will close and secure all bags of litter, and place them in a safe manner in stacks out of the roadway for removal by others. CONTRACTOR will provide transportation, portable toilets, and all personal protective equipment needed to perform the work in accordance with Caltrans safety instructions. At a minimum, CONTRACTOR'S working supervisor must be trained in Caltrans freeway litter safety instruction. Frequency and schedule of clean ups will be provided by CITY. CITY will provide supplies (bags and other supplies) that are provided by Caltrans to CONTRACTOR. Upon completion of litter pick up, CONTRACTOR will notify CITY of completion. CITY and or other parties will remove bags of litter from alongside roadway. In addition, other duties of a similar nature may be assigned as needed by the CITY. Roadways shall include ramps and shoulders.

1.1. The scope of work shall include all items and procedures necessary to properly complete the task CONTRACTOR has been hired to perform, as outlined within the schedule provided by the CITY, attached hereto as Exhibit A. In the event that the crew is not available, CONTRACTOR will communicate such with the CITY.

1.2. Caltrans will maintain responsibility for traffic control for shoulder cleanups. Ramps do not require additional Caltrans traffic control measures. In the event CONTRACTOR is requested to provide traffic control measures consistent with Caltrans safety requirements, CONTRACTOR will provide an estimate as to the cost of this additional task and upon mutual agreement with CITY, provide such control.

1.3. In the event CONTRACTOR is asked to remove collected litter from roadways to a designated location, CONTRACTOR will provide an estimate as to the cost of this additional task and upon mutual agreement with CITY, provide for said removal and disposal.

1.4. Medians are not included within the scope of work at this time. In the event some medians are added to the scope of work, the CITY will get an approved list of medians to clean from Caltrans and provide that list to CONTRACTOR. A separate crew may be identified by the CONTRACTOR at a separate cost to the CITY as explained in 2.2 below.

2. COMPENSATION. Compensation for all work, services or products called for under this Agreement shall be payable in accordance with section 3 "Payment Procedure" as stated below but in no event shall exceed an annual total of One Hundred Eighty Four Thousand Three Hundred Dollars (\$184,300.00).

2.1. The Payment by the CITY to the CONTRACTOR 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 "A" attached hereto and incorporated herein by reference. The CONTRACTOR agrees to provide all services required under Section 1. Scope of Work, within the compensation amount set forth in Exhibit "A".

3. PAYMENT PROCEDURE. CONTRACTOR shall be paid for services rendered after receipt of an itemized invoice for the work completed and approved by CITY in accordance with the terms of this Agreement. Payment by CITY to CONTRACTOR shall be made within thirty (30) days after receipt and approval by CITY of CONTRACTOR's itemized invoice.

4. KEY PERSONNEL. CONTRACTOR shall name all key personnel to be assigned to the work set forth herein. All key personnel shall be properly licensed and have the experience to perform the work called for under this Agreement. CONTRACTOR shall provide background for each of the key personnel including, without limitation, resumes and work experience in the type of work called for herein. CITY reserves the right to approve key personnel.

5. STARTING WORK. CONTRACTOR shall not begin work until authorized to do so in writing by CITY. No work will be authorized until the contract has been fully executed by CONTRACTOR and CITY.

6. NO WAIVER OF DEFAULT. The failure of any party to enforce against another party any provision of this Agreement shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Agreement.

7. MERGER AND MODIFICATION. This contract sets forth the entire Agreement between the parties and supersedes all other oral or written representations. This contract may be modified only in a writing approved by the City Council and signed by all the parties.

8. EXHIBITS. In the event of a conflict between the terms, conditions or specifications set forth in this Agreement and those in exhibits attached hereto, the terms, conditions, or

specifications set forth in this Agreement shall prevail. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached.

9. TERM. Unless terminated sooner, as set forth herein, this Agreement shall be for a one (1) year period and may be renewable annually thereafter if funding is available. Renewal options shall be exercised by written notice by the Community Development Director or his designee at the sole option and discretion of the CITY.

10. TERMINATION. This Agreement may be terminated by any party with or without cause upon Ten (10) days' written notice, served by mail or personal service, to all other parties herein.

11. COMPLIANCE WITH ALL LAWS. CONTRACTOR shall, at CONTRACTOR's sole cost, comply with all of the requirements of Municipal, State, and Federal authorities now in force, or which may hereafter be in force, pertaining to this Agreement, and shall faithfully observe in all activities relating to or growing out of this Agreement all Municipal ordinances and State and Federal statutes, rules or regulations, and permitting requirements now in force or which may hereafter be in force including, without limitation, obtaining a City of Porterville business tax certificate (Porterville Municipal Code Section 15-5) where required.

12. INDEPENDENT CONTRACTOR. This Agreement calls for the performance of the services of CONTRACTOR and its personnel/crewmembers as an independent contractor. CONTRACTOR, and its personnel/crewmembers, are not agents or employees of the CITY for any purpose and are not entitled to any of the benefits provided by CITY to its employees. This Agreement shall not be construed as forming a partnership or any other association with CONTRACTOR and its personnel/crewmembers other than that of an independent contractor.

13. DIRECTION. CONTRACTOR retains the right to control or direct the manner in which the services described herein are performed. CONTRACTOR agrees that CONTRACTOR'S personnel shall follow Federal and State safety and environmental regulations and abide by the rules of the CITY regarding safety, health, and general codes of conduct.

14. INSURANCE. In addition to any other insurance or bond required under this Agreement, the CONTRACTOR shall procure and maintain for the duration of this Agreement the following types and limits of insurance ("basic insurance requirements") herein:

14.1. Automobile liability insurance, providing coverage on an occurrence basis for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than One Million Dollars (\$2,000,000) per occurrence; and the policy shall:

14.1.1. Provide coverage for owned, non-owned and hired autos.

14.2. Broad form commercial general liability Insurance, unless otherwise approved by the CITY's Risk Manager, providing coverage for bodily injury, including death, of one or more persons, property damage and personal injury, with limits of not less than One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) in aggregate and Five Million Dollars (\$5,000,000) in excess coverage; and the policy shall:

14.2.1. Provide contractual liability coverage for the terms of this Agreement.

14.2.2. Provide products and completed operations coverage.

14.2.3. Contain an additional insured endorsement naming the State of California and the CITY (including its officers, employees, agents and volunteers).

14.3. Workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence; and the policy shall contain a waiver of subrogation in favor of the City, its mayor, council, officers, agents, employees and volunteers.

14.4. All policies required of the CONTRACTOR shall be primary insurance as to the State of California and CITY, its mayor, council, officers, agents, employees, or designated volunteers and any insurance or self-insurance maintained by the CITY, its mayor, council, officers, agents, employees, and designated volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

14.5. Except for workers' compensation, insurance is to be placed with insurers with a Best's rating as approved by CITY's Risk Manager, but in no event less than A-:VII rating. Any deductibles, self-insured retentions or insurance in lesser amounts, or lack of certain types of insurance otherwise required by this Agreement, or insurance rated below Best's A-:VII, must be declared prior to execution of this Agreement and approved by the CITY in writing.

14.6. Unless otherwise approved by CITY's Risk Manager, all policies shall contain an endorsement providing the CITY with thirty (30) days written notice of cancellation or material change in policy language or terms. All policies shall provide that there shall be continuing liability thereon, notwithstanding any recovery on any policy. Copies of policies shall be delivered to CITY on demand.

14.7. The insurance required hereunder shall be maintained until all work required to be performed by this Agreement is satisfactorily completed as evidenced by written acceptance by the CITY.

14.8. The CONTRACTOR shall furnish the City Risk Manager with a certificate of insurance and required endorsements evidencing the insurance required. The CITY may withdraw its offer of contract or cancel this contract if certificates of insurance and endorsements required have not been provided prior to the execution of this Agreement. The required Certificates shall be attached hereto as Exhibit B.

14.9. Full compensation for all premiums which the CONTRACTOR is required to pay on all the insurance described herein shall be considered as included in the prices paid for the various items of work to be performed under the Agreement, and no additional allowance will be made therefor or for additional premiums which may be required by extensions of the policies of insurance.

14.10. It is further understood and agreed by the CONTRACTOR that its liability to the CITY shall not in any way be limited to or affected by the amount of insurance obtained and carried by the CONTRACTOR in connection with this Agreement.

14.11. Unless otherwise approved by the CITY, if any part of the work under this Agreement is subcontracted, the "basic insurance requirements" set forth above shall be provided by, or on behalf of, all subcontractors even if the CITY has approved lesser insurance requirements for CONTRACTOR.

14.12. CONTRACTOR shall provide, when required by CITY, performance, labor and material bonds in amounts and in a form suitable to CITY. CITY shall approve in writing all such security instruments prior to commencement of any work under this Agreement.

15. THIRD PARTY CLAIMS. In the case of public works contracts, CITY will timely notify CONTRACTOR of third party claims relating to this contract. CITY shall be allowed to recover from CONTRACTOR, and CONTRACTOR shall pay on demand, all costs of notification.

16. INDEMNITY. CONTRACTOR shall indemnify, defend, and hold harmless CITY, its officers, agents, employees and volunteers ("City Indemnitees"), from and against any and all liabilities, claims, actions, causes of action, obligations, judgments, or damages, including reasonable legal counsels' fees and costs or litigation ("claims"), arising out of or connected with CONTRACTOR'S performance of its obligations under this Agreement or out of operations conducted by CONTRACTOR, including the CITY's active or passive negligence, EXCEPT for such loss or damage arising out from the sole negligence or willful misconduct of the CITY. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from CONTRACTOR's performance of this Agreement, the CONTRACTOR shall provide a defense to the City Indemnitees, or at the CITY's option, reimburse the City Indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims.

17. EXECUTION. This Agreement is effective upon execution. It is the product of negotiation and all parties are equally responsible for authorship of this Agreement. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.

18. NOTICES. All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The parties shall be addressed as follows, or at any other address designated by notice:

CITY: CITY OF PORTERVILLE
CITY HALL
291 N MAIN ST
PORTERVILLE, CA 93257

CONTRACTOR: COMMUNITY SERVICES & EMPLOYMENT TRAINING INC.
Attention:
312 NW 3RD ST
VISALIA CA 93291

19. **GOVERNING LAW.** The laws of the State of California will govern the validity of this Agreement, its interpretation and performance. This Agreement is entered into and to be performed in Tulare County, California, and any litigation arising in any way from this Agreement shall be brought in the Tulare County, California jurisdiction. To the fullest extent permitted by law, the parties waive the removal provisions specified in California Code of Civil Procedure Section 394.

20. **FURTHER ASSURANCES.** Each party shall execute and deliver such papers, documents, and instruments, and perform such acts as are necessary or appropriate, to implement the terms of this Agreement and the intent of the parties to this Agreement.

21. **ASSIGNMENT.** Neither this Agreement, nor any interest in it may be assigned or transferred by any party without the prior written consent of all the parties. Any such assignment will be subject to such terms and conditions as CITY may choose to impose.

22. **BINDING EFFECT.** The rights and obligations of this Agreement shall inure to the benefit of, and be binding upon, the parties to the contract and their heirs, administrators, executors, personal representatives, successors and assigns, and whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural. This Agreement may be executed in any number of counterparts, each of which shall be considered as an original and be effective as such.

23. **ACCOUNTING RECORDS.** CONTRACTOR shall maintain accurate accounting records and other written documentation pertaining to all costs incurred in performance of this Agreement. Such records and documentation shall be kept at CONTRACTOR's office during the term of this Agreement, and for a period of three years from the date of the final payment hereunder, and said records shall be made available to CITY representatives upon request at any time during regular business hours.

24. **CORPORATE AUTHORITY.** Each individual signing this Agreement on behalf of entities represent and warrant that they are, respectively, duly authorized to sign on behalf of the entities and to bind the entities fully to each and all of the obligations set forth in this Agreement.

25. **TAX NUMBERS.**

CONTRACTOR's Federal Tax ID Number: _____

CONTRACTOR is a corporation? Yes ___ No ___

26. **NON-INTEREST.** No officer or employee of the CITY shall hold any interest in this Agreement (California Government Code section 1090).

27. **RESOURCE ALLOCATION.** All obligations of CITY under the terms of this Agreement are subject to the appropriation and allocation of resources by the City Council.

28. **ATTORNEYS' FEES.** If any litigation is commenced between the parties to this Agreement concerning the Agreement or the rights and duties of either in relation to the Agreement, the party prevailing in that litigation shall be entitled, in addition to any other relief that may be granted in the litigation, to a reasonable sum as and for its attorneys' fees in the litigation, which shall be determined by the court in that litigation or in a separate action brought for that purpose.

29. **AMBIGUITIES.** Each party and its legal counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, the day and year first-above written.

"CITY"
CITY OF PORTERVILLE

"CONTRACTOR"
COMMUNITY SERVICES &
EMPLOYMENT TRAININGS, INC.

By: _____
Adrian Monte Reyes
Mayor

By: _____
Mary Alice Escarsega-Fechner
Executive Director

Formatted: Spanish (Mexico)

APPROVED AS TO FORM:

By: _____
Julia M. Lew
City Attorney

Insurance: _____

Attachment: Proposal (Exhibit A), Certificates of Insurance (Exhibit B)

Agency: CSET

Proposal: 4 participants, 4 hour shifts, half days, 5days/week

LINE ITEM	FTE's	
PERSONNEL COSTS		
Salaries (List the job title below)		
Assistant Director / Site Coordinator	0.05	\$ 3,513
Accountant / CIS	0.05	\$ 2,626
Case Manager (Corps)	0.15	\$ 3,834
Crew Supervisor/Driver	1.00	\$ 27,703
Program Coordinator	0.05	\$ 3,194
Total Salaries	1.30	\$ 40,870
Fringe Benefits Cost		\$ 21,511
Fringe Benefit Rate=	52.63%	
TOTAL PERSONNEL COSTS		\$ 62,381
EQUIPMENT PURCHASE & LEASE COSTS		
Equipment/Furniture Purchase (Estimated cost, to be purchased by City of Porterville in Yr 1)		\$ 17,000
Equipment Lease		\$ 211
TOTAL EQUIPMENT PURCHASE & LEASE COSTS		\$ 17,211
OTHER OPERATIONS COSTS		
Vehicles - fuel, insurance, maintenance, etc		\$ 5,947
Personal Protective Equipment, Job Supplies		\$ 3,642
TOTAL OTHER OPERATIONS COSTS		\$ 9,589
FACILITIES INFRASTRUCTURE COSTS		
Rent (Building Space)		\$ 796
Facility/Equipment Repair & Maintenance, Custodial, Utilities, Telephone, Security		\$ 1,694
TOTAL FACILITIES INFRASTRUCTURE COSTS		\$ 2,490
PROFESSIONAL SERVICES		
Cell Phone, Internet Access, Marketing, Outreach, Professional Fees, Membership dues		\$ 2,142
TOTAL PROFESSIONAL SERVICES		\$ 2,142
SUPPLIES COSTS / SUBSCRIPTIONS		
Office Supplies (postage, printing, copying)		\$ 2,117
TOTAL SUPPLIES COSTS		\$ 2,117
STAFF TRAVEL & TRAINING COSTS		
Travel		\$ -
Training		\$ -
TOTAL STAFF TRAVEL & TRAINING COSTS		\$ -
PARTICIPANT COSTS		
Work-based Training (OJT)		\$ -
Participant Wages		\$ 60,320
Participant Fringe Benefits		\$ 10,858
Support Services, PPE's and uniforms		\$ 2,128
TOTAL PARTICIPANT COSTS		\$ 73,306
TOTAL INDIRECT COSTS		
Indirect Costs		\$ 13,145
TOTAL INDIRECT COSTS		\$ 13,145
OTHER COSTS		
Payroll Processing		\$ 1,184
Insurance Costs		\$ 755
TOTAL OTHER COSTS		\$ 1,919
TOTAL BUDGET		\$ 184,300

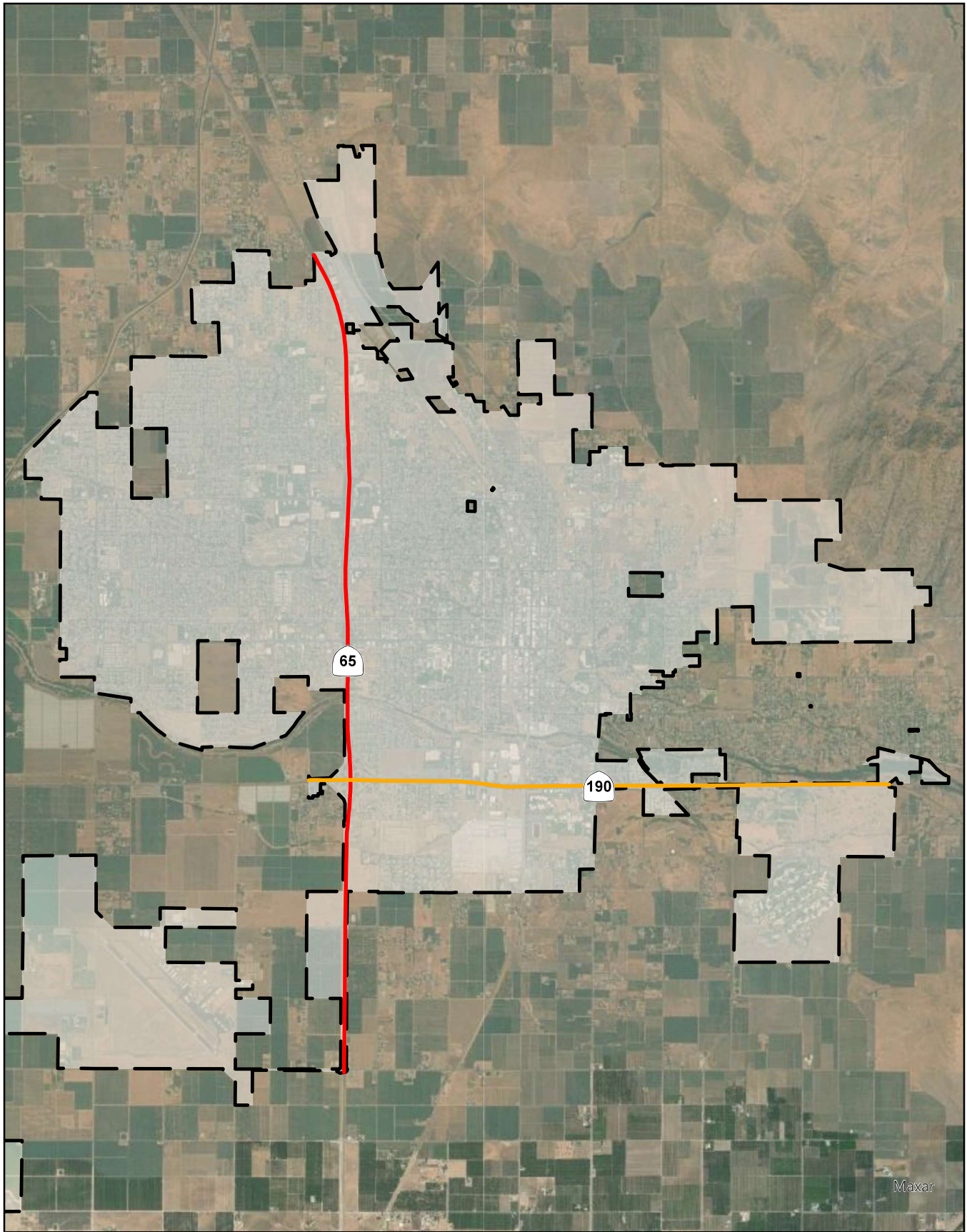
Exhibit A: Proposal

Exhibit B: Certificates of Insurance

(State Insurance limits apply & State must be named as additionally insured)

DRAFT

State Roads Length Within City Limits



— SR 65 - 5.8 Miles

— SR 190 - 4.1 Miles

— City Limits

0 0.5 1 Miles



Date Printed: 5/26/2021 by the Community Development Department

BEFORE THE
TULARE COUNTY TRANSPORTATION AUTHORITY
COUNTY OF TULARE, STATE OF CALIFORNIA

In the matter of:

ADOPTION OF MEASURE R FUNDING FOR)
LITTER ABATEMENT PILOT PROGRAM)
FOR THE CITY OF PORTERVILLE)

Resolution No. 2021-101

WHEREAS, a growing litter issue is indicative that current resources are not enough to keep up with the volume of litter being generated; and

WHEREAS, at the February 2018 meeting, the TCAG Board authorized staff to coordinate with Caltrans and member agencies to develop Litter Abatement Programs (LAPs); and

WHEREAS, the City of Porterville is moving forward with the 3 year LAP program that will cost \$162,000 annually and will service two State highways (SR-190 and SR-65) within the city limits on a 30-day cycle; and

WHEREAS, funding for this project comes from the City of Porterville general fund and the City of Porterville Measure R SR 190 corridor improvement funding within the strategic work plan; and

WHEREAS, Caltrans has also committed to matching local funds on a one-for-one basis (over 3 years), providing 50% of funding; and

WHEREAS, the FY2021/22 LAP for the City of Porterville provides a total of \$162,000 in funding, with \$80,000 from Caltrans, \$42,000 from TCTA Measure R SR190 corridor improvement funds and \$40,000 from the City of Porterville.

NOW, THEREFORE, BE IT RESOLVED AND DETERMINED that the TCAG Board of Governors does hereby approve the Measure R funds be utilized for the City of Porterville Litter Abatement Program.

The foregoing Resolution was adopted upon motion of Member Valero, seconded by Member Micari, at a regular meeting held on the 17th day of May 2021, by the following vote:

AYES: Micari, Vander Poel, Valero, Townsend, Reynosa, Alves, Boyer,
Caudillo, Flores, Sayre, and Mendoza

NOES:

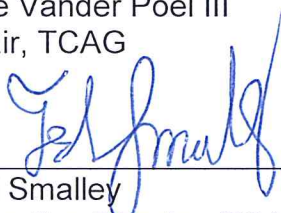
ABSTAIN:

ABSENT: Shuklian, Cox

TULARE COUNTY TRANSPORTATION AUTHORITY



Pete Vander Poel III
Chair, TCAG



Ted Smalley
Executive Director, TCAG



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Consideration of City Council Member Appointments to Boards and Committees

SOURCE: City Manager's Office

COMMENT: Mayor Reyes has requested that the City Council consider the appointment of its Members to several Boards and Committees that the Mayor currently represents the City upon, including: City Council COVID Ad Hoc Committee; County Selection Committee (Mayor); Tulare County Regional Transit Authority Board of Directors; and Tule River Improvement Joint Powers Authority Board of Directors.

RECOMMENDATION: That the City Council consider the appointment of its Members to various Boards and Committees.

ATTACHMENTS: 1. City Council Board and Committee Appointments

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager

APPOINTMENT OF COUNCIL MEMBERS TO VARIOUS COMMITTEES & BOARDS

Committee/Board	Member/Alternate	Appointment Date	Meeting Information
Tulare County Association of Governments/ Transportation Planning Agency ("TCAG")	Martha Flores - Member Milt Stowe - Alternate	12/13/2016 1/20/2015	Meets monthly; Third Monday; 1:00 PM; meeting location varies www.tularecog.org
Tulare County Taskforce on Homelessness	Martha Flores - Member Claudia Calderon - Alternate	12/10/2018 7/16/2019	Meets monthly; Third Wednesday; 1:30 PM Tulare County Professional Development Center 4031 W. Noble Avenue, Visalia; www.tchhsa.org
Council of Cities	Martha Flores - Member Milt Stowe - Member	12/10/2018 7/1/2014	Meets bi-monthly; Third Wednesday; 3:00 PM Visalia Administration Boardroom, 220 N. Santa Fe Street, Visalia
Porterville Area Airport Development Corporation ("PAADA")	Monte Reyes - Member Martha Flores - Member	12/8/2020 12/8/2020	Meets quarterly or as needed. Notification of meetings provided. (Only two members will attend meetings at any given time.)
Joint City/School District Committee	Milt Stowe - Member Kellie Carrillo - Member	7/6/2010 12/8/2020	Meets quarterly or as needed. Notification of meetings provided.
Ad Hoc Committee - Proposition 64 Regulation of Marijuana	Monte Reyes - Member Lawana Tate - Member	3/7/2017 7/20/2021	Ad Hoc Committee concerning the consideration of regulating marijuana business activities per Prop 64.
Ad Hoc Committee - Provision of Local Water Services	Kellie Carrillo - Member Lawana Tate - Member	12/8/2020 7/20/2021	Ad Hoc Committee to address local water issues. Meets as needed.
Tule River Improvement JPA	Monte Reyes - Member Michael Knight - Alternate	12/8/2020 12/13/2016	Meets quarterly; Lower Tule Irrigation District Conference Room, 357 E. Olive Avenue, Tipton
Tulare County City Selection Committee	Mayor - City Member Designee - Alternate		Meets as needed. Notification of meetings provided. Designee may attend in absence of the Mayor
Tulare County Local Agency Formation Commission ("LAFCO")	N/A	7/17/2019	Board of Supervisors Board Room 2800 W. Burrell Avenue, Visalia, First Wed. @ 2 p.m. www.lafco.co.tulare.ca.us/lafco/

APPOINTMENT OF COUNCIL MEMBERS TO VARIOUS COMMITTEES & BOARDS

Committee/Board	Member/Alternate	Appointment Date	Meeting Information
Tulare County Regional Transit Agency ("TCRTA")	Monte Reyes - Member Milt Stowe - Alternate	7/7/2020	Meets monthly; Third Monday; 3:00 PM Meets across the county at member agencies www.tularecog.org
PDC Advisory Board	John Lollis - Member Mayor - Alternate	1/14/2009	Meets annually at Porterville Developmental Center 26501 Road 140, Room 59
Internal City Audit Committee	Martha Flores - Member Kellie Carrillo - Member	12/13/2016 5/18/2021	Meets as needed in La Barca Conference Room, Porterville City Hall. Notification of meetings provided.
San Joaquin Valley Air Pollution Control District ("SJVAPCD") Board	Monte Reyes - Member		Meets on the third Thursday of each month at 9:00 a.m. at 1990 East Gettysburg Avenue, Fresno, CA.
San Joaquin Valley Special City Selection Committee	Milt Stowe - Member Monte Reyes - Alternate	12/13/2016 12/13/2016	Notification of Meetings provided; Members can attend via video-teleconference in Bakersfield or Fresno District Office.
Eastern Tule Groundwater Sustainability Agency JPA	Monte Reyes - Member Michael Knight - Alternate	12/10/2018 7/16/2019	Meets monthly; First Thursday; 2:00 PM City Hall, 291 N. Main Street, Porterville
2020 Census Local Count Committee	Martha Flores - Member		Meets monthly or as needed. Notification of meetings is provided.
Ad Hoc Committee - COVID-19	Monte Reyes - Member Kellie Carrillo - Member	12/8/2020	Meets as needed.
Local Initiatives Navigation Center Committee "LINC Committee"	Lawana Tate - Member	7/20/2021	Meets monthly.
Ad Hoc Military Banner Committee	Kellie Carrillo		Meets as needed. Notification of meetings is provided.
Ad Hoc Library Facility Planning Committee	Kellie Carrillo		Meets monthly or as needed. Notification of meetings is provided.



CITY COUNCIL AGENDA – FEBRUARY 15, 2022

SUBJECT: Status and Review of Proclamation of Local Emergency: COVID-19

SOURCE: City Manager's Office

COMMENT:

At its meeting of March 17, 2020, the City Council took action to approve a Resolution of Proclamation of Existence of a Local Emergency for the novel coronavirus (COVID-19), which staff also initiated a soft-opening of its Emergency Operations Center (EOC) on Friday, March 20, 2020. At its meeting on February 1, 2022, the Council reviewed the status of existence of local emergency, and acted to continue its Resolution of Proclamation.

On March 4, 2020, Governor Newsom issued a Proclamation of a State of Emergency, President Trump issued a Proclamation on Declaring a National Emergency on March 13, 2020, and the Tulare County Board of Supervisors adopted a Resolution of Proclamations of Local Emergencies on March 17, 2020. The Tule River Tribal Council also adopted a Resolution of Declaration of State of Emergency on March 13, 2020. Subsequent to his Proclamation at the time of this report, Governor Newsom has issued seventy (70) Executive Orders in support of the State addressing and mitigating COVID-19 impacts, several of which are pertinent to the City. On June 11, 2021, Governor Newsom issued two Executive Orders to terminate the Stay-at-Home Order (Executive Order N-07-21), as well as to begin the wind down of other previous Executive Orders related to the pandemic (Executive Order N-08-21).

During the past eighteen (18) months, the Council and its legislative bodies have conducted teleconferencing meetings as allowed pursuant to a series of Executive Orders, the most recent which expired on September 30, 2021 (Executive Order N-08-021, issued June 11, 2021), which waived all physical presence requirements under the Brown Act as a means of limiting the spread of COVID-19. Recently adopted State law, Assembly Bill 361 (AB 361), extends the authority of public agencies to conduct meetings by teleconference, including video conference, without compliance with all of the Brown Act's limitations on such meetings, which the status of emergency resulting from the COVID-19 pandemic and accompanying recommendations for social distancing remain in place. Consistent with AB 361, the Council must adopt a Resolution consistent with its proclamation of local emergency, and must review and renew such Resolution every thirty (30) days thereafter. AB 361 will sunset on January 1, 2024.

Governor Newsom's Executive Order N-25-20, issued on March 12, 2020, provided restrictions on mass gatherings of no more than 250, as well as

provided accommodations to the Brown Act to encourage remote participation and social distancing. At its meeting of March 17, 2020, the Council gave direction of local gatherings not to exceed twenty-five (25), which staff responded to complaints and incidents accordingly. Both President Trump and the Centers for Disease Control (CDC) had recommended mass gatherings not exceed ten (10), which with Easter approaching on Sunday, April 12, 2020, the Council acted at its meeting on April 7, 2020, to limit local gatherings to no more than ten (10) individuals, allowing also for 6' social distancing. On October 9, 2020, apparently in consideration of the approaching holidays (e.g. Halloween, Thanksgiving, Christmas, etc.), the State issued guidance to allow up to three households to gather outdoors, including in a public park or outdoor space, allowing for social distancing, hand hygiene and wearing of face coverings unless eating or drinking, and not to exceed two hours in duration.

On December 3, 2020, in response to rapidly increasing positive cases and hospitalizations (especially requiring ICU care), the State issued new stay home Orders that prohibited all gatherings with members of other households. On January 25, 2021, the State ended its stay home Orders, removing the prohibited gathering restriction. On April 12, 2021, the State issued new guidance for activities and business tiers consistent with the Blueprint for a Safer Economy, which continued to strongly discourage indoor gatherings, but did allow for outdoor social gatherings not to exceed fifty (50) individuals in the Orange (Moderate) Tier - Tulare County's tier status at that time. On May 21, 2021, the State issued new guidance for activities and business referred to as "Beyond the Blueprint" that became effective June 15, 2021, eliminating limitations on capacity and allowing large gatherings both outdoors (recommended vaccine verification or negative testing) and indoors (required vaccine verification or negative testing). The "Beyond the Blueprint" requirements and regulations were effective through October 1, 2021, which the State assessed conditions by September 1, 2021 and determined an update was necessary. On August 18, 2021, the State issued updated guidance to the "Beyond the Blueprint" in regard to indoor "Mega Events," requiring vaccine verification or negative testing requirements for events involving 1,000 or more participants, removing self-attestation as a mode of verification after September 20, 2021, and extending requirements and regulations until November 1, 2021. On October 27, 2021, the State issued updated guidance to the "Beyond the Blueprint" in regard to Indoor "Mega Events," requiring all indoor events to confirm identification of all attendees age 18 and older to confirm the individual presenting proof of vaccination or negative test is the attendee entering the facility or venue beginning December 1, 2021. On December 31, 2021, the State issued updated guidance to the "Beyond the Blueprint" in regard to indoor "Mega Events," lowering the threshold for Indoor Mega Events to 500 attendees and Outdoor Mega Events to 5,000 attendees. On February 7, 2022, the State issued updated guidance to the "Beyond the Blueprint" in regard to indoor and outdoor "Mega Events," reverting to the guidance effective as of December 1, 2021.

The County and most cities across the county initially either closed or instituted soft-closings of its parks, including the closing of arbors, playgrounds and restrooms. At its meeting of April 7, 2020, the Council acted to soft-close City parks, including arbors, playgrounds, skatepark and sports courts (keeping

restrooms open for hygiene purposes) and that gatherings of any size not occur. Consistent with the State and County's modified Orders regarding outdoor recreation and operating restrictions, at its meeting of May 5, 2020, the Council acted to reopen the City's golf course (including requiring participants to wear face coverings), OHV Park and tennis courts. On June 5, 2020, the State announced guidelines for the opening of outdoor recreation, including public swimming pools and aquatic venues, beginning June 12, 2020. At its meeting on June 16, 2020, the Council provided approval for the opening of the Murry Park swimming pool and Fallen Heroes Park splash pad consistent with the State's guidelines and necessary precautions and preparations. With continued limitations on team-oriented recreation activities, staff prepared new individual outdoor recreation opportunities for the community, such as cross-country running. On June 5, 2020, the State also provided guidance on the opening of day camps beginning June 12, 2020, which staff also prepared for opening consistent with the State's guidelines and necessary precautions and preparations, and subsequently was completed on July 31, 2020. On September 28, 2020, the State allowed public playgrounds to reopen with guidance and restrictions, which at its meeting on October 6, 2020, the Council acted to keep playgrounds closed until further action. In its regional stay at home order issued on December 3, 2020, the State ordered the closing of all indoor and outdoor playgrounds, but did encourage residents to experience outdoor recreation without gathering with anyone outside their immediate household. On December 9, 2020, the State changed its guidance on outdoor playgrounds, allowing to remain open to facilitate physically distanced personal health and wellness through outdoor exercise. At its meeting on February 2, 2021, the Council acted to reopen the City's public playgrounds and skatepark in accordance with State guidance and restrictions. On February 19, 2021, the State released new guidance for both indoor and outdoor youth and recreational adult sports, effective February 26, 2021. Adhering and consistent with State guidance, the City began offering the reservation of park arbors and pavilions on March 27, 2021, and reopened the Zalud House Museum on March 25, 2021.

Due to the pandemic and to avoid mass gatherings, the community has suffered from the cancellation in the 2020 calendar year of the Iris Festival, Cinco de Mayo Parade, Porterville Fair, Military Banner Ceremony, KJUG Summer Concert Series, Freedom Fest, Pioneer Days, Veterans Day Parade, Christmas Tree-Lighting Ceremony and the Children's Christmas Parade (December), which further cancellations in the current calendar year potentially to occur. At its meeting on October 5, 2021, the Council approved the Veterans Day Parade to occur on November 11, 2021, with health and safety precautions required including: 1) longer parade route, multiple announcing areas and signage to avoid gathering and encourage social distancing; 2) livestreaming the event for individuals who elect not to attend in-person; and 3) sponsoring a vaccine event in collaboration with Sierra View Medical Center. At its meeting on November 16, 2021, the Council approved the Children's Christmas Parade to occur on December 4, 2021, with the same health and safety precautions as the Veterans Day Parade.

Governor Newsom's Executive Order N-28-20, issued on March 16, 2020, strongly advised that both private and public utilities not shutoff utilities or charge late fees for lack of payment until May 31, 2020, and directed the California Public Utilities Commission to review both private and public utilities for conformance. At its meeting on March 17, 2020, the Council acted to suspend the shutoff of utilities and the charging of late fees for lack of payment until at least its meeting of April 21, 2020 for review. Governor Newsom issued Executive Order N-42-20 on April 2, 2020, which mandated that private and public water utilities not shutoff service due to non-payment, retroactive to March 4, 2020 - the Order did not reference the charging of late fees. Given the suspension of shutoff and charging of late fees, the City initially experienced a dramatic increase in accounts not making payment since the Council's action, which staff reinforced the message to customers that regular payments must still be made and has led to now generally usual payment, although has begun to accumulate. Since the Council's action on March 17, 2020 and as of January 31, 2022, there was \$1,426,953 in unpaid City utility accounts (water: \$694,291; sewer: \$389,803; and refuse: \$342,859), with the corresponding total loss in late fees of \$408,670 - almost triple the City's experience prior to the Governor's Executive Order. At its meeting on April 21, 2020, the Council acted to continue the moratorium of utility turnoff for non-payment consistent with the Executive Order, and to continue not to charge late fees until further action by the Council. State Senate Bill 155 was chaptered on September 24, 2021, which extended the prohibition of shutoff of utilities until December 31, 2021. At its meeting on December 21, 2021, the Council acted to extend the moratorium for utility turnoff for non-payment and not charging of late fees until April 5, 2022. Under the State's Water and Wastewater Arrearage Payment Program, the City submitted a claim for \$1,047,940.47 to recover unpaid water accounts from residential and commercial customers accrued between March 4, 2020 and June 15, 2021, which the State deemed eligible \$324,000 for reimbursement.

Governor Newsom's Executive Order N-32-20, issued on March 18, 2020, appropriated \$150 million in emergency homeless funding, of which \$284,403 was allocated to Tulare County between \$147,734 to the Continuum of Care (CoC) and \$136,669 to the County. The CoC initially indicated its appropriation to the City of approximately \$40,000 based upon recent homeless population counts, which City staff recommended be the funding source for the daily homeless lunch program the City initiated on March 27, 2020, with the closure of the local non-profit (Helping Hands of Porterville Inc.) due to pandemic concerns earlier that same week. Staff estimated that the \$40,000 would allow the daily lunch program to continue through the month of April 2020. Subsequently, the CoC indicated it was attempting to match its funding allocation with the County's as the required 25% match to larger federal FEMA funding of approximately \$1.2 million. The County has indicated its allocation will be utilized in assisting with providing shelter for homeless individuals that are identified high-risk or in need of quarantine due to COVID-19 (Project Roomkey), which the County was working with two local hotels in the leasing of approximately thirty (30) rooms. At the time of this report, the County is no longer reporting the number of hotel rooms available to homeless individuals

participating in the Project Roomkey program across the county, nor the number of rooms occupied. The County also reports that a Street Medicine event occurred in Porterville on June 29, 2020, during which twelve (12) individuals were tested for COVID-19 and all were negative, as well as another Street Medicine event that occurred in the Porterville area on May 7, 2021. On July 1, 2020, Helping Hands of Porterville resumed its daily homeless lunch program, thus relieving the City and its staff of the deliver of this program.

However, Helping Hands decided to close its program in October 2020 due to limited donations and participation.

The City's contract operator of the planned navigation center, Turning Point of Central California, had been issued building permits and was making necessary improvements for anticipated opening in the month of July, with the installation of the fire monitoring and suppression system the final improvement needed to be completed. Turning Point had previously indicated that due to the current pandemic, occupancy of the navigation center when opened would be at half-capacity to allow adequate physical distancing given group housing, but now believes the center can open with two-thirds capacity and meet State guidelines for healthy and safe operations. Given the delay in the installation of the fire monitoring and suppression system, at its meeting on August 4, 2020, the Council gave staff direction to consider opening the navigation center restricted to providing services without housing, which Turning Point opened and began offering daily services only on August 18, 2020. With the final completion of the requisite fire suppression and monitoring system, Turning Point began offering emergency shelter and transitional housing on November 15, 2020.

For those served by the navigation center, a vaccine event occurred on May 7, 2021.

Governor Newsom's Executive Order N-33-20, issued on March 19, 2020, ordered that state residents shelter-at-home, and that only identified essential businesses remain open and associated workforce. Much confusion reverberated throughout the state in clarifying essential businesses, which staff both responded to complaints and acted proactively in following the State's guidelines of essential businesses (attached). To assist in this ever-changing subject, at its meeting on April 21, 2020, the Council acted to appoint Vice Mayor Reyes and Council Member Gurrola to form an Ad Hoc Committee to coordinate with the City Attorney and City Manager in the application of the State and County guidelines in regard to essential and non-essential businesses.

The Committee has met intermittently in review of local complaints and compliance with modified State and County Orders. At its meeting on December 15, 2020, the Council acted to appoint Council Member Carrillo to replace former Council Member Gurrola on the Committee.

On Tuesday, April 28, 2020, Governor Newsom announced his 4 Stage plan for reopening the California economy and gradual modification of his stay-at-home Order, which his presentation is enclosed. The Governor indicated that moving from current Stage 1 to State 2 would likely occur in several weeks and allow non-essential "low-risk" retail to reopen with requisite 6' social distancing. The

Governor indicated "high-risk" personal services would likely be allowed later during the Summer. On May 4, 2020, Governor Newsom issued Executive Order N-60-20, allowing the reopening of lower-risk businesses and spaces in Stage 2 beginning May 8, 2020, including manufacturing, retailers (pick-up and delivery) and warehouses. The Order also allowed Counties to proceed more quickly through Stage 2 (Variation Attestation) given certain State-determined public health metrics were met, including: 1) sustained reduction or stability in new cases for fourteen (14) days; 2) adequate diagnostic testing capacity and test results, including the ability to test all individuals with COVID-19 symptoms, same-day testing widely available for hospitalized patients, healthcare workers and workers in essential roles, close contacts for confirmed cases, and outpatients with symptoms; 3) public health department's capacity to rapidly interview new cases, identify close contacts, and ensure isolation and quarantine are effective; and 4) health care system capacity to respond to potential surges.

At its meeting on May 12, 2020, the Tulare County Board of Supervisors considered its draft plan for compliance with the Executive Order (attached).

Of note, the Tulare County Public Health Officer issued a health advisory on May 7, 2020, that county residents should wear face coverings when in public (attached). At its meeting on May 19, 2020, the Board of Supervisors acted to modify its draft plan for reopening, including advancing immediately through the State's Stage 3, rescinding the County's Public Health Officer's Order, halting all local civil enforcement of stay-at-home Orders, directing County guidance for Stage 3 businesses, and direct County efforts from meeting State metrics to supporting problem areas and populations including the elderly and health compromised individuals, skilled nursing facilities, hospitals, and businesses or agencies with reported outbreaks. On May 26, 2020, the County submitted its Variance Attestation to the State, which was approved and posted by the State on May 27, 2020, allowing the county to proceed through the State's Stage 2.

On May 25, 2020, the State announced that places of worship (25% capacity) and in-store retail were allowed to proceed immediately statewide, and on May 26, 2020, the Governor announced that barber and hair salons could reopen immediately in counties with approved Variance Attestations, which as previously stated Tulare County's was approved by the State on May 27th. On June 5, 2020, the State announced that additional previous Stage 3 activities would be allowed to reopen with provided guidance effective June 12, 2020, including bars and wineries, campgrounds and RV parks, family entertainment centers (i.e. bowling alleys and movie theaters), fitness facilities, and museums/galleries/zoos/aquariums.

Due to increasing positive cases across the state, on June 18, 2020, the State issued guidance that all individuals wear face coverings when in public. At its meeting on July 7, 2020, the Council acted to approve and Order under its Proclamation of Local Emergency authorizing the City to enforce the State's mandatory face covering requirements through the City's administrative citation regulations and aggressive education efforts, and directed City staff to prepare

an emergency Ordinance requiring face coverings consistent with the State requirements, which was scheduled for Public Hearing and was approved by the Council at its meeting of July 21, 2020. In enforcement of the emergency Ordinance since adoption by Council, the Fire Department's Code Enforcement Division has eleven (11) documented business-oriented incidents, and the Police Department has 132 documented individual or group incidents. On June 9, 2021, the State released new face coverings guidance to take effect June 15, 2021, providing that face coverings are not required for fully vaccinated individuals except for: 1) on public transit; 2) indoors in K-12 education, childcare and youth settings; 3) healthcare settings; 4) state and local correctional and detention facilities; and 5) homeless, emergency and cooling centers. Unvaccinated individuals continue to be required to wear face coverings when indoors in public settings and businesses. On July 27, 2021, the CDC issued guidance that recommended vaccinated individuals wear face coverings while indoors in areas considered to be experiencing increased spread ("substantial" or "high" risk) of the delta variant coronavirus, which Tulare County at the time of this report is considered "high" risk for spread. On December 13, 2021, the State issued guidance to require all individuals regardless of vaccination status to wear face coverings when in indoor public places effective December 15, 2021, to be reevaluated by January 15, 2022. On January 5, 2022, the State issued updated guidance extending the requirement for universal masking indoors statewide through February 15, 2022. On February 7, 2022, the State issued updated guidance to revert back to the requirements effective as of June 15, 2021.

Due to increasing positive cases, testing positivity and COVID-19 hospitalizations, the State placed Tulare County on its monitoring list program for targeted engagement and potentially reinstituting community measures, which on June 28, 2020, the State directed all bars in Tulare County be closed again immediately by local health officer order. On July 1, 2020, the State further directed the closing of indoor activities for at least the succeeding three weeks, including restaurants, bowling alleys, movie theaters, card rooms, museums, wineries and zoos. On Monday, July 14, 2020, the State directed the immediate closure of all bars in California and cease in-restaurant dining, as well as the immediate closure of indoor activities or industries including barbershops, fitness centers, hair salons, malls, offices for non-essential sectors, personal care services (e.g. esthetic salons, nails salons, tattoo parlors), protests and places of worship for counties on the State's monitoring list (including Tulare County), unless the activity or industry can be modified to operate indoors or by pick-up. The State Board of Barbering and Cosmetology initially declared that barbershops and esthetic, hair and nails salons are required to operate indoors and may not operate outdoors and therefore must be closed, however, the State Board subsequently determined to allow these businesses to be open with modifications to operate outdoors.

On August 28, 2020, Governor Newsom announced that the State was implementing a new County Monitoring List system known as the Blueprint for a Safer Economy, incorporating standardized four tiers dependent upon a county's daily new cases per 100,000 population and testing positivity rates and

the corresponding effect on economic sectors guidelines for operation. When the Blueprint for a Safer Economy was retired on June 15, 2021, Tulare County was in the Orange (Moderate) tier given its daily positive case rate per 100,000 population exceeded two (1.5 at the time of the report), however, the positivity rate met the Yellow (Minimal) tier requirement of less than two percent (1.5% at the time of the report). As of June 15, 2021, there were three counties in the Red (Substantial) tier, thirty-one (31) counties in the Orange (Moderate) tier and twenty-four (24) counties in the Yellow (Minimal) tier. Under the new system, the State allowed barber and hair salons to reopen indoor operations on August 31, 2020, and allowed nail salons to reopen indoor operations on September 22, 2020, if permitted by local county public health officials. The State further allowed expanded personal care services to reopen indoor operations on October 20, 2020, including esthetic, skin care, electrology, body art professionals, tattoo parlors, piercing shops and massage therapy (in non-healthcare settings).

On September 30, 2020, the State announced a new health equity metric to be included in the Blueprint for a Safer Economy, requiring that test positivity rates in disadvantaged communities that comprise the lowest quartile of a county's Healthy Places Index census tracts do not significantly lag behind overall county test positivity rates. In order to advance to the next less restrictive tier (e.g. Purple-widespread to Red-substantial), a county will need to meet an equity metric and/or demonstrate targeted investments to eliminate disparities in levels of transmission. According to Tulare County's report as of October 13, 2020, the lowest quartile does not include Porterville areas exceeding 8% positivity, with the census tracts of Cutler/Yettum (24.4%), Pixley/Teviston (18.9%), Earlimart (15.6%), Alpaugh/Allensworth/Richgrove (15.4%), South-Central Tulare (13.3%), Tipton/Woodville (12.5%), West-Central Tulare (11.8%) and Orosi (8.9%) being of greatest concern. As referenced by a Member of Council, at its meeting on October 6, 2020, the Tulare County Board of Supervisors adopted a Resolution, demanding clarity, consistency, and continuity from Governor Newsom regarding COVID-19 directives to counties.

On November 19, 2020, due to the observed significant rise in positive cases, the State announced a "Limited Stay At Home Order" that in all counties in the Purple (Widespread) tier under the State's Blueprint for a Safer Economy, requiring that all non-essential business and public activities cease to occur between 10:00 PM and 5:00 AM, effective November 21, 2020 through December 21, 2020 or as may be extended. On January 25, 2021, the State removed this Order effective immediately.

On December 3, 2020, due to the continued significant rise in positive cases and hospitalizations (especially ICU care), the State issued a "Regional Stay At Home Order" with the state separated into five regions by county and centered around maintaining a minimum of fifteen percent (15%) regional hospital ICU capacity, with Tulare County joining eleven (11) other counties in the "San Joaquin Valley" region. The San Joaquin Valley region experienced 14.1% ICU capacity on December 5th and 6.6% capacity on December 6th, causing

the new regional order to go into effect in the San Joaquin Valley region at 11:59 P.M. on December 6th. As of June 15, 2021, the San Joaquin Valley region had 27.4% ICU capacity. The regional order modified business operations, including: 1) limit indoor retail to no more than twenty percent (20%) capacity; 2) limit restaurants to delivery/pick-up/take-out only; 3) limit worship and political expression to outdoor only; 4) limit outdoor recreation to no drink or food sales; 5) limit essential office work only when remote work is not possible; and 6) limit hotels and lodging to only supporting critical infrastructure. The regional order closes business operations, including: 1) barber and hair salons; 2) personal care services (esthetician, massage, nail and tattoo); and 3) museums. On January 25, 2021, the State removed this Order, returning to the State's Blueprint for a Safer Economy and the county tiers system.

The new State Blueprint also provided a waiver process to allow TK-6th Grade students to receive in-person instruction with prior County and State approval, which locally St. Anne's School received such approval and began instruction on September 14, 2020. Also locally, Hope Elementary School received waiver approval and began in-person instruction on September 28, 2020, and Porterville Unified School District received waiver approval and began in-person instruction on December 1, 2020. Burton, Pleasant View Elementary and Rockford Elementary have each also received both County and State waiver approval and have begun in-person instruction. The State issued guidance on August 2, 2021, that all adults and students must wear face coverings when indoors, and on August 11, 2021, announced guidance that all education employees be vaccinated or be tested at least once weekly. On October 1, 2021, Governor Newsom announced that the COVID-19 vaccine would be added to the list of vaccines required for school attendance for middle and high school grades, once the vaccine receives full approval from the federal Food and Drug Administration (FDA).

At its meeting on August 4, 2020, the Council considered and gave direction to staff evaluate opportunities for local restaurants to operate outdoors in the City's public right-of-way. At its meeting on August 18, 2020, given City liability considerations, the Council gave direction to work with local restaurants individually through an application and guidelines developed in coordination with the Council's Ad Hoc Committee. On August 24, 2020, the Council Ad Hoc Committee met with staff to review draft guidelines for the opening of outdoor dining by restaurants in public right-of-way, which the final guidelines are provided as an attachment. Consistent with the guidelines and the proposed City's support for protecting restaurant patrons dining in the public right-of-way, at its meeting on September 1, 2020, the Council authorized an appropriation of \$100,000 from the City's Emergency/Catastrophic Reserve Fund for the purchase of necessary traffic and sidewalk barriers and other complimentary amenities, with any expenditure of funds to be documented for potential reimbursement should future federal and/or state funding be made available to mitigate COVID-19 activities. Nine entities had been approved to provide outdoor dining, including the Elks Lodge #1342, New China Restaurant, El Jacalito Taqueria, Pho Sho Fusion House, Pizza Factory, El

Maguey Mexican Restaurant, Mariscos El-30, RJ's Cafe & Bakery, El Nuevo Mexicali II, Habi Sushi, Black Bear Diner and Birria Y Pollos El Guero, and several more were in the application process prior to outdoor dining being prohibited by the State's regional stay at home orders on December 3, 2020. On January 25, 2021, the State removed the regional stay at home Order, again allowing outdoor dining and the consideration of the outdoor dining permits that were in process. The Council's initial approval of the outdoor dining permit process was effective through January 31, 2021, which at its meeting on February 2, 2021, the Council acted to extend its outdoor dining permit process until June 30, 2021. Subsequently, an additional seven entities have been approved to provide outdoor dining, including Birria y Pupusas Las Favoritas, Denny's, El Nuevo Mexicali, El Tapatio, Landing 13, Taco Truck Cantina and The Mud House.

On June 3, 2021, Governor Newsom released a letter announcing the Eighth Notice of Regulatory Relief that allows restaurants and bars to maintain their expanded outdoor operations by providing regulatory relief through the end of 2021. The regulatory relief includes; on-sale retailers exercising off-sale privileges, sales of alcoholic beverages to-go, deliveries to consumers, free delivery, expansion of licensed footprint, on-sale licenses without kitchen facilities, virtual meet the winemaker or brewer dinners, renewal of relief for charitable promotions and sales, and relief from type-75 requirement to produce 100 barrels of beer annually. The letter also encourages local jurisdictions to continue to allow expanded outdoor dining opportunities. At the time of this report nineteen (19) entities have been approved to provide outdoor dining. One restaurant requested that their permit closed and several other restaurants are no longer utilizing the temporary outdoor dining areas approved under the program. The Council's initial approval of the outdoor dining permit process through January 31, 2021, was extended by the Council at its meeting on February 2, 2021 to June 30, 2021. At its meeting on June 15, 2021, the Council extended the outdoor dining permit through January 2, 2022, and at its meeting on December 21, 2021, the Council again extended the outdoor dining permit through April 5, 2022.

Due to increasing virus spread in the Central Valley resulting in increased cases and hospitalizations, on July 27, 2020, the Governor announced the appropriation of \$52 million in support of the counties of Fresno, Kern, Kings, Madera, Merced, San Joaquin, Stanislaus and Tulare in the implementation of three Unified Support Teams to provide hands-on technical assistance in support of testing, contact tracing, isolation and quarantine efforts. On August 12 and 13, 2020, the State's Unified Support Team met with local representatives in developing strategies reducing community spread in Tulare County.

Most of the City's workforce has been deemed essential under the State's guidelines, which the City has directed its limited non-essential workers to remain at home and available for assignment if necessary, and has implemented a rotation of its essential workforce as much as possible to reduce employees

public exposure. Employees required to be at work during the shelter-at-home Order are accrued special leave for later utilization and/or payment, as well as employees that are working from home. Given the State's reopening guidelines, all City employees returned to work effective June 1, 2020, and the special leave program was discontinued effective May 31, 2020. Compounding the challenge for the City's workforce was the temporary closure of local non-profit contractor Promoting Self Worth (PSW) due to its workforce being considered highly vulnerable to COVID-19, thus necessitating City staff to address the contracted essential services of graffiti removal and the care for a significant number of Landscape and Lighting Maintenance Districts (LMD). PSW returned to performing its contracted services with the City beginning the week of May 11, 2020.

Governor Newsom's Executive Order N-37-20, issued on March 27, 2020, established a moratorium on eviction of tenants in good standing as of the date of the Order through May 31, 2020, which had been an issue of discussion by the Council at its meeting on March 17, 2020. On May 29, 2020, Governor Newsom issued Executive Order N-66-20, extending the eviction moratorium through July 28, 2020. On June 30, 2020, the Governor issued Executive Order N-71-20, extending the eviction moratorium through September 30, 2020. On August 31, 2020, Governor Newsom signed legislation to extend protections for tenants from eviction from COVID-19-related back rent through February 1, 2021, as well as extended anti-foreclosure protections in the Homeowner Bill of Rights to small landlords, and on January 20, 2021, Governor Newsom signed legislation to extend the protections through June 30, 2021. On June 28, 2021, Governor Newsom signed legislation to extend the protections through September 30, 2021. With the conclusion of the eviction moratorium, \$850 million in State emergency rental assistance continues to be available to eligible low income tenants through the California COVID-19 Rent Relief Program.

Governor Newsom's Executive Order N-39-20, issued on March 30, 2020, provided broad waivers of certifications and licensing for healthcare providers and locations to expand the provision of medical care in meeting an expected patient surge. During his press conference announcing the Order, Governor Newsom mentioned that Porterville would play a role in meeting the expected patient surge, which staff has learned will involve the reactivation of a portion of the General Treatment Area of the Porterville Developmental Center (PDC), including caring for up to potentially 350 COVID-19 patients in four (4) categories: 1) patients too sick to recover at home, but do not need hospitalization; 2) patients who have been hospitalized and who are recovering and require less care; 3) skilled nursing facility patients who don't require acute care; and 4) developmentally-disabled group home patients. Preliminary construction improvements have been completed to prepare the facility's infrastructure, with no timeline yet provided for necessary medical improvements expected to begin. The City has repeatedly asked the State to keep it involved in its planning efforts, including any actions by Council that would be supportive of its operation. On May 8, 2020, the City received notice from the County that the State intended to immediately relocate approximately forty (40) foster youth from across the state with COVID-19 to PDC, however,

on May 9, 2020, the County notified the City that the State had changed its plans and would not be relocating the youth to PDC, likely to ensure regional patient surge capacity. On July 2, 2020, the City received notification from the County that the State would activate PDC as a regional alternate site on Friday, July 3, 2020, treating low-acute COVID-19 patients transferred from impacted hospitals from across the Central Valley. On August 19, 2020, the State notified the County that State personnel were being assigned to support the large fires in northern California and now across the state, and that PDC would not be accepting any new patients until further notice. As of September 12, 2020, there were no patients being treated at PDC, with the State designating the "warm closure" of the facility that can be reactivated within seventy-two (72) hours if necessary. The State has indicated that due to rising hospitalizations, it anticipated that PDC would be reopened as a regional alternate site, which was activated on December 15, 2020, and at the time of this report is currently not treating any patients and has been returned to "warm closure" status.

As part of the Governor's commitment to broader testing in rural and underserved areas of the state, the State established a contracted large-scale testing facility at the Veterans Memorial Building, beginning operations on Tuesday, May 5, 2020. Up to 130 tests are expected to be performed each day (Monday - Friday) for the next several months, which testing will be available to everyone by appointment. Given initial low utilization, City staff initiated a local messaging campaign for local residents to be tested, which precipitated improved community response beyond minimum State testing thresholds. City staff had been notified by County staff that the Veterans Memorial administration has given notice to the State to terminate the testing at its facility effective July 31, 2020, so that it may again use the facility for other purposes, however, the State and the Veterans Memorial administration have agreed to continue testing, with the testing site being terminated effective July 31, 2021. In addition, the City has partnered with the County in providing free community walkup testing, occurring weekly on Tuesdays in the public parking lot south of the Centennial Plaza building, which the County made the determination to discontinue the testing site effective May 18, 2021.

The United States Food and Drug Administration (FDA) provided emergency use authorization for the Pfizer-BioNTech COVID-19 vaccine on December 11, 2020, the Moderna vaccine on December 18, 2020 and the Johnson & Johnson vaccine on February 27, 2021, which the State provided guidelines for the distribution of vaccines in three phases. Consistent with the State's identified Phase 1A/Tier 1 priority, Tulare County began vaccinations the week of December 14, 2020, with approximately 3,000 vaccines administered. At the time of this report, the County has received 331,725 vaccines and administered 242,035 vaccines to residents, and is available to all individuals age 12 or older. The County had identified large-scale community vaccination sites, with locations in Porterville (Porterville College), Tulare (Ag Center) and Visalia (College of the Sequoias), though the County transitioned the Porterville vaccination site to the Porterville Fairgrounds in May 2021 due to a parking lot project at Porterville College. At its Special Meeting on April 13, 2021, the

City Council approved a mass vaccination and resource fair event sponsored by the County at the Porterville Fairgrounds on Sunday, April 18th through Tuesday, April 20th, 2021, which a successor vaccination event at the Fairgrounds for Sunday, May 10th through Tuesday, May 12th, 2021. Effective July 31, 2021, the local community vaccine clinic operated by Sierra View Medical Center and Imperial Ambulance at the Veterans Memorial Building transitioned to Sierra View's facility on the southwest corner of Morton Avenue/Pearson Drive.

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a \$2 trillion economic recovery stimulus package. The financial recovery package includes: 1) \$604 billion for individuals/families, including \$300 billion in cash payments, \$260 billion in unemployment payments and \$44 billion in student loan assistance; 2) \$500 billion for large corporations; 3) \$377 billion for small business; 4) \$340 billion for state and local governments; 5) and \$180 billion for public services, including \$100 billion for hospitals. Within the state and local government provisions, a local government's (county or city) population must exceed 500,000 to receive direct federal recovery, which local governments with population less than 500,000 would only receive federal recovery through a state if the state was agreeable to local government distributions. On April 24, 2020, President Trump signed the Paycheck Protection Program and Healthcare Enhancement Act (H.R. 266), which provided approximately \$400 billion in additional business assistance (\$321 billion) and medical support and testing (\$75 billion). Staff is focusing its efforts now in engaging with local businesses and financial institutions to ensure the emergency resources are made available to promote local economic stability upon the completion of the current state of emergency.

On December 27, 2020, President Trump signed a \$900 billion COVID-19 relief bill into law, which included enhanced unemployment benefits, direct cash payments, small business assistance, childcare and education funding, rental assistance, vaccine and hospital funding, and payroll tax repayment, but did not include local government funding. Tulare County has reported that it would be receiving \$13 million in direct funding for rental and utility assistance, which it opted to dedicate to the State under SB 91 legislation for matching funds of \$14 million, with the total estimated \$27 million to be administered by the Local Initiatives Support Corporation (LISC) through local non-profit organizations beginning by March 15, 2021.

On July 14, 2021, Governor Newsom announced the State's new \$100 billion California Comeback Plan, which includes \$5.2 billion allocated for both back-rent and prospective rent for eligible low income residents(California COVID-19 Rent Relief Program), as well as \$2 billion to pay back unpaid water and utility bills.

On March 11, 2021, President Biden signed the \$1.9 trillion American Rescue Plan Act (ARPA), which includes \$65 billion in local government funding assistance, with recent estimates by adopted population formulas would provide

\$19,984,717 in direct federal financial assistance to the City. Guidelines for the eligible use of funds are currently being drafted by the U.S. Department of the Treasury, which will administer the funds, who released the Interim Final Rule on May 10, 2021. The City's first allocation of \$9,992,358 was received on May 20, 2021, which the second allocation would be received twelve (12) months later in May 2022, with all funds required to be obligated by December 31, 2024, and expended by December 31, 2026. Pursuant to the Interim Final Rule, the funds could be used for: 1) support public health expenditures in response and mitigation of COVID-19, including public safety personnel; 2) address negative economic impacts caused by the public health emergency, including assistance to individuals, households, businesses and impacted industries (tourism, travel and hospitality); 3) replace lost public sector revenue; 4) provide premium pay for essential workers in critical infrastructure sectors; and 5) invest in water, sewer and broadband infrastructure. At its meeting on May 18, 2021, the Council provided direction that the priorities for funding be water infrastructure, homeless services, broadband and technology infrastructure, business assistance (restaurants in particular) and vaccine support. On January 6, 2022, the Treasury issued its Final Rule for the administration of ARPA funds for state and local governments, which provided increased flexibility to jurisdictions in the use of funds, including: 1) the option to select a standard \$10 million lost revenue amount in support of general governmental services compared to completing a full revenue loss calculation; 2) clarifies that funds may be used for capital expenditures that support COVID-19 public health or economic responses; 3) expands the number of eligible workers who can receive premium pay without written justification, with a focus on low-income and frontline workers performing essential work; and 4) broadens the definition of eligible infrastructure projects under broadband, sewer, stormdrain, and water categories.

Consistent with federal guidelines in the use of ARPA funds and the Council's priorities for the use of funds, at its meeting on August 17, 2021, the Council acted to support a vaccine incentive program in collaboration with Sierra View Medical Center, offering \$100 gift cards/certificates from local businesses (with particular focus on restaurants and personal services) to individuals being vaccinated in special publicized events. The City and Sierra View partnered in a vaccine event at the KJUG Free Summer Concert at Centennial Park on August 19, 2021, which seventy-four (74) individuals were vaccinated, and a Community Roundup Event on August 27, 2021 at Sierra View's vaccine clinic, which had 366 individuals vaccinated. A second Community Roundup Event was held on September 16-18, 2021, with 795 individuals vaccinated. A third Community Roundup Event was held on October 7-9, 2021, with 1,249 individuals vaccinated. A fourth Community Roundup Event was held on October 29-30, 2021, with 2,046 individuals vaccinated. A vaccine event was conducted in conjunction with the Veterans Day Parade, which 126 individuals were vaccinated. A fifth Community Roundup Event was held on November 18-20, 2021, with 2,157 individuals vaccinated. A vaccine event was conducted in conjunction with the Children's Christmas Parade on December 4, 2021, which 329 individuals were vaccinated. A vaccine event was conducted in conjunction with the Porterville College Foundation Swap Meet on

December 11, 2021, which 374 individuals were vaccinated. A sixth Community Roundup Event was held on December 9-11, 2021, with 1,730 individuals vaccinated. A seventh Community Roundup Event was held on January 6-8, 2022, with 3,041 individuals vaccinated. An eighth Community Roundup Event was held on January 27-29, 2022, with 2,519 individuals vaccinated. A total of 14,770 local gift cards/certificates have been purchased and \$1,477,000 in City ARPA funds expended. Sierra View has expressed its interest in continuing to partner with the City in future vaccine incentive events.

The Council also directed staff to coordinate with the local school districts in the potential planning of school-based vaccine events for youth ages 5-11 years.

At its meeting on February 1, 2022, the Council approved a Community Roundup event be planned with Sierra View for February 17-19, 2022. At its meeting on February 8, 2022, the Council COVID Ad Hoc Committee recommended the Community Roundup events continue into March 2022, with proposed dates on March 10-12, 2022 and March 31-April 2, 2022, as well as expand the participation of local small mercantile businesses in the incentive program.

Consistent with federal guidelines in the use of ARPA funds and the Council's priorities for the use of funds, at its meeting on October 19, 2021, the Council acted to support a request by UPHoldings and Self-Help Enterprises in the amount of \$250,000 toward the development of the Finca Serena affordable and permanent supportive housing project, and to apply the County of Tulare's \$500,000 appropriation of ARPA funds to address homelessness in the city of Porterville.

At its meeting on May 5, 2020, the Council acted to amend its federal Community Development Block Grant (CDBG) 5-Year Action Plan and program the \$490,000 CDBG-CV business assistance funds received, and took additional action at its meeting on June 2, 2020, which staff received final approval from the Housing and Urban Development (HUD) Department on July 21, 2020, and begin providing local small business assistance. Although the City received approval of its CDBG-CV plan and program by HUD, on August 10, 2020, HUD released its final set of program rules, which staff had to review for consistency. On September 17, 2020, the City received notification from HUD of an additional \$393,000 in additional CDBG-CV funds, which City staff is still awaiting final approval from HUD on the use of funds. At its meeting of June 16, 2020, the Council took action to defer the collection of the biannual \$25 business license from July 2020 to January 2021 for local small businesses, which due to the State's current regional stay at home order, at its meeting on December 15, 2020, the Council acted to defer the biannual collection again until July 2021. At its meeting on August 3, 2021, the Council acted to continue to defer the biannual collection until January 2022. At its meeting on December 21, 2021, the Council acted to continue to defer the biannual collection until July 2022.

On December 3, 2020, given the new Regional Stay-at-Home Orders, the State announced that a new \$500 million in grants would be made available to assist small businesses impacted by the Orders, which the application period for the

first round of funding opened on December 30, 2020, and closed on January 13, 2021. A second round of funding was committed to by the State, with the application period having opened on February 2 and closed on February 8, 2021. Four additional rounds of funding were announced by the State on March 3, 2021, with the third round (waitlisted applicants from the first and second rounds only) having opened on March 5 and closed March 11, 2021, the fourth round (nonprofit cultural institutions only) opened on March 16 and closed on March 23, 2021, the fifth round (open to all eligible applicants) opened on March 25 and closed on March 31, 2021, and the sixth round (open to all eligible applicants) opened on April 28, 2021 and closed on May 4, 2021. An eighth round for nonprofit cultural institutions only opened on August 27, 2021 and closed on September 8, 2021. A ninth round for new and waitlisted applicants opened on September 9, 2021 and closed on September 30, 2021.

Additional rounds of funding may be announced, as the State has recognized an estimated \$75 billion budget surplus. On February 9, 2022, Governor Newsom signed Senate Bill 113, which provides an additional \$150 million in funding for waitlisted applicants.

Given challenges of access and gaps in available small business assistance, some cities have developed self-funded small business assistance programs. As an example, the City of Whittier recently developed a \$500,000 small business assistance grant program, with eligible businesses required to have a valid business license, be independently owned and operated, and have a physical commercial location (home based businesses are not eligible). The program provides \$500 to personal care services providers (i.e. hair, massage, nail, skincare, tattoo), \$2,000 to businesses that generate less than \$250,000 in gross taxable sales, and \$2,500 to businesses that generate more than \$250,000 in gross taxable sales. Small businesses are defined generating less than \$1.25 million in gross taxable sales.

From a City financial perspective, there is uncertainty as to how the pandemic would affect local sales tax and transient occupancy tax, which could be further compounded by a potential reassessment of property tax values. Fortunately, the conservative stewardship of the City has allowed it to have General Fund reserves for Catastrophic Emergencies (\$2.8 million) and Budget Stabilization (\$4.3 million), which in addition to the recent passage of Measure I, allows the City to purposefully address the current crisis and plan for budgetary accommodations that the City's essential services to the community can continue without current modification. The League of California Cities has estimated cities in California will collectively lose \$7 billion in revenue through the 2020-2021 fiscal year.

As a component of its 2020-2021 budget adoption, the State appropriated \$500 million of CARES Act funding to cities that were not allocated CARES Act funding directly by the federal government, including \$275 million to cities with a population of less than 300,000, which the City received approximately \$740,000.

On January 8, 2021, Governor Newsom announced the State's proposed \$227

Item No. 18.

billion budget for the 2021-2022 fiscal year, allocating \$15 billion for COVID-19 recovery and support, focused on vaccinations, safe reopening of schools, support for small businesses, and funding for California residents, but did not include financial support for cities.

On February 23, 2021, Governor Newsom signed the Golden State Stimulus legislation, that provides \$9.6 billion in financial assistance to eligible individuals and families, and economic aid to qualifying small businesses and non-profits.

On January 10, 2022, Governor Newsom announced the State's proposed \$286 billion budget for the 2022-2023 fiscal year, including a \$45 billion surplus, allocating \$2.7 billion toward the continued pandemic focused on vaccines, statewide testing and increased medical personnel.

RECOMMENDATION: That the City Council:

1. Receive the report of status and review of the Proclamation of Local Emergency;
2. Determine the need exists to continue said Declaration;
3. Approve the Draft Resolution authorizing local emergency virtual meetings; and
4. Take action and/or provide direction as deemed necessary.

ATTACHMENTS:

1. Resolution 22-2020: Proclamation of Local Emergency
2. Governor Newsom Proclamation of a State of Emergency
3. President Trump Proclamation on Declaring a National Emergency
4. Tulare County Proclamations of Local Emergency
5. Tule River Tribe Declaration of State of Emergency
6. Governor Newsom Executive Order N-42-20 - Utilities
7. City of Porterville Urgency Ordinance - Face Coverings: July 21, 2020
8. State of California Face Coverings Guidance - June 9, 2021
9. State of California Face Covering Guidance Update - February 7, 2022
10. Tulare County Emergency Rental and Utility Assistance Program
11. City Utilities Past Due Balances - January 2022
12. State of California Beyond the Blueprint for Industry and Business Sectors (Including Mega Events) - February 7, 2022
13. United States Treasury Department State and Local Fiscal Recovery Funds - Fact Sheet
14. Vaccination Incentives Report
15. Draft Resolution - AB 361 Local Emergency Remote Access

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager

RESOLUTION NO. 22-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE TO PROCLAIM THE EXISTENCE OF A LOCAL EMERGENCY

RESOLVED, by the City Council (the “Council”) of the City of Porterville (the “City”),
as follows:

WHEREAS, the novel coronavirus (COVID-19) is a respiratory disease which the Centers for Disease Control and Prevention (CDC) considers to be a very serious public health threat with outcomes ranging from mild to severe sickness and death; and

WHEREAS, COVID-19 is easily transmissible from person to person and has spread globally to over 118 countries, infected more than 125,000, and killed more than 4,000 as of March 11, 2020 per the World Health Organization (WHO); and

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services declared a public emergency for COVID-19 beginning on January 27, 2020; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency in the State of California due to the number of confirmed cases of COVID-19 in the State; and

WHEREAS, on March 11, 2020, WHO made the assessment that COVID-19 can be characterized as a pandemic; and

WHEREAS, on March 12, 2020, Tulare County declared an emergency due to the confirmed case of COVID-19 at Sierra View Medical Center in the city of Porterville, thus enabling Tulare County to take extraordinary measures; and

WHEREAS, on March 13, 2020, Governor Newsom announced that California public health officials have determined that gatherings of more than 250 people should be postponed or canceled across the State at least until the end of March; and

WHEREAS, COVID-19 therefore and will continue to cause conditions of peril to the health, safety, and welfare of persons and property in the City of Porterville; and

WHEREAS, preparing for, responding to, mitigating, and recovering from the spread of COVID-19 requires the City to divert resources from normal day-to-day operations, and has and will continue to impose extraordinary requirements on and expenses to the City; and

WHEREAS, the City Council hereby finds that the above described conditions related to the COVID-19 outbreak does warrant and necessitate the proclamation of the existence of a local emergency in the city of Porterville.

NOW, THEREFORE, it is hereby **DECLARED** and **ORDERED**, as follows:

1. The proclamation of existence of a local emergency exists throughout the City of Porterville.
2. The local emergency shall be deemed to continue to exist until its termination is proclaimed by the City Council of the City of Porterville.
3. As required by law, the City Council shall review the need to continue the state of emergency every thirty (30) days until this Resolution is terminated.

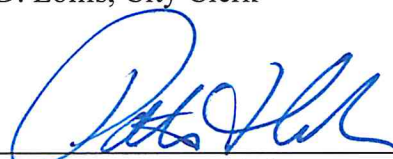
PASSED, APPROVED, AND ADOPTED this 17th day of March, 2020.



Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 

Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at a meeting of the Porterville City Council duly called and held on the 17th day of March, 2020.

Said resolution was duly passed, approved, and adopted by the following vote:

Council:	PEÑALOZA	REYES	FLORES	STOWE	GURROLA
AYES:	X	X	X	X	
NOES:					
ABSTAIN:					
ABSENT:					X

JOHN D. LOLLIS, City Clerk


By: Fernando Gabriel-Moraga, Deputy City Clerk

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

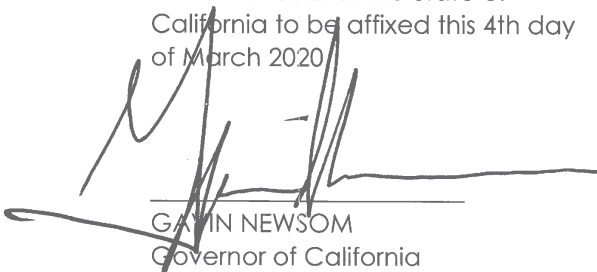
notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 4th day
of March 2020



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

**PROCLAMATIONS**

Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak

Issued on: March 13, 2020



In December 2019, a novel (new) coronavirus known as SARS-CoV-2 (“the virus”) was first detected in Wuhan, Hubei Province, People’s Republic of China, causing outbreaks of the coronavirus disease COVID-19 that has now spread globally. The Secretary of Health and Human Services (HHS) declared a public health emergency on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d), in response to COVID-19. I have taken sweeping action to control the spread of the virus in the United States, including by suspending entry of foreign nationals seeking entry who had been physically present within the prior 14 days in certain jurisdictions where COVID-19 outbreaks have occurred, including the People’s Republic of China, the Islamic Republic of Iran, and the Schengen Area of Europe. The Federal Government, along with State and local governments, has taken preventive and proactive measures to slow the spread of the virus and treat those affected, including by instituting Federal quarantines for individuals evacuated from foreign nations, issuing a declaration pursuant to section 319F-3 of the Public Health Service Act (42 U.S.C. 247d-6d), and releasing policies to accelerate the acquisition of personal protective equipment and streamline bringing new diagnostic capabilities to laboratories. On March 11, 2020, the World Health Organization announced that the COVID-19 outbreak can be characterized as a pandemic, as the rates of infection continue to rise in many locations around the world and across the United States.

The spread of COVID-19 within our Nation’s communities threatens to strain our Nation’s healthcare systems. As of March 12, 2020, 1,645 people from 47 States have been infected with the virus that

causes COVID-19. It is incumbent on hospitals and medical facilities throughout the country to assess their preparedness posture and be prepared to surge capacity and capability. Additional measures, however, are needed to successfully contain and combat the virus in the United States.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States, by the authority vested in me by the Constitution and the laws of the United States of America, including sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 *et seq.*) and consistent with section 1135 of the Social Security Act (SSA), as amended (42 U.S.C. 1320b-5), do hereby find and proclaim that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020. Pursuant to this declaration, I direct as follows:

Section 1. Emergency Authority. The Secretary of HHS may exercise the authority under section 1135 of the SSA to temporarily waive or modify certain requirements of the Medicare, Medicaid, and State Children's Health Insurance programs and of the Health Insurance Portability and Accountability Act Privacy Rule throughout the duration of the public health emergency declared in response to the COVID-19 outbreak.

Sec. 2. Certification and Notice. In exercising this authority, the Secretary of HHS shall provide certification and advance written notice to the Congress as required by section 1135(d) of the SSA (42 U.S.C. 1320b-5(d)).

Sec. 3. General Provisions. (a) Nothing in this proclamation shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This proclamation shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This proclamation is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of March, in the year of our Lord two thousand twenty, and of the Independence of the United States of America the two hundred and forty-fourth.

DONALD J. TRUMP



Health & Human Services Agency COUNTY OF TULARE AGENDA ITEM

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

EDDIE VALERO
District Four

DENNIS TOWNSEND
District Five

AGENDA DATE: March 17, 2020

Public Hearing Required	Yes ☐	N/A ☒
Scheduled Public Hearing w/Clerk	Yes ☐	N/A ☒
Published Notice Required	Yes ☐	N/A ☒
Advertised Published Notice	Yes ☐	N/A ☒
Meet & Confer Required	Yes ☐	N/A ☒
Electronic file(s) has been sent	Yes ☒	N/A ☐
Budget Transfer (Aud 308) attached	Yes ☐	N/A ☒
Personnel Resolution attached	Yes ☐	N/A ☒
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes ☐	N/A ☒

CONTACT PERSON: Andrew Lockman PHONE: 624-8000

SUBJECT: Ratify Proclamations of Emergency for COVID-19

REQUEST(S):

That the Board of Supervisors:

1. Ratify a Proclamation of Local Emergency issued by the County Coordinator of Emergency Services on March 11, 2020 due to COVID-19; and
2. Ratify a Proclamation of Local Health Emergency issued by the County Health Officer on March 11, 2020 due to COVID-19.

SUMMARY:

As has been widely covered in the media, the COVID-19 outbreak originated in China beginning in December 2019. The Tulare County Department of Public Health, in cooperation with all Tulare County departments and numerous healthcare and community partners, has been actively monitoring and proactively preparing for COVID-19 since early January 2020.

Since that time, cases have been reported worldwide along with numerous deaths resulting from the disease. California has had numerous cases resulting from travel, person-to-person contact, and community spread. On March 4, 2020, Governor Newsom proclaimed a State of Emergency for COVID-19 after the first COVID-19 related death in California. Since that date, confirmed cases have also occurred in neighboring Fresno and Madera Counties.

On March 11, 2020, Tulare County had its first confirmed positive COVID-19 case. As a result, the County implemented a contingency plan under which the County's Coordinator of Emergency Services proclaimed a Local Emergency, and the County

SUBJECT: Ratify Proclamations of Emergency due to COVID-19
DATE: March 17, 2020

Health Officer proclaimed a Local Health Emergency, to enable the County to take all necessary response actions to combat the effects of the disease. Pursuant to California Government Code section 8630(b), these proclamations must be ratified within seven (7) days by the Board of Supervisors in order to remain in effect.

The Governor's State of Emergency dated March 4, 2020, waives statutory requirements to renew emergency proclamations for COVID-19, so these local proclamations will remain in effect until terminated by the Tulare County Board of Supervisors.

As a matter of information, local public health emergencies due to the threat posed by COVID-19 also have been declared by the Counties of Santa Clara, San Diego, San Francisco, Orange, Solano, Alameda, Sonoma, Marin, Placer, Los Angeles, Mendocino, Butte, San Bernardino, San Benito, Yolo, Monterey, San Mateo, Yuba, Sutter, Contra Costa, Humboldt, Lake, and Sacramento, and by numerous California cities and Indian Tribes.

FISCAL IMPACT/FINANCING:

There is no cost associated with proclaiming or terminating a local emergency or local health emergency. The proclamation of local emergency contains a request for California Disaster Assistance Act funding, which may result in cost recovery of extraordinary response costs associated with this incident.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's five-year strategic plan includes the Safety and Security initiative, with a directive to plan and provide coordinated emergency preparedness, response, recovery and mitigation capabilities for both natural and man-made disasters. These proclamations support the County's emergency response and coordination efforts by ensuring all necessary actions can be taken to mitigate the spread of disease.

ADMINISTRATIVE SIGN-OFF:



Timothy W. Lutz
Agency Director

Cc: County Administrative Office

Attachment(s) Proclamation of Local Emergency
Proclamation of Local Health Emergency

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF RATIFY PROCLAMATIONS) Resolution No. _____
OF EMERGENCY DUE TO COVID-19) Agreement No. _____
)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

1. Ratified a Proclamation of Local Emergency issued by the County Coordinator of Emergency Services on March 11, 2020 due to COVID-19; and
2. Ratified a Proclamation of Local Health Emergency issued by the County Health Officer on March 11, 2020 due to COVID-19.

**PROCLAMATION OF A LOCAL EMERGENCY
BY THE DIRECTOR OF EMERGENCY SERVICES**

WHEREAS, Government Code section 8630 and Tulare County Ordinance Code section 1-15-1030 authorize the Director of Emergency Services to proclaim a local emergency when the County of Tulare ("County") is threatened by conditions of disaster or extreme peril to the safety of persons and property within the County that are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the County, and the Board of Supervisors is not in session; and

WHEREAS, the Director of Emergency Services hereby finds:

Conditions of extreme peril to the safety of persons and property have arisen within the County due to the following:

A novel coronavirus (named "COVID-19") was first detected in Wuhan City, Hubei Province, China, in December 2019. The U.S. Centers for Disease Control and Prevention ("CDC") considers the virus to be a very serious public health threat, based on current information. In part, the virus is considered a serious public health threat because much is unknown. The exact modes of transmission, the factors facilitating human-to-human transmission, the extent of asymptomatic viral shedding, the groups most at risk of serious illness, the attack rate, and the case fatality rate all remain active areas of investigation. The CDC believes at this time that symptoms appear two to fourteen days after exposure. Currently, there is no vaccine or specific antiviral treatment for COVID-19.

The number of reported cases of COVID-19 has escalated dramatically over a short period of time. To date, worldwide there are over 125,000 confirmed cases of COVID-19 and over 4,600 deaths from COVID-19. Cases of COVID-19, though concentrated in China, have been reported in one hundred twenty-two countries, including the United States, and include individuals who never visited China. Transmission from an asymptomatic individual has been documented. In the U.S., there have been 939 total cases of COVID-19 confirmed to date in 41 different states, and at least 29 deaths reported.

The World Health Organization has declared the outbreak to be a global health emergency. Actions are being taken to protect public health and limit the spread of COVID-19 in the United States.

On March 4, 2020, Governor Newsom proclaimed a state of emergency to exist in California. There are now almost 200 confirmed cases in California spanning some 24 counties and at least four deaths have been reported in California due to COVID-19.

Local public health emergencies due to the threat posed by COVID-19 have been declared by the Counties of Santa Clara, San Diego, San Francisco, Orange, Solano, Alameda, Sonoma, Marin, Placer, Los Angeles, Mendocino, Butte, San Bernardino, San Benito, Yolo, Monterey, San Mateo, Yuba, Sutter, Contra Costa, Humboldt, Lake, and Sacramento, and by numerous California cities and Indian Tribes; and

Tulare County has a population of over 450,000 residents, many of whom travel frequently for business or personal reasons. The Health Officer of the County of Tulare has determined that there is an imminent and proximate threat to public health from the introduction of COVID-19 in Tulare County, and has declared a Local Health Emergency as a result.

These conditions are beyond the control of the services, personnel, equipment, and facilities of the County and require the combined forces of other political subdivisions to combat.

WHEREAS, on March 11, 2020, a Tulare County resident tested positive for COVID-19; and

WHEREAS, based on the experience of other California communities, it can reasonably be expected that other positive tests will soon follow; and

WHEREAS, the Board of Supervisors is not in session, and cannot immediately be called into session; and

WHEREAS, during a local emergency, the Director of Emergency Services or other individual authorized to serve in that capacity under Tulare County Ordinance Code sections 1-15-1031 and 1-15-1032 is empowered by Tulare County Ordinance Code section 1-15-1025 to issue rules and regulations on matters reasonably related to the protection of life and property as affected by such emergency; provided, however, that such rules and regulations must be confirmed at the earliest possible time by the Board of Supervisors; and

WHEREAS, the Director of Emergency Services is unavailable to issue a proclamation as he is currently outside of Tulare County and has authorized his successor, the County's Coordinator of Emergency Services (Assistant County Administrative Officer), as designated in Tulare County Ordinance Code sections 1-15-1010 (c) and 1-15-1030 (g) to exercise the powers of Director of Emergency Services as provided for in Tulare County Ordinance Code section 1-15-1030 (h) and thereby to issue this proclamation of local emergency; and

WHEREAS, the Tulare County Health Department must use all preventive measures, which will require access to available services, personnel, equipment, and facilities, to respond to COVID-19; and

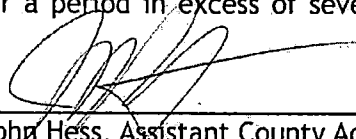
NOW THEREFORE, the Tulare County Coordinator of Emergency Services hereby:

1. Proclaims that a local emergency, as defined in Government Code Section 8558 and Tulare County Ordinance Code Section 1-15-1005, now exists within the County due to the presence of COVID-19; and
2. Requests that the Governor of the State of California request a federal declaration to provide assistance, including, but not limited to, California Disaster Assistance Act ("CDAA"); and
3. Orders that the Tulare County Health Department must use all preventive measures, which will require access to available services, personnel, equipment, and facilities, to respond to COVID-19.

The local emergency shall not remain in effect for a period in excess of seven days unless it has been ratified by the Board of Supervisors.

Date: March 11, 2020

Time: 10:33 pm

By: 

John Hess, Assistant County Administrative Officer
and Emergency Services Coordinator

APPROVED AS TO FORM:
COUNTY COUNSEL

/s/ Jennifer M. Shiffert
Deputy
Matter No. 2020217

Jlk/03-11-2020/2020217/1444043

**County of Tulare
Health & Human Services Agency
Public Health Branch**

Health Officer
5957 South Mooney Blvd.
Visalia, CA 93277
559-624-8480



**PROCLAMATION OF LOCAL HEALTH EMERGENCY
REGARDING NOVEL CORONAVIRUS (COVID-19)**

WHEREAS, California Health and Safety Code section 101080 and Tulare County Ordinance Code section 1-15-1033 authorize the local health officer to declare a local health emergency in the health officer's jurisdiction, or any part thereof, whenever the health officer reasonably determines that there is an imminent and proximate threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent; and

WHEREAS, the local health emergency shall not remain in effect after 7 days from the date of this declaration unless it has been ratified by the County of Tulare's Board of Supervisors; and

WHEREAS, the Health Officer of the County of Tulare makes the following findings:

A novel coronavirus (named "COVID-19") was first detected in Wuhan City, Hubei Province, China, in December 2019. The U.S. Centers for Disease Control and Prevention ("CDC") considers the virus to be a very serious public health threat, based on current information. In part, the virus is considered a serious public health threat because much is unknown. The exact modes of transmission, the factors facilitating human-to-human transmission, the extent of asymptomatic viral shedding, the groups most at risk of serious illness, the attack rate, and the case fatality rate all remain active areas of investigation, but are poorly characterized at this time. The best information to date suggests that the virus is spread between people primarily via respiratory droplets produced when an infected person coughs or sneezes. Symptoms of the virus include fever, cough, and shortness of breath, and infected individuals have experienced a range of outcomes, from mild sickness to severe illness and death. The CDC believes at this time that symptoms appear two to fourteen days after exposure. Currently, there is no vaccine or specific antiviral treatment for COVID-19.

The number of reported cases of COVID-19 has escalated dramatically over a short period of time. To date, worldwide there are over 125,000 confirmed cases of COVID-19 and over 4,600 deaths from COVID-19. Cases of COVID-19, though concentrated in China, have been reported in 122 counties, including the United States. Confirmed cases of COVID-19 include individuals who never visited China. Transmission from an asymptomatic individual has been documented. The World Health Organization has declared the outbreak to be a global health emergency.

On March 4, 2020, Governor Newsom proclaimed a state of emergency to exist in California.

**DECLARATION OF LOCAL HEALTH EMERGENCY
REGARDING NOVEL CORONAVIRUS (COVID-19)**

There are now almost 200 confirmed cases in California spanning 24 counties, and 4 deaths have been reported in California due to COVID-19.

Local public health emergencies due to the threat posed by COVID-19 have been declared by the Counties of Santa Clara, San Diego, San Francisco, Orange, Solano, Alameda, Sonoma, Marin, Placer, Los Angeles, Mendocino, Butte, San Bernardino, San Benito, Yolo, Monterey, San Mateo, Yuba, Sutter, Contra Costa, Humboldt, Lake, and Sacramento, and by numerous California cities and Indian Tribes.

Tulare County has a population of over 450,000 residents, many of whom travel frequently for business or personal reasons. As of March 11, 2020 there are 939 total cases of COVID-19 in the United States and 29 deaths. 41 states have reported cases.

WHEREAS, on March 11, 2020, a Tulare County resident tested positive for COVID-19; and

WHEREAS, based on the experience of other California communities, it can reasonably be expected that other positive tests will soon follow; and

WHEREAS, the Health Officer of the County of Tulare does hereby find that there is an imminent and proximate threat to public health from the introduction of COVID-19 in Tulare County; and

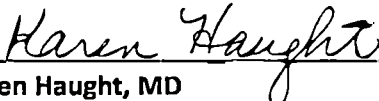
WHEREAS, the Board of Supervisors is not in session, and cannot immediately be called into session; and

NOW, THEREFORE, the Health Officer of the County of Tulare hereby proclaims and declares that a local health emergency now exists in the County of Tulare due to the presence of and threat posed by COVID-19.

Date: March 11, 2020

Time: 10:50 pm

Issued by:



Karen Haught, MD
County Health Officer
County of Tulare
Health & Human Services Agency
Public Health Branch

Approved as to Form:
COUNTY COUNSEL

By /s/Jennifer M. Shiffert
Deputy
Matter No. 2020217

Jlk/03-11-2020/2020217/1444044.DOCX



TULE RIVER INDIAN TRIBE OF CALIFORNIA

IN THE MATTER OF:

Resolution to Formally Declare a State of
Emergency for the Tule River Tribe of The)
Tule River Reservation of California)

RESOLUTION NO. FY2020-100

BE IT RESOLVED BY THE COUNCIL OF THE TULE RIVER INDIAN TRIBE:

WHEREAS, the Tule River Indian Tribe (the "Tribe") is a federally recognized Indian tribe organized pursuant to the Constitution and Bylaws of the Tule River Indian Tribe approved January 15, 1936 ("Constitution"); and

WHEREAS, pursuant to Article III, Section 1 of the Constitution the governing body of the Tribe is the Tribal Council and pursuant to Article VI, Section 1 of its Constitution it has the power to promulgate ordinance for the purpose of safeguarding the peace and safety of residents of the reservation and to adopt resolutions regulating the procedure of tribal agencies of the reservation; and

WHEREAS, On March 4th 2020, a proclaimed State of Emergency exists in the State of California, as result of the threat of COVID-19; and

WHEREAS, despite sustained efforts, the virus remains a threat, and further efforts to control the spread of the virus to reduce and minimize the risk of infection are needed; and

WHEREAS, for the safety and protection of the public health within the jurisdiction of the Tribe for the Tribe and/or its governmental agencies to obtain emergency support and funding from Federal, state and local agencies; and

WHEREAS, the Tule River Tribal Council desires to consider state and local recommendation deemed necessary in the interests of the public health, issue guidance limiting or recommend limitations upon attendance at public assemblies, conferences, or other mass events, which could cause the cancellation of such gatherings through no fault or responsibility of the parties involved thereby constituting a force majeure; and

WHEREAS, in the interest of public health and safety, it is necessary to exercise my authority under Constitution of the governing body of the Tribe to ensure adequate response and address potential issues related to the threat of COVID-19; and

NOW THEREFORE BE IT RESOLVED, the Tribal Council hereby declares a State of Emergency for the safety and protection of the public health within the jurisdiction of the Tribe for the Tribe and/or its governmental agencies to obtain emergency support and funding from Federal, state and local agencies

Page 2.

Resolution No. FY2020-100

BE IT FURTHER RESOLVED that this resolution has not been amended or rescinded in any way.

CERTIFICATION

UPON MOTION OF COUNCIL MEMBER **Zachary Janoko** SECONDED BY COUNCIL MEMBER **Steve M. Peyron, Jr.**, THE FOREGOING WAS ADOPTED BY THE TULE RIVER TRIBAL COUNCIL AT A DULY CALLED MEETING HELD ON **Friday, March 13, 2020**, AT WHICH A QUORUM WAS PRESENT BY THE FOLLOWING VOTES:

AYES: 8

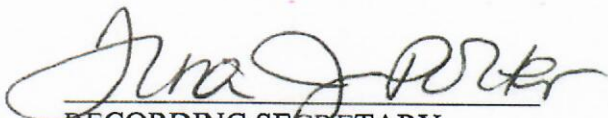
NOES: 0

ABSTAIN 0


NEIL PEYRON, CHAIRMAN
TULE RIVER TRIBAL COUNCIL


HEATHER TERAN, SECRETARY
TULE RIVER TRIBAL COUNCIL

ATTEST TO:


RECORDING SECRETARY

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-42-20

WHEREAS on March 4, 2020, I proclaimed a state of emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS it is the established policy of the State under Water Code section 106.3 that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes; and

WHEREAS to limit the spread of COVID-19 it is crucial that Californians wash their hands regularly and thoroughly; and

WHEREAS many Californians are experiencing or will experience substantial losses of income as a result of business closures, the loss of work hours or wages, or layoffs related to COVID-19, which may hinder their ability to make payments for water service and subject them to water shutoffs due to non-payment; and

WHEREAS many small businesses that provide services essential to the health and well-being of Californians have experienced substantial reductions in income, which may hinder their ability to make payments for water service and subject them to water shutoffs due to non-payment; and

WHEREAS the California Public Utilities Commission has directed private water utilities under its jurisdiction to implement customer service protections, including a moratorium on service disconnections, during the COVID-19 emergency; and

WHEREAS more than 100 public and private water systems have voluntarily agreed to halt disconnections as well; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with the various statutes and regulations concerning water shutoffs specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and the statutes of the State of California, and in particular, Government Code sections 8567, 8570, 8571, and 8627, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) The authority of urban and community water systems, as defined in Health and Safety Code section 116902, subdivision (d), to discontinue residential service, as defined in Health and Safety Code section 116902, subdivision (c), for non-payment under Health and Safety Code sections 116908 and 116910, is suspended.
- 2) Water systems not subject to the requirements of Health and Safety Code sections 116908 and 116910 shall not discontinue residential

service, as defined in Health and Safety Code section 116902, subdivision (c), for non-payment.

- 3) Water systems shall restore any residential service to occupied residences that has been discontinued for nonpayment since March 4, 2020.
- 4) Water systems shall not discontinue service to any business in the critical infrastructure sectors designated by the State Public Health Officer as critical to protect the health and well-being of all Californians that qualifies as a small business under 13 C.F.R. § 121.201 of the Small Business Administration's regulations.
- 5) The State Water Resources Control Board shall identify best practices, guidelines, or both to be implemented during the COVID-19 emergency (i) to address non-payment or reduced payments, (ii) to promote and to ensure continuity of service by water systems and wastewater systems, and (iii) to provide measures such as the sharing of supplies, equipment and staffing to relieve water systems under financial distress.

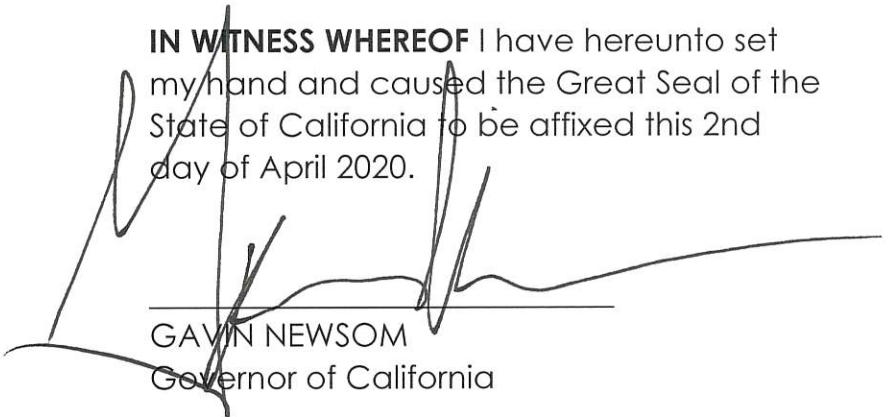
Nothing in this Order eliminates the obligation of water customers to pay for water service, prevents a water system from charging a customer for such service, or reduces the amount a customer already may owe to a water system.

Nothing in this Order modifies the obligations of urban and community waters systems to comply with provisions of the Water Shutoff Protection Act not specifically addressed by this Order or other applicable laws, regulations, and guidelines.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 2nd day of April 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

ORDINANCE NO. 1874

**AN URGENCY ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF PORTERVILLE REQUIRING THE USE OF
FACE COVERINGS IN CONFORMITY WITH THE REQUIREMENTS SET
BY THE CALIFORNIA DEPARTMENT OF PUBLIC HEALTH**

WHEREAS, the novel coronavirus (COVID-19) is a respiratory disease which the Centers for Disease Control and Prevention (CDC) considers to be a very serious public health threat with outcomes ranging from mild to severe sickness and death;

WHEREAS, COVID-19 has been found to be easily transmissible from person to person;

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services declared a public emergency for COVID-19 beginning on January 27, 2020;

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a state of emergency in the State of California due to the number of confirmed cases of COVID-19 in the State;

WHEREAS, on March 21, 2020, Tulare County declared an emergency, thus enabling the County to take extraordinary measures;

WHEREAS, on March 17, 2020, due the actions of the Federal and State Governments, and due to the presence of confirmed cases in Tulare County and the Porterville area, the Porterville City Council adopted Resolution No. 22-2020, a Resolution of the City Council of the City of Porterville to Proclaim the Existence of a Local Emergency;

WHEREAS, on June 18, 2020, the California Department of Public Health issued Guidance for the Use of Face Coverings, which mandates that face coverings be worn state-wide in certain settings and circumstances;

WHEREAS, as of July 7, 2020, Tulare County remains on the State of California Covid-19 “watch list,” due to continuing spread of the disease in the County, including in the Porterville area;

WHEREAS, on July 7, 2020, the Porterville City Council ordered that the face covering requirements of the State be enforced within the City via the City’s administrative citation regulations and through aggressive education efforts, and directed that an urgency ordinance be prepared consistent with the order;

WHEREAS, the City of Porterville is authorized to enforce the state-wide order concerning Face Coverings pursuant to the California Constitution, Porterville City Charter Section 4, and applicable State laws and City regulations; and

WHEREAS, substantial scientific evidence shows that when combined with physical distancing and other health and safety practices such as hand washing and the regular disinfection of surfaces, wearing Face Coverings will assist in allowing additional business and other activities

to be resumed in the safest way possible, and will help protect Porterville's community members and in particular those that are most vulnerable due to age or health conditions;

THE CITY COUNCIL OF THE CITY OF PORTERVILLE does ordain as follows:

Section 1. The provisions of this urgency ordinance are necessary for the immediate preservation of the health and safety of the public; will help protect all community members who live, work and are present in the City of Porterville; and will assist in state-wide efforts to mitigate the spread of Covid-19.

Section 2. Individuals, while in the City of Porterville, are required to comply with all guidance within the California Department of Public Health's "Guidance for the Use of Face Coverings," (hereinafter "Face Covering Requirements") as currently set forth and as may be further revised by the State of California. A copy of the Face Covering Requirements, released June 18, 2020, and revised on June 29, 2020, is attached hereto as Exhibit "A."

Section 3. Businesses operating in the City of Porterville are required to comply with all applicable Industry Guidance issued by the California Department of Public Health, which incorporate the Face Covering Requirements.

Section 4. The City is authorized to utilize education efforts in any effort to gain cooperation and compliance with the Face Covering Requirements;

Section 5. City staff is further authorized to engage in code enforcement efforts to remedy violations of the Face Covering Requirements. Violations of these requirements are punishable as permitted by State law. Furthermore, the City is hereby authorized to enforce violations of the requirements pursuant to its Administrative Citation regulations set forth in Chapter 2, Article 14, Sections 2-141 through 2-155 of the Porterville Municipal Code.

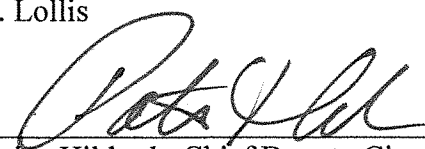
Section 6. This Ordinance is exempt from the requirements of CEQA pursuant to California Public Resources Code Section 21080(b) (4).

Section 7. This Ordinance shall take effect immediately upon adoption by at least a 4/5 vote of the all members of the Porterville City Council, pursuant to Section 13 of the Porterville City Charter.

THE FOREGOING ORDINANCE was approved by the City Council of the City of Porterville, State of California, on July 21, 2020 at a regular meeting of said Council duly and regularly convened.


Martha A. Flores, Mayor

ATTEST:
John D. Lollis

By: 
Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) (SS)
COUNTY OF TULARE)

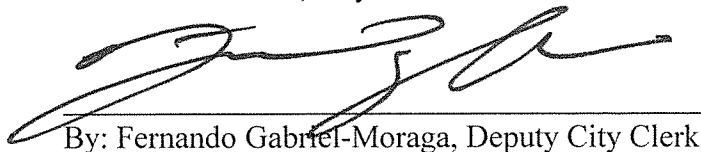
I, JOHN D. LOLLIS, the duly qualified City Clerk of the City of Porterville do hereby certify:

THAT the foregoing ordinance is a true and correct copy of Urgency Ordinance No. 1874, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 21st day of July, 2020, that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance to be in full force and effect immediately upon adoption.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

COUNCIL:	PEÑALOZA	REYES	FLORES	STOWE	GURROLA
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					

JOHN D. LOLLIS, City Clerk



By: Fernando Gabriel-Moraga, Deputy City Clerk



SONIA Y. ANGELL, MD, MPH
State Public Health Officer & Director

State of California—Health and Human Services Agency
California Department of Public Health



GAVIN NEWSOM
Governor

Released June 18, 2020

- Revised on June 29, 2020 to clarify that children under two years old are exempt from wearing face coverings due to risk of suffocation

GUIDANCE FOR THE USE OF FACE COVERINGS

Because of our collective actions, California has limited the spread of COVID-19 and associated hospitalizations and deaths in our state. Still, the risk for COVID-19 remains and the increasing number of Californians who are leaving their homes for work and other needs, increases the risk for COVID-19 exposure and infection.

Over the last four months, we have learned a lot about COVID-19 transmission, most notably that people who are infected but are asymptomatic or pre-symptomatic play an important part in community spread. The use of face coverings by everyone can limit the release of infected droplets when talking, coughing, and/or sneezing, as well as reinforce physical distancing.

This document updates existing CDPH guidance for the use of cloth face coverings by the general public when outside the home. It mandates that face coverings be worn state-wide in the circumstances and with the exceptions outlined below. It does not substitute for existing guidance about social distancing and handwashing.

Guidance

People in California must wear face coverings when they are in the high-risk situations listed below:

- Inside of, or in line to enter, any indoor public space;¹
- Obtaining services from the healthcare sector in settings including, but not limited to, a hospital, pharmacy, medical clinic, laboratory, physician or dental office, veterinary clinic, or blood bank;²
- Waiting for or riding on public transportation or paratransit or while in a taxi, private car service, or ride-sharing vehicle;
- Engaged in work, whether at the workplace or performing work off-site, when:
 - Interacting in-person with any member of the public;
 - Working in any space visited by members of the public, regardless of whether anyone from the public is present at the time;

¹ Unless exempted by state guidelines for specific public settings

² Unless directed otherwise by an employee or healthcare provider



- Working in any space where food is prepared or packaged for sale or distribution to others;
- Working in or walking through common areas, such as hallways, stairways, elevators, and parking facilities;
- In any room or enclosed area where other people (except for members of the person's own household or residence) are present when unable to physically distance.
- Driving or operating any public transportation or paratransit vehicle, taxi, or private car service or ride-sharing vehicle when passengers are present. When no passengers are present, face coverings are strongly recommended.
- While outdoors in public spaces when maintaining a physical distance of 6 feet from persons who are not members of the same household or residence is not feasible.

The following individuals are exempt from wearing a face covering:

- Persons younger than two years old. These very young children must not wear a face covering because of the risk of suffocation.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a face covering would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.
- Persons who are obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service.
- Persons who are seated at a restaurant or other establishment that offers food or beverage service, while they are eating or drinking, provided that they are able to maintain a distance of at least six feet away from persons who are not members of the same household or residence.
- Persons who are engaged in outdoor work or recreation such as swimming, walking, hiking, bicycling, or running, when alone or with household members, and when they are able to maintain a distance of at least six feet from others.

- Persons who are incarcerated. Prisons and jails, as part of their mitigation plans, will have specific guidance on the wearing of face coverings or masks for both inmates and staff.

Note: Persons exempted from wearing a face covering due to a medical condition who are employed in a job involving regular contact with others should wear a non-restrictive alternative, such as a face shield with a drape on the bottom edge, as long as their condition permits it.

Background

What is a cloth face covering?

A cloth face covering is a material that covers the nose and mouth. It can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk, or linen. A cloth face covering may be factory-made or sewn by hand or can be improvised from household items such as scarfs, T-shirts, sweatshirts, or towels.

How well do cloth face coverings work to prevent spread of COVID-19?

There is scientific evidence to suggest that use of cloth face coverings by the public during a pandemic could help reduce disease transmission. Their primary role is to reduce the release of infectious particles into the air when someone speaks, coughs, or sneezes, including someone who has COVID-19 but feels well. Cloth face coverings are not a substitute for physical distancing, washing hands, and staying home when ill, but they may be helpful when combined with these primary interventions.

When should I wear a cloth face covering?

You should wear face coverings when in public places, particularly when those locations are indoors or in other areas where physical distancing is not possible

How should I care for a cloth face covering?

It's a good idea to wash your cloth face covering frequently, ideally after each use, or at least daily. Have a bag or bin to keep cloth face coverings in until they can be laundered with detergent and hot water and dried on a hot cycle. If you must re-wear your cloth face covering before washing, wash your hands immediately after putting it back on and avoid touching your face. Discard cloth face coverings that:

- No longer cover the nose and mouth
- Have stretched out or damaged ties or straps
- Cannot stay on the face
- Have holes or tears in the fabric

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TOMÁS J. ARAGÓN, MD, DrPH
Director and State Public Health Officer

State of California—Health and Human Services Agency California Department of Public Health



GAVIN NEWSOM
Governor

June 9, 2021

Note: This guidance is effective June 15, 2021 and supersedes all prior face coverings guidance.

GUIDANCE FOR THE USE OF MASKS

Background

The COVID-19 vaccines are effective in preventing infection, disease, and spread. Unvaccinated persons are more likely to get infected and spread the virus which is transmitted through the air and concentrates indoors. About 15% of our population remains without the option for vaccination (children under 12 years old are not yet eligible) and risk for COVID-19 exposure and infection will remain until we reach full community immunity.

The purpose of this guidance is to align with CDC recommendations and provide information about higher risk settings where masks are required or recommended to prevent transmission to persons with higher risk of infection (e.g., unvaccinated or immunocompromised persons), to persons with prolonged, cumulative exposures (e.g., workers), or to persons whose vaccination status is unknown. When people who are not fully vaccinated wear a mask correctly, they protect others as well as themselves. Consistent and correct mask use by people who are not fully vaccinated is especially important indoors.

In workplaces, employers are subject to the Cal/OSHA COVID-19 [Emergency Temporary Standards \(ETS\)](#) or in some workplaces the [CalOSHA Aerosol Transmissible Diseases Standard](#), and should consult those regulations for additional applicable requirements.

Guidance for Individuals

Masks are **not required for fully vaccinated individuals, except** in the following settings where masks are required for everyone, regardless of vaccination status:

- On [public transit](#)¹ (examples: airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares) and in transportation hubs (examples: airport, bus terminal, marina, train station, seaport or other port, subway station, or any other area that provides transportation)
- **Indoors** in [K-12 schools](#)², [childcare](#)³ and other youth settings.
 - Note: This may change as updated K-12 schools guidance is forthcoming, pending updates for K-12 operational guidance from the CDC.

¹ CDC Requirement for Face Masks on Public Transportation Conveyances and at Transportation Hubs

² CDC Operational Strategy for K-12 Schools through Phased Prevention

³ CDC Guidance for Operating Child Care Programs during COVID-19

- [Healthcare settings⁴](#) (including [long term care facilities⁵](#))
- State and local [correctional facilities and detention centers⁶](#)
- [Homeless shelters⁷](#), [emergency shelters⁸](#) and [cooling centers⁹](#)

Additionally, masks are **required* for unvaccinated individuals** in indoor public settings and businesses (examples: retail, restaurants, theaters, family entertainment centers, meetings, state and local government offices serving the public)

For additional information, individuals should refer to [CDC Recommendations for Safer Activities](#) (see CDPH Masking Guidance Frequently Asked Questions for more information).

***Guidance for Businesses, Venue Operators or Hosts**

In settings where masks are required only for unvaccinated individuals, businesses, venue operators or hosts may choose to:

- Provide information to all patrons, guests and attendees regarding vaccination requirements and allow vaccinated individuals to self-attest that they are in compliance prior to entry.
- Implement vaccine verification to determine whether individuals are required to wear a mask.
- Require all patrons to wear masks.

No person can be prevented from wearing a mask as a condition of participation in an activity or entry into a business.

Exemptions to masks requirements

The following **individuals** are exempt from wearing masks at all times:

- Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

⁴ CDC Updated Healthcare Infection Prevention and Control Recommendations in Response to COVID-19 Vaccination

⁵ CDC Interim Infection Prevention and Control Recommendations to Prevent SARS-CoV-2 Spread in Nursing Homes

⁶ CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities

⁷ CDC Interim Guidance for Homeless Service Providers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)

⁸ CDC Interim Guidance for General Population Disaster Shelters During the COVID-19 Pandemic

⁹ CDC Interim guidance to reduce the risk of introducing and transmitting SARS COV-2 in cooling centers.



State of California—Health and Human
Services Agency
**California Department of
Public Health**



February 7, 2022

TO: All Californians

SUBJECT: Guidance for the Use of Face Masks



This guidance will take effect on February 16, 2022. For current Guidance for the Use of Face Masks, see the current guidance for face coverings .

Changes Taking Effect February 16, 2022:

- **Universal masking shall remain required in only specified settings.**
- **Only unvaccinated persons are required to mask in all Indoor Public Settings. Fully vaccinated individuals are recommended to continue indoor masking when the risk may be high.**

Related Materials: [Face Coverings Q&A](#) | [Face Coverings Fact Sheet \(PDF\)](#) | [Face Mask Tips and Resources](#) | [Face Shields Q&A \(PDF\)](#) | [Safe Schools for All Hub](#) | [More Home & Community Guidance](#) | [All Guidance](#) | [More Languages](#)

Guidance For the Use of Masks

Background

COVID-19 cases and hospitalization are declining across the state. This is due in large part to the collective efforts of Californians to get vaccinated, get boosted, and wear masks.

A universal indoor masking requirement was reinstated on December 15, 2021, to add a layer of mitigation as the Omicron variant, a Variant of Concern as labeled by the World Health Organization, increased in prevalence across California, the United States, and the world and spread much more easily than the original SARS-CoV-2 virus and

the Delta variant. Implementing the universal masking requirement in all indoor public settings during the winter season was an important tool to decrease community transmission during the highly infectious Omicron surge.

The current hospital census is still over capacity, but the dramatic surge in cases and hospitalizations due to the highly infectious Omicron variant over the last two months has declined significantly. Californians are also increasingly knowledgeable about how to protect themselves and their loved ones with effective masks when there may be risk of COVID-19 exposure. Accordingly, it is now appropriate for the universal indoor masking requirement to expire on February 15, 2022 as scheduled.

The COVID-19 vaccines remain effective in preventing serious disease, hospitalization, and death from the SARS-CoV-2 virus. Unvaccinated individuals are much more likely to become infected when compared to vaccinated and boosted individuals. Vaccination continues to remain the ultimate exit strategy out of the COVID-19 pandemic. While the percentage of Californians fully vaccinated and boosted continues to increase, we continue to have areas of the state where vaccine coverage is low, putting individuals and communities at greater risk for COVID-19.

A series of cross-sectional surveys in the U.S. suggested that a 10% increase in self-reported mask wearing tripled the likelihood of slowing community transmission.[1] Our recently published case-control study conducted in California from February 18 to December 1, 2021 demonstrated that consistently wearing a face mask or respirator in indoor public settings reduces the risk of acquiring SARS-CoV-2 infection. [2]

The masking requirement in California schools has allowed us to keep schools open when compared to other parts of the country. California accounts for roughly 12% of all U.S. students, but accounted for only 1% of COVID-19 related school closures during the Omicron surge. Nationally during the Delta surge in July and August 2021, jurisdictions without mask requirements in schools experienced larger increases in pediatric case rates, and school outbreaks were 3.5 times more likely in areas without school mask requirements.[3], [4].

Maintaining the masking requirements in other specified, high-risk settings continues to be consistent with CDC recommendations and allows us to protect our most vulnerable populations and the workforce that delivers critical services in these settings.

In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) or in some workplaces the Cal/OSHA Aerosol Transmissible Diseases (ATD) (PDF) Standard and should consult those regulations for additional applicable requirements.

Masking Requirements

Masks are **required for all individuals** in the following indoor settings, regardless of vaccination status. Surgical masks or higher-level respirators (e.g., N95s, KN95s, KF94s) with good fit are highly recommended.

- On public transit[5] (examples: airplanes, ships, ferries, trains, subways, buses, taxis, and ride-shares) and in transportation hubs (examples: airport, bus terminal, marina, train station, seaport or other port, subway station, or any other area that provides transportation)
- **Indoors** in K-12 schools[6], childcare[7]
- Emergency[8] shelters and cooling and heating centers[9]
- Healthcare settings[10]
- State and local correctional facilities and detention centers[11]
- Homeless shelters[12]
- Long Term Care Settings & Adult and Senior Care Facilities[13]

Additionally, masks **are required* for unvaccinated individuals** in indoor public settings and businesses (examples: retail, restaurants, theaters, family entertainment centers, meetings, state and local government offices serving the public). Fully vaccinated individuals are recommended to continue indoor masking when the risk may

be high. Surgical masks or higher-level respirators (e.g., N95s, KN95s, KF94s) with good fit are highly recommended.

See State Health Officer Order, issued on July 26, 2021, for a full list of high-risk congregate and other healthcare settings where surgical masks are required for unvaccinated workers, and recommendations for respirator use for unvaccinated workers in healthcare and long-term care facilities in situations or settings not covered by Cal OSHA ETS or ATD.

For additional information on types of masks, the most effective masks, and ensuring a well-fitted mask, individuals should refer to CDPH Get the Most out of Masking and see CDPH Masking Guidance Frequently Asked Questions for more information.

***Guidance for Businesses, Venue Operators or Hosts**

In settings where masks are required only for unvaccinated individuals, businesses, venue operators or hosts may choose to:

- Provide information to all patrons, guests and attendees regarding vaccination requirements and allow vaccinated individuals to self-attest that they are in compliance prior to entry.
- Implement vaccine verification to determine whether individuals are required to wear a mask.
- Require all patrons to wear masks.

No person can be prevented from wearing a mask as a condition of participation in an activity or entry into a business.

Exemptions to masks requirements

The following **individuals** are exempt from wearing masks at all times:

- Persons younger than two years old. Very young children must not wear a mask because of the risk of suffocation.
- Persons with a medical condition, mental health condition, or disability that prevents wearing a mask. This includes persons with a medical condition for whom wearing a mask could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a mask without assistance.
- Persons who are hearing impaired, or communicating with a person who is hearing impaired, where the ability to see the mouth is essential for communication.
- Persons for whom wearing a mask would create a risk to the person related to their work, as determined by local, state, or federal regulators or workplace safety guidelines.

[1] Rader B, White LF, Burns MR, et al. Mask-wearing and control of SARS-CoV-2 transmission in the USA: a cross-sectional study. *The Lancet Digital Health*. 2021;3(3):e148–e157.

[2] Andrejko KL, Pry JM, Myers JF, et al. Effectiveness of Face Mask or Respirator Use in Indoor Public Settings for Prevention of SARS-CoV-2 Infection — California, February–December 2021. *MMWR Morb Mortal Wkly Rep*. ePub: 4 February 2022

[3] Jehn M, McCullough JM, Dale AP, Gue M, Eller B, Cullen T, Scott SE. Association between K–12 school mask policies and school-associated COVID-19 outbreaks — Maricopa and Pima Counties, Arizona, July–August 2021. *MMWR Morb Mortal Wkly Rep*. 2021; 70(39):1372–1373.

- [4] Budzyn SE, Panaggio MJ, Parks SE, Papazian M, Magid J, Eng M, Barrios LC. Pediatric COVID-19 cases in counties with and without school mask requirements — United States, July 1–September 4, 2021. *MMWR Morb Mortal Wkly Rep.* 2021; 70(39);1377–1378.
- [5] CDC Requirement for Face Masks on Public Transportation Conveyances and at Transportation Hubs
- [6] CDC Guidance for COVID-19 Prevention in K-12 Schools
- [7] CDC COVID-19 Guidance for Operating Early Care and Education/Child Care Programs
- [8] CDC's Interim Guidance for General Population Disaster Shelters During the COVID-19 Pandemic
- [9] CDC COVID-19 and Cooling Centers
- [10] CDC Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic
- [11] CDC Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in Correctional and Detention Facilities
- [12] CDC Interim Guidance for Homeless Service Providers to Plan and Respond to Coronavirus Disease 2019 (COVID-19)
- [13] CDC Nursing Homes and Long-Term Care Facilities

California Department of Public Health
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Department Website (cdph.ca.gov)



Overview of the Emergency Rental Assistance Program

Background

On December 27, 2020 the federal Consolidated Appropriations Act 2021 was signed into law and \$25 billion was allocated to the United States Treasury (UST) for the Emergency Rental Assistance Program (ERAP) to assist households that are unable to pay rent or utilities due to the COVID-10 pandemic. California received \$2.6 of the federal ERAP funds. To implement these rental assistance resources, the state of CA worked with state legislation to develop a programmatic framework to ease administration burden and deploy these resources to those most in need.

On January 28th, the Legislature approved SB 91. This bill extended the eviction protections and created a mechanism to deploy the \$2.6 billion in ERAP resources to assist struggling tenants and landlords impacted by COVID-19. The bill allocated \$1.5 billion to the state and \$1.1 billion directly to local governments with populations with more than 200,000. The bill establishes the criteria and prioritization for use of the state-administered rental assistance funding from the federal bill.

Local governments with populations of 200,000 and greater that received a direct allocation of funding for rental assistance from the federal government could also qualify for block grant funding from the state's \$1.5 billion share. Counties were given the option to take the funds and administer their own program or to participate in the state-administered program. Tulare County has opted to participate in the state administered program. The state administered program will be managed centrally by the Local Initiatives Support Corporation (LISC).

Under state statute the rental assistance program is to be implemented by March 15, 2021. Ninety percent of the funding is to be directed towards financial assistance and ten percent for administration of the program.

Program Requirements

While not a full comprehensive list, the key program requirements include the following:

- For those landlords who agree to participate, funding will be available to pay up to 80 percent of an eligible household's unpaid rent accumulated from April 2020 through March 2021, provided that the landlord agrees to forgive the remaining 20 percent.
- In cases where the landlord chooses not to participate, tenants can apply for assistance for rental arrears, but are be limited to compensation of 25% of the eligible household's unpaid rent accumulated from April 2020 through March 2021 which will be paid to the landlord. The program also allows for prospective payments of 25% of the monthly rent for the months of April, May, and June 2021.
- Funds are to be administered in a least three rounds to eligible households. Prioritizing: (1) those households under 50% of the area median income (AMI) or unemployed for 90 days; (2) Below 80% AMI and in communities disproportionately affected by COVID-19 (as determined by the Department of Housing and Community Development); (3) Below 80% AMI not included in round 1 and 2.
- The top priority for the use of assistance funding would be rental arrears; followed by prospective rent payments, utility payments (both arrears and prospective payments)

LISC and Local Partnership

Given the rapid implementation timeframes, the one-time nature of these funds, among other considerations, the State believed that a central administrative structure would be most effective in deploying these resources in an effective and compliant manner. They contracted with LISC to administering the Emergency Rental Assistance Program (ERAP). LISC will be responsible in providing the following support and oversight:

- State outreach and education campaign with adaptability for local messaging.
- Standardized, federally consistent application and eligibility criteria, accessible to both landlords and tenants.
- Contracted solution with a state-wide network, including rural areas.
- Robust, multi-lingual client support and technical assistance.
- Processing of Applications (input, review, verification, fraud control, notifications to tenant and landlord, verification of accounts, disbursement of payment, reporting per state and federal government requirements, downstream audit management).
- Central privacy protections and fraud control.
- Management of duplication of benefits in accordance with the Consolidated Appropriations Act, 2021.
- Application portal to begin receiving applications from landlords and tenants.

LISC is seeking nonprofit and community-based organizations with capacity to provide local on-the-ground support to residents to help them access rental assistance. LISC will work with local partners and organizations within Tulare County to ensure all potential applicants know about the ERAP and receive the needed program assistance.

There are three tiers of partnership: Tier 1-Promotion, Tier 2-Outreach, and Tier 3-Technical Assistance. Local partners who want to partner with LISC will need to submit an application. Partner requirements include:

- Registered non-profits and quasi-government entities providing services to residents in communities served by this program
- Must have an EIN
- Must have a DUNS number
- Must be active on the CA Secretary of State website
- Must be registered on SAM website
- If applicable, non-profits must have actively filed 990 Forms

Organizations that do not have the above information are not eligible for Tier 2 and Tier 3 partnership but may still apply under the Tier 1 program. All applicants will be considered based on capacity to successfully reach their proposed community. Tier 2 and 3 will also be evaluated based on ability to successfully administer federal funds. First round of applications were due Monday, February 22. However, ongoing applications can still be submitted after the 22nd and will be reviewed on an ongoing basis throughout the program. To apply go to <https://lisc.tfaforms.net/308>

Eviction Protections

- SB 91 extends the states current eviction moratorium for tenants unable to pay rent due to COVID related financial hardships, as established under AB 3088, by five months, from January 31, 2021 through June 30, 2021.
- Tenants must continue to pay 25% of their rental obligations, as required under AB 3088, through June 30, 2021. During this time as tenants continue to pay at least 25% of their rent, then they are protected from eviction for any unpaid rent that has accumulated through June 30 and it can never be used as the basis for eviction. The 25% may be paid monthly or as a lump sum by June 30, 2021.

CITY OF PORTERVILLE
UTILITIES
PAST DUE BALANCES

	AS OF 3/31/2020	AS OF 3/31/2021	AS OF 4/30/2021	AS OF 5/31/2021	AS OF 6/30/2021	AS OF 7/31/2021	AS OF 8/31/2021	AS OF 9/30/2021	AS OF 10/31/2021	AS OF 11/30/2021	AS OF 12/31/2021	AS OF 1/31/2022	Mar20-Jan22 Difference
WATER	\$155,942	\$527,676	\$463,170	\$470,677	\$503,738	\$481,955	\$543,626	\$602,471	\$559,589	\$618,746	\$667,294	\$694,291	\$511,352
SEWER	171,185	294,515	283,873	305,374	292,298	282,188	300,471	320,062	331,194	334,051	366,171	389,803	194,986
REFUSE	155,172	268,798	253,119	273,951	262,133	248,199	267,486	282,828	297,209	295,806	322,769	342,859	167,597
	<u>\$482,299</u>	<u>\$1,090,989</u>	<u>\$1,000,161</u>	<u>\$1,050,002</u>	<u>\$1,058,170</u>	<u>\$1,012,342</u>	<u>\$1,111,583</u>	<u>\$1,205,360</u>	<u>\$1,187,992</u>	<u>\$1,248,603</u>	<u>\$1,356,234</u>	<u>\$1,426,953</u>	<u>\$873,935</u>
<u>ESTIMATED PENALTIES</u>		AS OF 3/31/2021	AS OF 4/30/2021	AS OF 5/31/2021	AS OF 6/30/2021	AS OF 7/31/2021	AS OF 8/31/2021	AS OF 9/30/2021	AS OF 10/31/2021	AS OF 11/30/2021	AS OF 12/31/2021	AS OF 1/31/2022	
WATER		\$143,479	\$136,401	\$138,598	\$145,220	\$132,986	\$147,937	\$145,259	\$145,534	\$163,842	\$186,404	\$203,355	
SEWER		75,987	75,827	84,055	79,686	73,592	78,818	77,245	83,940	88,486	99,398	109,316	
REFUSE		69,309	68,561	75,935	71,125	65,677	70,806	68,894	75,323	78,977	87,793	95,999	
		<u>\$288,775</u>	<u>\$280,789</u>	<u>\$298,589</u>	<u>\$296,032</u>	<u>\$272,256</u>	<u>\$297,561</u>	<u>\$291,399</u>	<u>\$304,797</u>	<u>\$331,304</u>	<u>\$373,595</u>	<u>\$408,670</u>	
TOTALS		<u>\$1,379,764</u>	<u>\$1,280,950</u>	<u>\$1,348,590</u>	<u>\$1,354,201</u>	<u>\$1,284,597</u>	<u>\$1,409,144</u>	<u>\$1,496,759</u>	<u>\$1,492,789</u>	<u>\$1,579,907</u>	<u>\$1,729,829</u>	<u>\$1,835,623</u>	



State of California—Health and Human
Services Agency
**California Department of
Public Health**



February 7, 2022

TO: All Californians

SUBJECT: Beyond the Blueprint for Industry and Business Sectors (Including Mega Events)



This guidance will take effect on February 16, 2022. For current Beyond the Blueprint for Industry and Business Sectors guidance, see Beyond the Blueprint for Industry and Business Sectors (Including Mega Events).

Related Materials: [Beyond the Blueprint Q&A](#) | [Vaccination Record Guidelines & Standards](#) | [More Languages](#)

Changes Taking Effect February 16, 2022:

- This guidance will return to thresholds of 1,000 attendees for Indoor Mega Events and 10,000 attendees for Outdoor Mega Events.

Background:

COVID-19 cases and hospitalization are declining across the state. This is due in large part to the collective efforts of Californians to get vaccinated and wear masks. Vaccination remains the ultimate exit strategy out of the COVID-19 pandemic, but we still have a way to go, and ongoing vigilance is necessary to protect against COVID-19.

On June 15, California fully reopened the economy and moved beyond the Blueprint for a Safer Economy. All sectors listed in the Blueprint Activities and Business Tiers Chart (PDF) returned to usual operations (with the limited exceptions noted below for Mega Events).

Large, indoor events, however, continue to have the potential to cause large, substantial, and severe outbreaks. Large events involve several factors that increase the risk of transmission including (a) persons attending often travel from outside the immediate area, from areas with higher levels of transmission, and some types of travel may increase the risk of exposure; (b) events have prolonged duration; (c) crowding is common in large events; (d) even in counties or venues with universal masking requirements, masks are removed for eating and drinking; and (e) the larger the number of people gathered in crowded settings, the greater the likelihood that contagious persons are present and the more individuals who are exposed with the potential of becoming infected and spreading infections within their families, communities, schools, and workplaces.

The risk of spreading COVID-19 is decreased when all parties are vaccinated. Vaccination or negative COVID-19 test result verification, especially indoors, is an additional, important strategy to reduce transmission in large gatherings, especially where masks are removed for eating, drinking and where activities (like singing, yelling, or cheering) that increase transmission risk are occurring, even when masks are being worn. In the context of continued high transmission rates across the state, country, and worldwide and the ongoing risk of large gatherings, it is important that these mitigation strategies remain in place.

On December 1, all attendees age 18 and older were required to provide identification to confirm the individual presenting proof of vaccination or negative test is the attendee entering the facility or venue.

On December 15, testing for Mega Events was required to be conducted within one day for antigen tests, and within two days for PCR tests prior to entry into the facility or venue.

On December 31, 2021, the threshold for Indoor Mega Events was lowered to 500 attendees and for Outdoor Mega Events to 5,000 attendees. This was in response to the growing threat of the more-transmissible Omicron variant, especially during the winter season when large indoor events were more likely to occur.

Though COVID cases and hospitalizations are declining across the state, it is important that we continue to protect our communities by ensuring that all attendees have taken all required measures to protect themselves and those around them.

These restrictions and recommendations will continue to be updated as CDPH continues to assess conditions on an ongoing basis.

	Restrictions Applying to Indoor & Outdoor Settings
UPDATE: Definitions of Mega Events[1]	Crowds greater than 1,000 (indoors) attendees Crowds greater than 10,000 (outdoors) attendees
Vaccine Verification / Negative Testing	Required for Indoor Mega Events Recommended for Outdoor Mega Events
Capacity Limitations	No restrictions
Physical Distancing	No restrictions for attendees, customers, and guests
Masking	Follow current CDPH Guidance for Face Coverings. Refer to CDPH Get the Most Out of Masking for more information on getting the best fit and filtration for your mask
Travelers	Recommend following CDC and CDPH Travel recommendations.

In workplaces, employers are subject to the Cal/OSHA COVID-19 Emergency Temporary Standards (ETS) or in some workplaces the CalOSHA Aerosol Transmissible Diseases Standard, and should consult those regulations for additional applicable requirements.

Limited Requirements for Mega Events:

Mega Events are characterized by large crowds greater than 1,000 indoor OR 10,000 outdoor attendees. Mega Events may have either assigned or unassigned seating, and may be either general admission or gated, ticketed, and permitted events. Mega Events do not include venues such as shopping malls or museums that are open to public circulation as part of their regular operations, except to the extent that such venues host qualifying events.

Mega Events are considered higher risk for COVID transmission because:

- Participants and attendees are spending extensive periods of time physically close to large numbers of people they don't usually interact with.
- The frequency and total duration of close contact between attendees is increased, thereby increasing the risk that respiratory particles will be transmitted between attendees and participants.
- They draw from beyond the nearby community and will often draw attendees and participants from other states and countries who may be infected with more infectious COVID variants.
- Effective contact tracing may be difficult given the number of potential uncontrolled mixing between groups and attendees among individuals who are unlikely to be together again and the nature of the events.

For Indoor Mega Events (example: conventions/conferences/expos/sporting events and concerts):

In addition to the general public health recommendations:

- Verification of fully vaccinated status* or pre-entry negative test** result is required of all attendees.
- Indoor venue and event operators may not use self-attestation as a mode of verification.
- All businesses and venue operators must check the identification of all attendees age 18 and over to validate their vaccination record or proof of negative test.
- Acceptable identification is any document that includes the name of the person and photograph.
- Attendees must follow CDPH Guidance for Face Coverings. Refer to CDPH Get the Most Out of Masking for more information on getting the best fit and filtration for masks.
- Information will be prominently placed on all communications, including the reservation and ticketing systems, to ensure guests are aware of testing and vaccination requirements (including acceptable modes of verification).
- Venues should make masks available to attendees upon request.

For Outdoor Mega Events (example: music or food festivals/car shows/large endurance events and marathons/parades/sporting events and concerts):

In addition to the general public health recommendations:

- Verification of fully vaccinated status or pre-entry negative COVID test result is strongly recommended for all attendees.
- If implemented, venue and event operators are recommended to not use self-attestation as a mode of verification but rather use verification options for providing proof of vaccination in the CDPH Vaccine Record Guidelines & Standards.
- Attendees must follow CDPH Guidance for Face Coverings. Consistent with that guidance, attendees should also wear masks at outdoor events when they enter indoor areas, such as restrooms, restaurants, retail shops, concourses, or concession stands. Refer to CDPH Get the Most Out of Masking for more information on getting the best fit and filtration for masks.
- Information will be prominently placed on all communications, including the reservation and ticketing systems, to ensure guests are aware that the State strongly recommends that they be fully vaccinated or obtain a negative COVID-19 test prior to attending the event.
- Venues should make masks available to attendees upon request.

Additional recommendations for sponsors of Mega Events:

- Encourage everyone to get vaccinated and boosted, when eligible.
- Encourage all attendees to consider better fit and filtration for masks **[Surgical masks or higher-level respirators (e.g., N95s, KN95s, KF94s) with good fit are recommended over cloth masks]**.
- Facilitate increased ventilation of indoor spaces (i.e., open all windows and doors to increase natural air flow), following current CDPH and CalOSHA guidance.
- Encourage everyone to sign up for CA Notify as an added layer of protection for themselves and the community to receive alerts when they have been in close contact with someone who tests positive for COVID-19. Encourage those who test positive for COVID-19 to alert CA Notify to anonymously notify those who may have been exposed.
- Convey the risk of attending large, crowded events where the vaccine status of others in attendance may be unknown to the individuals.
- Convey the risk of attending large, crowded events for populations that may not currently be eligible for vaccination or may be immunocompromised and whose vaccine protection may be incomplete.
- Encourage all venues along any parade or event route to provide outdoor spaces for eating/drinking/congregating to reduce the risk of transmission in indoor settings.

* Fully vaccinated

1. Definition: See CDC Information on COVID-19 Vaccines for information on acceptable vaccines, definition for "Fully Vaccinated," and updates on additional vaccines and recommendations as they are approved.
2. Verification: See current Options for Providing Proof of Vaccination in the CDPH Vaccine Record Guidelines & Standards for acceptable methods of vaccine verification.

** Pre-entry negative testing

1. Definition: Testing must be conducted within one day for an antigen test and within two days for a PCR test prior to entry into an event. Results of the test must be available prior to entry into the facility or venue. Children under 2 years of age are exempt from the testing requirement, consistent with CDC guidance.
2. Verification: See current CDPH Updated Testing Guidance and CDPH Over-the-Counter Testing Guidance for acceptable methods of proof of negative COVID-19 test result and information on Over-the-Counter tests.
Note: Self-attestation may not be used to verify negative test result, even when using Over-the-Counter (or at home tests) for entry into Indoor Mega Events.

[1] These requirements continue to be recommended but not mandatory for places of worship meeting the definition of a mega event.

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FACT SHEET: The Coronavirus State and Local Fiscal Recovery Funds Will Deliver \$350 Billion for State, Local, Territorial, and Tribal Governments to Respond to the COVID-19 Emergency and Bring Back Jobs

May 10, 2021

Aid to state, local, territorial, and Tribal governments will help turn the tide on the pandemic, address its economic fallout, and lay the foundation for a strong and equitable recovery

Today, the U.S. Department of the Treasury announced the launch of the Coronavirus State and Local Fiscal Recovery Funds, established by the American Rescue Plan Act of 2021, to provide \$350 billion in emergency funding for eligible state, local, territorial, and Tribal governments. Treasury also released details on how these funds can be used to respond to acute pandemic response needs, fill revenue shortfalls among these governments, and support the communities and populations hardest-hit by the COVID-19 crisis. With the launch of the Coronavirus State and Local Fiscal Recovery Funds, eligible jurisdictions will be able to access this funding in the coming days to address these needs.

State, local, territorial, and Tribal governments have been on the frontlines of responding to the immense public health and economic needs created by this crisis – from standing up vaccination sites to supporting small businesses – even as these governments confronted revenue shortfalls during the downturn. As a result, these governments have endured unprecedented strains, forcing many to make untenable choices between laying off educators, firefighters, and other frontline workers or failing to provide other services that communities rely on. Faced with these challenges, state and local governments have cut over 1 million jobs since the beginning of the crisis. The experience of prior economic downturns has shown that budget pressures like these often result in prolonged fiscal austerity that can slow an economic recovery.

To support the immediate pandemic response, bring back jobs, and lay the groundwork for a strong and equitable recovery, the American Rescue Plan Act of 2021 established the Coronavirus State and Local Fiscal Recovery Funds, designed to deliver \$350 billion to state, local, territorial, and Tribal governments to bolster their response to the COVID-19 emergency and its economic impacts. Today, Treasury is launching this much-needed relief to:

- Support urgent COVID-19 response efforts to continue to decrease spread of the virus and bring the pandemic under control;
- Replace lost public sector revenue to strengthen support for vital public services and help retain jobs;
- Support immediate economic stabilization for households and businesses; and,
- Address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic on certain populations.

The Coronavirus State and Local Fiscal Recovery Funds provide substantial flexibility for each jurisdiction to meet local needs—including support for households, small businesses, impacted industries, essential workers, and the communities hardest-hit by the crisis. These funds also deliver resources that recipients can invest in building, maintaining, or upgrading their water, sewer, and broadband infrastructure.

Starting today, eligible state, territorial, metropolitan city, county, and Tribal governments may request Coronavirus State and Local Fiscal Recovery Funds through the Treasury Submission Portal. Concurrent with this program launch, Treasury has published an Interim Final Rule that implements the provisions of this program.

FUNDING AMOUNTS

The American Rescue Plan provides a total of \$350 billion in Coronavirus State and Local Fiscal Recovery Funds to help eligible state, local, territorial, and Tribal governments meet their present needs and build the foundation for a strong recovery. Congress has allocated this funding to tens of thousands of jurisdictions. These allocations include:

Type	Amount (\$ billions)
States & District of Columbia	\$195.3
Counties	\$65.1
Metropolitan Cites	\$45.6
Tribal Governments	\$20.0
Territories	\$4.5
Non-Entitlement Units of Local Government	\$19.5

Treasury expects to distribute these funds directly to each state, territorial, metropolitan city, county, and Tribal government. Local governments that are classified as non-entitlement units will receive this funding through their applicable state government. Treasury expects to provide further guidance on distributions to non-entitlement units next week.

Local governments should expect to receive funds in two tranches, with 50% provided beginning in May 2021 and the balance delivered 12 months later. States that have experienced a net increase in the unemployment rate of more than 2 percentage points from February 2020 to the latest available data as of the date of certification will receive their full allocation of funds in a single payment; other states will receive funds in two equal tranches. Governments of U.S. territories will receive a single payment. Tribal governments will receive two payments, with the first payment available in May and the second payment, based on employment data, to be delivered in June 2021.

USES OF FUNDING

Coronavirus State and Local Fiscal Recovery Funds provide eligible state, local, territorial, and Tribal governments with a substantial infusion of resources to meet pandemic response needs and rebuild a stronger, more equitable economy as the country recovers. Within the categories of eligible uses, recipients have broad flexibility to decide how best to use this funding to meet the needs of their communities. Recipients may use Coronavirus State and Local Fiscal Recovery Funds to:

- **Support public health expenditures**, by funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare, and certain public health and safety staff;
- **Address negative economic impacts caused by the public health emergency**, including economic harms to workers, households, small businesses, impacted industries, and the public sector;
- **Replace lost public sector revenue**, using this funding to provide government services to the extent of the reduction in revenue experienced due to the pandemic;
- **Provide premium pay for essential workers**, offering additional support to those who have borne and will bear the greatest health risks because of their service in critical infrastructure sectors; and,
- **Invest in water, sewer, and broadband infrastructure**, making necessary investments to improve access to clean drinking water, support vital wastewater and stormwater infrastructure, and to expand access to broadband internet.

Within these overall categories, Treasury’s Interim Final Rule provides guidelines and principles for determining the types of programs and services that this funding can support, together with examples of allowable uses that recipients may consider. As described below, Treasury has also designed these provisions to take into consideration the disproportionate impacts of the COVID-19 public health emergency on those hardest-hit by the pandemic.

1. Supporting the public health response

Mitigating the impact of COVID-19 continues to require an unprecedented public health response from state, local, territorial, and Tribal governments. Coronavirus State and Local Fiscal Recovery Funds provide resources to meet these needs through the provision of care for those impacted by the virus and through services that address disparities in public health that have been exacerbated by the pandemic. Recipients may use this funding to address a broad range of public health needs across COVID-19 mitigation, medical expenses, behavioral healthcare, and public health resources. Among other services, these funds can help support:

- **Services and programs to contain and mitigate the spread of COVID-19, including:**
 - ✓ Vaccination programs
 - ✓ Medical expenses
 - ✓ Testing
 - ✓ Contact tracing
 - ✓ Isolation or quarantine
 - ✓ PPE purchases
 - ✓ Support for vulnerable populations to access medical or public health services
 - ✓ Public health surveillance (e.g., monitoring for variants)
 - ✓ Enforcement of public health orders
 - ✓ Public communication efforts
 - ✓ Enhancement of healthcare capacity, including alternative care facilities
 - ✓ Support for prevention, mitigation, or other services in congregate living facilities and schools
 - ✓ Enhancement of public health data systems
 - ✓ Capital investments in public facilities to meet pandemic operational needs
 - ✓ Ventilation improvements in key settings like healthcare facilities

- **Services to address behavioral healthcare needs exacerbated by the pandemic, including:**
 - ✓ Mental health treatment
 - ✓ Substance misuse treatment
 - ✓ Other behavioral health services
 - ✓ Hotlines or warmlines
 - ✓ Crisis intervention
 - ✓ Services or outreach to promote access to health and social services
- **Payroll and covered benefits expenses** for public health, healthcare, human services, public safety and similar employees, to the extent that they work on the COVID-19 response. For public health and safety workers, recipients can use these funds to cover the full payroll and covered benefits costs for employees or operating units or divisions primarily dedicated to the COVID-19 response.

2. **Addressing the negative economic impacts caused by the public health emergency**

The COVID-19 public health emergency resulted in significant economic hardship for many Americans. As businesses closed, consumers stayed home, schools shifted to remote education, and travel declined precipitously, over 20 million jobs were lost between February and April 2020. Although many have since returned to work, as of April 2021, the economy remains more than 8 million jobs below its pre-pandemic peak, and more than 3 million workers have dropped out of the labor market altogether since February 2020.

To help alleviate the economic hardships caused by the pandemic, Coronavirus State and Local Fiscal Recovery Funds enable eligible state, local, territorial, and Tribal governments to provide a wide range of assistance to individuals and households, small businesses, and impacted industries, in addition to enabling governments to rehire public sector staff and rebuild capacity. Among these uses include:

- **Delivering assistance to workers and families**, including aid to unemployed workers and job training, as well as aid to households facing food, housing, or other financial insecurity. In addition, these funds can support survivor's benefits for family members of COVID-19 victims.
- **Supporting small businesses**, helping them to address financial challenges caused by the pandemic and to make investments in COVID-19 prevention and mitigation tactics, as well as to provide technical assistance. To achieve these goals, recipients may employ this funding to execute a broad array of loan, grant, in-kind assistance, and counseling programs to enable small businesses to rebound from the downturn.
- **Speeding the recovery of the tourism, travel, and hospitality sectors**, supporting industries that were particularly hard-hit by the COVID-19 emergency and are just now beginning to mend. Similarly impacted sectors within a local area are also eligible for support.
- **Rebuilding public sector capacity**, by rehiring public sector staff and replenishing unemployment insurance (UI) trust funds, in each case up to pre-pandemic levels. Recipients may also use this funding to build their internal capacity to successfully implement economic relief programs, with investments in data analysis, targeted outreach, technology infrastructure, and impact evaluations.

3. Serving the hardest-hit communities and families

While the pandemic has affected communities across the country, it has disproportionately impacted low-income families and communities of color and has exacerbated systemic health and economic inequities. Low-income and socially vulnerable communities have experienced the most severe health impacts. For example, counties with high poverty rates also have the highest rates of infections and deaths, with 223 deaths per 100,000 compared to the U.S. average of 175 deaths per 100,000.

Coronavirus State and Local Fiscal Recovery Funds allow for a broad range of uses to address the disproportionate public health and economic impacts of the crisis on the hardest-hit communities, populations, and households. Eligible services include:

- **Addressing health disparities and the social determinants of health**, through funding for community health workers, public benefits navigators, remediation of lead hazards, and community violence intervention programs;
- **Investments in housing and neighborhoods**, such as services to address individuals experiencing homelessness, affordable housing development, housing vouchers, and residential counseling and housing navigation assistance to facilitate moves to neighborhoods with high economic opportunity;
- **Addressing educational disparities** through new or expanded early learning services, providing additional resources to high-poverty school districts, and offering educational services like tutoring or afterschool programs as well as services to address social, emotional, and mental health needs; and,
- **Promoting healthy childhood environments**, including new or expanded high quality childcare, home visiting programs for families with young children, and enhanced services for child welfare-involved families and foster youth.

Governments may use Coronavirus State and Local Fiscal Recovery Funds to support these additional services if they are provided:

- within a Qualified Census Tract (a low-income area as designated by the Department of Housing and Urban Development);
- to families living in Qualified Census Tracts;
- by a Tribal government; or,
- to other populations, households, or geographic areas disproportionately impacted by the pandemic.

4. Replacing lost public sector revenue

State, local, territorial, and Tribal governments that are facing budget shortfalls may use Coronavirus State and Local Fiscal Recovery Funds to avoid cuts to government services. With these additional resources, recipients can continue to provide valuable public services and ensure that fiscal austerity measures do not hamper the broader economic recovery.

Many state, local, territorial, and Tribal governments have experienced significant budget shortfalls, which can yield a devastating impact on their respective communities. Faced with budget shortfalls and pandemic-related uncertainty, state and local governments cut staff in all 50 states. These budget shortfalls and staff cuts are particularly problematic at present, as these entities are on the front lines of battling the COVID-19 pandemic and helping citizens weather the economic downturn.

Recipients may use these funds to replace lost revenue. Treasury's Interim Final Rule establishes a methodology that each recipient can use to calculate its reduction in revenue. Specifically, recipients will compute the extent of their reduction in revenue by comparing their actual revenue to an alternative representing what could have been expected to occur in the absence of the pandemic. Analysis of this expected trend begins with the last full fiscal year prior to the public health emergency and projects forward at either (a) the recipient's average annual revenue growth over the three full fiscal years prior to the public health emergency or (b) 4.1%, the national average state and local revenue growth rate from 2015-18 (the latest available data).

For administrative convenience, Treasury's Interim Final Rule allows recipients to presume that any diminution in actual revenue relative to the expected trend is due to the COVID-19 public health emergency. Upon receiving Coronavirus State and Local Fiscal Recovery Funds, recipients may immediately calculate the reduction in revenue that occurred in 2020 and deploy funds to address any shortfall. Recipients will have the opportunity to re-calculate revenue loss at several points through the program, supporting those entities that experience a lagged impact of the crisis on revenues.

Importantly, once a shortfall in revenue is identified, recipients will have broad latitude to use this funding to support government services, up to this amount of lost revenue.

5. Providing premium pay for essential workers

Coronavirus State and Local Fiscal Recovery Funds provide resources for eligible state, local, territorial, and Tribal governments to recognize the heroic contributions of essential workers. Since the start of the public health emergency, essential workers have put their physical well-being at risk to meet the daily needs of their communities and to provide care for others.

Many of these essential workers have not received compensation for the heightened risks they have faced and continue to face. Recipients may use this funding to provide premium pay directly, or through grants to private employers, to a broad range of essential workers who must be physically present at their jobs including, among others:

- | | |
|---|---|
| ✓ Staff at nursing homes, hospitals, and home-care settings | ✓ Truck drivers, transit staff, and warehouse workers |
| ✓ Workers at farms, food production facilities, grocery stores, and restaurants | ✓ Childcare workers, educators, and school staff |
| ✓ Janitors and sanitation workers | ✓ Social service and human services staff |
| ✓ Public health and safety staff | |

Treasury's Interim Final Rule emphasizes the need for recipients to prioritize premium pay for lower income workers. Premium pay that would increase a worker's total pay above 150% of the greater of the state or county average annual wage requires specific justification for how it responds to the needs of these workers.

In addition, employers are both permitted and encouraged to use Coronavirus State and Local Fiscal Recovery Funds to offer retrospective premium pay, recognizing that many essential workers have not yet received additional compensation for work performed. Staff working for third-party contractors in eligible sectors are also eligible for premium pay.

6. Investing in water and sewer infrastructure

Recipients may use Coronavirus State and Local Fiscal Recovery Funds to invest in necessary improvements to their water and sewer infrastructures, including projects that address the impacts of climate change.

Recipients may use this funding to invest in an array of drinking water infrastructure projects, such as building or upgrading facilities and transmission, distribution, and storage systems, including the replacement of lead service lines.

Recipients may also use this funding to invest in wastewater infrastructure projects, including constructing publicly-owned treatment infrastructure, managing and treating stormwater or subsurface drainage water, facilitating water reuse, and securing publicly-owned treatment works.

To help jurisdictions expedite their execution of these essential investments, Treasury's Interim Final Rule aligns types of eligible projects with the wide range of projects that can be supported by the Environmental Protection Agency's Clean Water State Revolving Fund and Drinking Water State Revolving Fund. Recipients retain substantial flexibility to identify those water and sewer infrastructure investments that are of the highest priority for their own communities.

Treasury's Interim Final Rule also encourages recipients to ensure that water, sewer, and broadband projects use strong labor standards, including project labor agreements and community benefits agreements that offer wages at or above the prevailing rate and include local hire provisions.

7. Investing in broadband infrastructure

The pandemic has underscored the importance of access to universal, high-speed, reliable, and affordable broadband coverage. Over the past year, millions of Americans relied on the internet to participate in remote school, healthcare, and work.

Yet, by at least one measure, 30 million Americans live in areas where there is no broadband service or where existing services do not deliver minimally acceptable speeds. For millions of other Americans, the high cost of broadband access may place it out of reach. The American Rescue Plan aims to help remedy these shortfalls, providing recipients with flexibility to use Coronavirus State and Local Fiscal Recovery Funds to invest in broadband infrastructure.

Recognizing the acute need in certain communities, Treasury's Interim Final Rule provides that investments in broadband be made in areas that are currently unserved or underserved—in other words, lacking a wireline connection that reliably delivers minimum speeds of 25 Mbps download and 3 Mbps upload. Recipients are also encouraged to prioritize projects that achieve last-mile connections to households and businesses.

Using these funds, recipients generally should build broadband infrastructure with modern technologies in mind, specifically those projects that deliver services offering reliable 100 Mbps download and 100

Mbps upload speeds, unless impracticable due to topography, geography, or financial cost. In addition, recipients are encouraged to pursue fiber optic investments.

In view of the wide disparities in broadband access, assistance to households to support internet access or digital literacy is an eligible use to respond to the public health and negative economic impacts of the pandemic, as detailed above.

8. Ineligible Uses

Coronavirus State and Local Fiscal Recovery Funds provide substantial resources to help eligible state, local, territorial, and Tribal governments manage the public health and economic consequences of COVID-19. Recipients have considerable flexibility to use these funds to address the diverse needs of their communities.

To ensure that these funds are used for their intended purposes, the American Rescue Plan Act also specifies two ineligible uses of funds:

- **States and territories may not use this funding to directly or indirectly offset a reduction in net tax revenue due to a change in law from March 3, 2021 through the last day of the fiscal year in which the funds provided have been spent.** The American Rescue Plan ensures that funds needed to provide vital services and support public employees, small businesses, and families struggling to make it through the pandemic are not used to fund reductions in net tax revenue. Treasury's Interim Final Rule implements this requirement. If a state or territory cuts taxes, they must demonstrate how they paid for the tax cuts from sources other than Coronavirus State Fiscal Recovery Funds—by enacting policies to raise other sources of revenue, by cutting spending, or through higher revenue due to economic growth. If the funds provided have been used to offset tax cuts, the amount used for this purpose must be paid back to the Treasury.
- **No recipient may use this funding to make a deposit to a pension fund.** Treasury's Interim Final Rule defines a "deposit" as an extraordinary contribution to a pension fund for the purpose of reducing an accrued, unfunded liability. While pension deposits are prohibited, recipients may use funds for routine payroll contributions for employees whose wages and salaries are an eligible use of funds.

Treasury's Interim Final Rule identifies several other ineligible uses, including funding debt service, legal settlements or judgments, and deposits to rainy day funds or financial reserves. Further, general infrastructure spending is not covered as an eligible use outside of water, sewer, and broadband investments or above the amount allocated under the revenue loss provision. While the program offers broad flexibility to recipients to address local conditions, these restrictions will help ensure that funds are used to augment existing activities and address pressing needs.

Vaccination Incentive Report

	KIUG Event	Roundup 1	Roundup 2	Roundup 3	Roundup 4	Veteran's Day	Roundup 5	Christmas Parade	Roundup 6	Roundup 7	Roundup 8	Total
2.0 Coffee Co.	Aug. 19, 2021	Aug. 27, 2021	Sept. 16-18, 2021	Oct. 7-9, 2021	Oct. 28-30, 2021	Nov. 11, 2021	Nov. 18-20, 2021	Dec. 4, 2021	Dec. 9-11, 21	Jan. 6-8, 22	Jan. 27-29	\$20,000
Airway Café			\$400	\$4,600			\$1,000	\$1,700	\$800	\$4,500	\$7,000	\$5,000
All Valley Uniforms			\$500	\$4,500								\$5,000
Calico Mermaid						\$700	\$1,100	\$400	\$300	\$2,500		\$5,000
Chaguito's Bakery			\$2,500		\$5,000	\$900	\$600	\$400	\$400	\$400	\$2,300	\$5,000
China's Alley			\$1,100	\$3,900	\$5,000		\$5,000		\$4,100	\$5,900	\$15,000	\$35,000
Country Pleasures						\$1,200	\$1,000	\$1,600	\$1,100	\$7,600	\$2,400	\$25,000
Deli Delicious	\$500			\$3,000			\$1,000			\$100		\$5,000
Don Vinos	\$500	\$3,000	\$2,700	\$7,300	\$5,000		\$5,000		\$2,900	\$15,500	\$11,600	\$3,500
El Jacalito		\$7,000	\$3,200	\$6,800	\$5,000		\$10,000		\$7,600	\$12,400	\$10,000	\$53,500
El Nuevo Mexicali (Main St)	\$500		\$2,200	\$2,800	\$5,000		\$5,000		\$3,000	\$17,000	\$10,000	\$45,500
El Nuevo Mexicali (Pros.)		\$2,000			\$5,000		\$9,600	\$400	\$1,600	\$8,400	\$15,000	\$42,000
El Tapatio	\$500		\$5,000	\$5,000	\$5,000		\$10,000		\$10,000	\$10,000	\$15,000	\$60,500
Earth Angel						\$400	\$400	\$500	\$500	\$2,100	\$1,100	\$5,000
Giovanni's Pizzeria	\$500		\$5,000	\$5,000	\$5,000		\$5,000		\$2,700	\$12,300	\$10,000	\$45,500
Good Times Barbershop						\$500	\$400	\$900	\$200	\$1,000	\$2,000	\$5,000
Habi Sushi			\$5,000	\$5,000	\$5,000	\$500	\$5,000		\$9,000	\$6,000	\$10,000	\$45,000
Hair and Nails by Veronica												\$500
Hergesheimer's Donuts				\$1,000	\$1,500		\$500	\$2,500	\$400	\$1,600	\$5,000	\$12,500
Hue Salon						\$100	\$1,200	\$2,300	\$500	\$900		\$5,000
Java Express			\$4,000	\$1,000	\$10,000		\$7,400	\$2,600		\$10,000	\$15,000	\$50,000
Mom's U Bake		\$2,500		\$5,000	\$5,000		\$1,100	\$3,500	\$400	\$5,000		\$22,500
Nails by Melanie						\$500						\$500
Narlangka		\$3,000	\$5,000	\$3,500			\$5,000	\$1,400		\$5,000	\$10,000	\$13,000
Pho Sho			\$1,500		\$2,800		\$3,600					\$27,800
Plano Jerky					\$5,000							\$5,000
Poor Richard's Pizza						\$5,000	\$1,800	\$7,100	\$900	\$200	\$10,000	\$25,000
Porterville Grocery Outlet			\$4,400	\$5,600	\$15,000		\$20,000		\$47,200	\$12,800		\$105,000
RJ's Café			\$700	\$4,300	\$5,000		\$1,800	\$3,200		\$4,200	\$5,800	\$25,000
Rosa's Italian Restaurant			\$300	\$4,700	\$5,100		\$4,000	\$800		\$5,000	\$5,000	\$20,100
Shop Lovely Boutique						\$200	\$4,000					\$5,000
Stafford's	\$600	\$400	\$3,000	\$7,000	\$8,600		\$1,400		\$5,300	\$15,500	\$9,200	\$51,000
Subway	\$2,800	\$3,200	\$10,000	\$5,000	\$10,000		\$10,000		\$10,000	\$15,000	\$20,000	\$86,000
Super Burger			\$5,000	\$5,000	\$5,000		\$3,500					\$18,500
Taco Rico					\$5,000		\$10,000		\$6,900	\$13,100	\$15,000	\$50,000
Thai Kitchen		\$2,000	\$1,100	\$3,900	\$5,000		\$7,500	\$2,500	\$3,400	\$6,600	\$10,000	\$42,000
The Anvil		\$2,500	\$1,500	\$3,500	\$10,000				\$1,700	\$19,100	\$9,200	\$47,500
The Hair Station						\$700	\$1,100	\$700	\$800	\$1,700		\$5,000
The Vault	\$1,500		\$3,500	\$6,500	\$10,000		\$10,000		\$7,200	\$2,800	\$20,000	\$61,500
Tony's Pizza				\$5,000	\$5,000				\$5,000		\$10,000	\$25,000
Town & Country Market		\$5,000	\$19,200	\$5,800	\$55,000		\$60,000		\$60,000	\$50,000	\$50,000	\$305,000
Two Mada's												\$1,100
Wink Boutique										\$1,100		\$5,000
Total:	\$7,400	\$25,600	\$86,800	\$117,200	\$208,000	\$12,700	\$3,000	\$32,500	\$193,900	\$275,300	\$305,600	\$1,477,000
Vaccines	74	357	795	1249	2046	133	2157	329	1980	3061	TBD	

Vaccines 74 357 795 1249 2046 133 2157 3061 TBD

RESOLUTION ____-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AFFIRMING ITS PROCLAMATION OF A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY ASSEMBLY BILL 361 ISSUED ON SEPTEMBER 16, 2021, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF ALL LEGISLATIVE BODIES OF THE CITY OF PORTERVILLE FOR THE PERIOD OF THIRTY (30) DAYS PURSUANT TO BROWN ACT PROVISIONS

WHEREAS, the City Council is committed to preserving and nurturing public access and participation in meetings of all City of Porterville legislative bodies; and,

WHEREAS, all meetings of the City's legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950-54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and,

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(s), subject to the existence of certain conditions; and,

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and,

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme period to the safety of persons and property within the jurisdictions that are within the City's boundaries, caused by natural, technological, or human-caused disasters; and,

WHEREAS, it is further required that State or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and,

WHEREAS, such conditions now exist in the City, specifically, a State of Emergency has been proclaimed by the Governor of the State of California; and,

WHEREAS, State and local officials continue to promote social distancing measures and City's conference chambers limited capacity would present imminent risk to health and safety of attendees; and,

WHEREAS, the City does hereby reaffirm its proclamation of a local emergency due to the novel coronavirus (COVID-19) that has caused, and will continue to cause, conditions of peril to the safety of persons within the City that are likely to be beyond the control of services, personnel, equipment, and facilities of the City, and desires to reaffirm its local emergency and ratify the proclamation of emergency by the Governor of the State of California; and,

WHEREAS, as a consequence of the local and state emergency, the City does hereby find that the legislative bodies of the City shall conduct their meetings without compliance with paragraph three (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph two (2) of subdivision (c) of section 54953; and,

WHEREAS, the City will give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body; and,

WHEREAS, the legislative body will not take any further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored; and,

WHEREAS, the legislative body will not require public comments to be submitted in advance of the meeting and specifies that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time; and,

WHEREAS, the legislative body will not close the public comment until the public comment period has elapsed or until a reasonable amount of time has elapsed as specified.

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

SECTION 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference; and,

SECTION 2. Reaffirmation of Local Emergency. The City hereby reaffirms that a local emergency now exists through the City, and that State and local officials

continue to promote social distancing measures and City's conference chambers limited capacity would present imminent risk to health and safety of attendees; and,

SECTION 3. Ratification of Governor's Proclamation of a State of Emergency. The City hereby ratifies the Governor of the State of California's Proclamation of March 2, 2020; and,

SECTION 4. Remote Teleconference Meetings. The City Manager and legislative bodies of City of Porterville are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act; and,

SECTION 5. Effective Date of Resolutions. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of April 1, 2022, or such time the Council adopts a subsequent Resolution in accordance with Government Code section 54953 (e)(3) to extend the time during which the legislative bodies of City of Porterville may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED, APPROVED, AND ADOPTED this 15th day of February, 2022.

Adrian Monte Reyes, Mayor

ATTEST:

John D. Lollis, City Clerk

By: _____

Patrice Hildreth, Chief Deputy City Clerk