



**AMENDED CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
OCTOBER 18, 2022, 5:30 PM**

Pursuant to the provisions of Assembly Bill 361, signed into law by Governor Newsom on September 16, 2021, 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/UC5KuhSrNMNL9nwHJVtnJvva>

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

Topic: City of Porterville – Amended City Council Meeting of October 18, 2022

Please use the following link below to join the webinar:

<https://us06web.zoom.us/j/87412502836?pwd=UUFTdWFtSlAvdENyYnpFMXNSeHBLQT09>

Or via Telephone: **1-669-900-6833** Webinar ID: **874 1250 2836** Passcode: **122203**

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: 261-130-004. Agency Negotiator: John Lollis and Jason Ridenour. Negotiating Parties: City of Porterville and Cornerstone Main Partners II, L.P. Under Negotiation: Terms and Price.

2 - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 302-122-001. Agency Negotiator: John Lollis and Jason Ridenour. Negotiating Parties: City of Porterville and Lower Tule Irrigation District. Under Negotiation: Terms and Price.

3 - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: A portion of 302-110-054. Agency Negotiator: John Lollis and Jason Ridenour. Negotiating Parties: City of Porterville and Tule River Tribe of California. Under Negotiation: Terms and Price.

4 - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis and Patrice Hildreth. Employee Organization: Porterville Peace Officers Association.

5 - Government Code Section 54956.95 – Liability Claim: Claimant: Stephanie Felix. Agency claimed against: City of Porterville.

6 - Government Code Section 54956.95 – Liability Claim: Claimant: Juventino Chavez. Agency claimed against: City of Porterville.

7 - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Angelica Aldaco v. California Department of Transportation, et al., Tulare County Superior Court Case No. PCU293166.

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

9 - 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 Stowe

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.

AB 1234 REPORTS

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

1. Local Initiatives Navigation Center (LINC) Committee - October 5, 2022
2. Eastern Tule Groundwater Sustainability Agency Board - October 6, 2022
3. LINC Drive-Thru Dinner - October 6, 2022
4. Southern California Edison Multicultural Celebration - October 7, 2022
5. Cannabis Ad Hoc Committee - October 7, 2022
6. Pioneer Days - October 8, 2022
7. Tulare County Water Commission - October 10, 2022
8. Senator Hurtado Ceremonial Check Presentation - October 11, 2022
9. Transit Forum - October 12, 2022

10. LINC Committee - October 12, 2022
11. CalVans Board - October 13, 2022
12. Tulare County Association of Governments (TCAG) Sustainable Corridors Committee - October 13, 2022
13. TCAG/Tulare County Transportation Authority (TCTA) Board - October 17, 2022
14. Tulare County Regional Transit Agency (TCRTA) Board - October 17, 2022
15. Finca Serena Community Partner Meeting - October 18, 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 - October 6, 2022
 2. Library & Literacy Commission - October 11, 2022
 3. Arts Commission
 4. Animal Control Commission - October 13, 2022
 5. Youth Commission - October 12, 2022
 6. Transactions and Use Tax Oversight Committee (TUTOC)
- II. Staff Informational Reports
 1. Water Conservation Phase III Status Update - September 2022

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.

1. **City Council Minutes of October 4, 2022**
Re: Considering approval of the City Council draft Minutes of October 4, 2022.
2. **Police Department Communications Center Radio Upgrade**
Re: Consideration to authorize Police Department staff to negotiate the purchase of the Motorola MCC7500E Console and ASTRO 25 K2 Core; and approve payment upon receipt and successful integration of the new radio consoles.
3. **Authorization to Amend Digester No. 4 Cleaning Project**
Re: Consideration to amend the cleaning and dewatering of Digester No. 4 Cleaning Project to include the cleaning and dewatering of digester No. 1 at the Wastewater Treatment Facility located at 1333 West Grand Avenue, to Wastewater Solids Management Company, for a total project amount not to exceed \$103,818.

4. **Authorization to Purchase by Negotiation Equipment Scheduled for Replacement**
Re: Authorization to negotiate the purchase of Solid Waste Division equipment scheduled for replacement for the Fiscal Year 2023-2024.
5. **Authorization to Amend and Continue with the Purchase of Water Shares or Surface Water for Groundwater Recharge**
Re: Consider authorization to amend and continue purchasing up to \$1,500,000 of water shares or surface water for groundwater recharge for the 2022-2023 Fiscal Year.
6. **Ratification of Expenditures - Emergency Sterilization & Haul Away Services**
Re: Ratifying the emergency expenditure approved by the City Manager and Mayor in the amount of \$13,044.30 from the risk management fund for the emergency clean up and sterilization of the future Animal Control Facility.
7. **Selection of On-Call Environmental Consultants**
Re: Consideration to authorize staff to negotiate on-call contracts with Crawford & Bowen, LSA, 4Creeks, Precision Civil Engineering, and Provost & Pritchard Consulting Group.
8. **Acquisition of Real Property APN 261-130-004**
Re: Consideration to adopt the draft Resolution approving the purchase of APN 261-130-004 which is approximately 3.86 acres of land generally located on the south side of Olive Avenue, east of A Street in Porterville, CA, 93257.
9. **Permanent Local Housing Allocation 2021 and 2022 Application**
Re: Consideration to authorize the Mayor to sign the streamlined application for the 2020 PLHA funding allocation for submittal to HCD which concerns providing a permanent and ongoing source of funding to local governments for housing-related projects and programs that assist in addressing the unmet housing needs of their local communities.
10. **Friends of the Porterville Public Library License Agreement**
Re: Consideration to authorize the property license agreement between the City of Porterville and the Friends of the Porterville Library for use of the City facility located at 298 N. Main Street.
11. **Set a Public Hearing for the Adoption of the California Building Codes**
Re: Consideration to set the Public Hearing for November 1, 2022, to receive input and give first reading to draft Ordinances for the adoption of the 2022 Editions of the California Building, Plumbing, Mechanical, Electrical, Green Building Standards, Residential, Administrative, Reference Standards, and Energy Codes.
12. **Set a Public Hearing for the Adoption of the California Fire Code**
Re: Consideration to set the Public Hearing for November 1, 2022, to receive input and give the first reading to draft Ordinances for the adoption of the 2022 Edition of the California Fire Code
13. **Set a Public Hearing for updates to the Porterville Municipal Code**
Re: Consideration to set the Public Hearing for November 1, 2022, to receive input and give the first reading to draft Ordinances for the adoption of the changes to the Porterville Municipal Code.
14. **Approval of Community Civic Event - Tule River Economic Development Corporation - Trunk or Treat Car Show - October 29, 2022**

Re: Consideration to approve the Community Civic Event application from the Tule River Economic Development Corporation to hold the "Trunk or Treat Car Show" on Saturday, October 29, 2022, from 9:00 a.m. to 4:00 p.m., located at the City parking lot adjacent to Landing 13 at 152 N. Hocket Street.

15. Approval for Community Civic Event - Parenting Network - Dia de los Muertos - November 2, 2022

Re: Consideration to approve the Community Civic Event application from the Parenting Network to hold "Dia de los Muertos" event on November 2, 2022, at Centennial Park, from 2:00 p.m. to 3:00 p.m.

16. Approval for Community Civic Event - Veterans Homecoming Committee - Veterans Day Parade - November 11, 2022

Re: Consideration to approve the Community Civic Event application from the Veterans Homecoming Committee to hold the Veterans Day Parade on Friday, November 11, 2022, from 10:00 a.m. to 12:00 p.m.

17. Community Civic Event - Rotary Club of Porterville - Porterville Chamber of Commerce - Children's Christmas Parade - December 1, 2022

Re: Consideration to approve the Community Civic Event application submitted by the Rotary Club of Porterville and the Porterville Chamber of Commerce to hold the Children's Christmas parade along Main Street on Thursday, December 1, 2022, from 7:00 p.m. - 9:00 p.m.

18. Amendment to Employee Pay and Benefit Plan - Porterville Peace Officers Association

Re: Considering approval of a draft Resolution authorizing amendments to the Employees' Pay and Benefit Plan and other documents as may be necessary to implement the negotiated changes in salary and benefits for Porterville Peace Officers Association employees.

19. Reaffirm Conditions of State Assembly Bill 361 to Continue Remote Attendance at Public Meetings

Re: Consider adoption of a draft Resolution consistent with AB 361 to continue to allow remote attendance at public meetings.

20. Status and Review of Local Emergency: Drought

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

SCHEDULED MATTERS

21. Cannabis Business Operating Permit For Retail Dispensary - Applicant Interviews

Re: Consideration of proposed Interview process of qualified applicants for the City's Request for Proposals for Cannabis Business Operating Permit for Retail Dispensary.

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 Special meeting of Monday, October 24, 2022, at 6:00 P.M.

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 – OCTOBER 18, 2022

SUBJECT: 1. Water Conservation Phase III Status Update - September 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 IV to Phase III of the City's Water Conservation Plan as of June 1, 2022. The Water Conservation Plan applies to all municipal water users within or outside the city limits.

At the time of this report, the City was in Phase III of its Water Conservation Plan. Phase III plan limits outdoor watering to two days per week, with "odd" addresses allowed to water on Tuesday and Saturday and "even" addresses allowed to water 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 outdoor landscaping is prohibited during and within forty-eight (48) hours after measurable rainfall, which is now defined as greater than 0.01 inch.

Effective October 1, 2022, the City transitioned to Phase IV of its Water Conservation Plan. Phase IV plan limits outdoor watering to one day per week, with "odd" addresses allowed to water on Saturday and "even" addresses allowed to water 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 outdoor landscaping is prohibited during and within forty-eight (48) hours after measurable rainfall, which is now defined as greater than 0.01 inch.

Violations of prohibited activities are considered infractions and are punishable by fines of up to \$500 for each day on 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 respond 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 September 2022 show that a total of fifty-six (56) notices of violation were issued for water wasting, and three administrative citations were issued.

Water production for September 2022 reflects a two percent (2%) reduction to the 5-year average. The monthly production for September was 393 million gallons, which is a twenty-five percent (25%) decrease in comparison to the monthly production for September 2013 of 521 million gallons. Residential consumption for September 2022 was 151 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 evaluate 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 production for the City of Porterville's conservation efforts will be reflected from June 2015 through September 2022. Porterville's cumulative total production conservation through September 2022 is twenty (20%). The cumulative total of GPCD for the City of Porterville's conservation efforts will be reflected from June 2015 through September 2022. Porterville's cumulative total GPCD conservation through September 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 on 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, and meets 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 requires 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 an eight percent (8%) decrease from September 2021 to September 2022. California Governor Gavin Newsom issued another Executive Order N-7-22 on March 28, 2022, to address drought conditions after the driest first three months of a year in recorded history. EO N-7-22 requires that each water supplier implements at a minimum the shortage response actions adopted under section 10632 of the Water Code for a shortage level of up to twenty percent (Level 2). The City of Porterville's Water Conservation Plan Phase III meets the requirements for this shortage, (Level 2).

RECOMMENDATION: Information Only

ATTACHMENTS: 1. Monthly Production Status September 2022
2. Monthly Production Status GPCD September 2022

3. Drought Response Phase III Flyer
4. Drought Response Phase IV Flyer

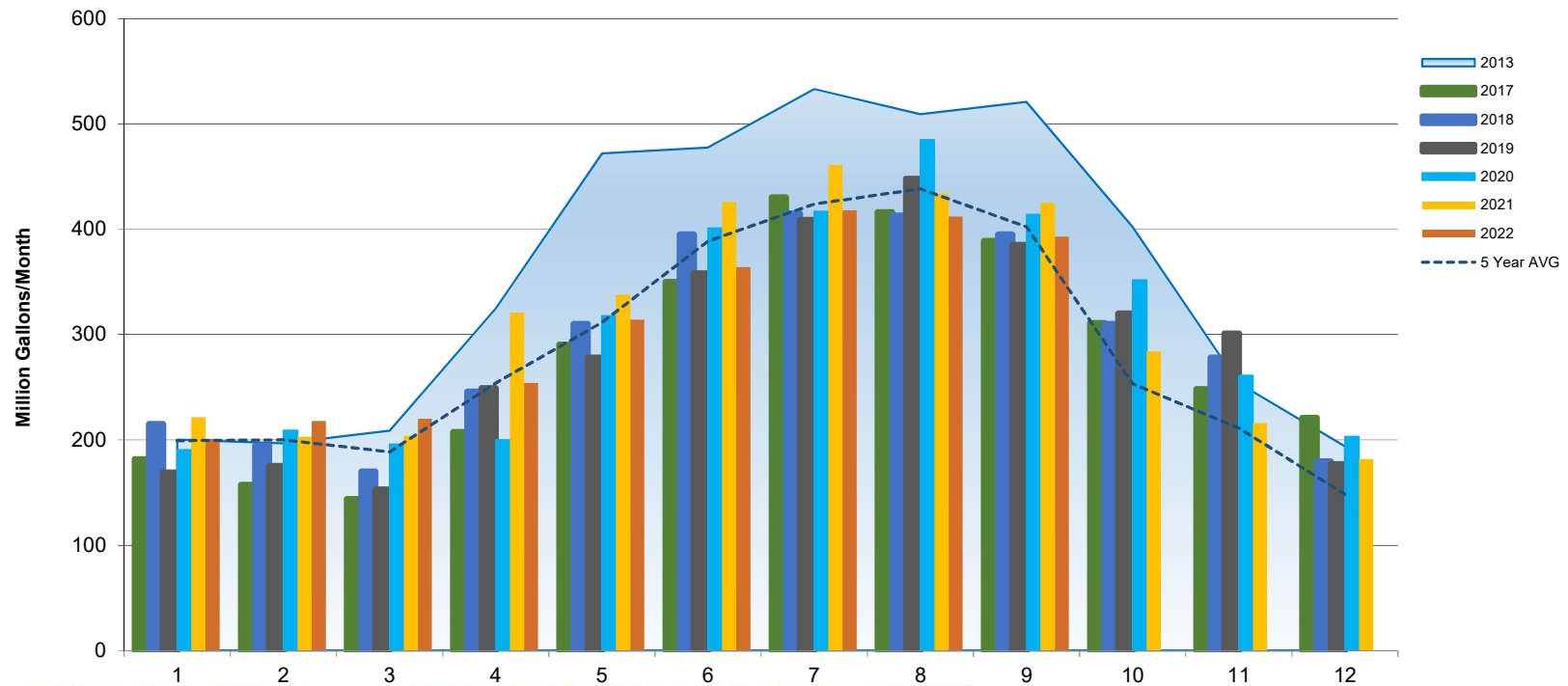
Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

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



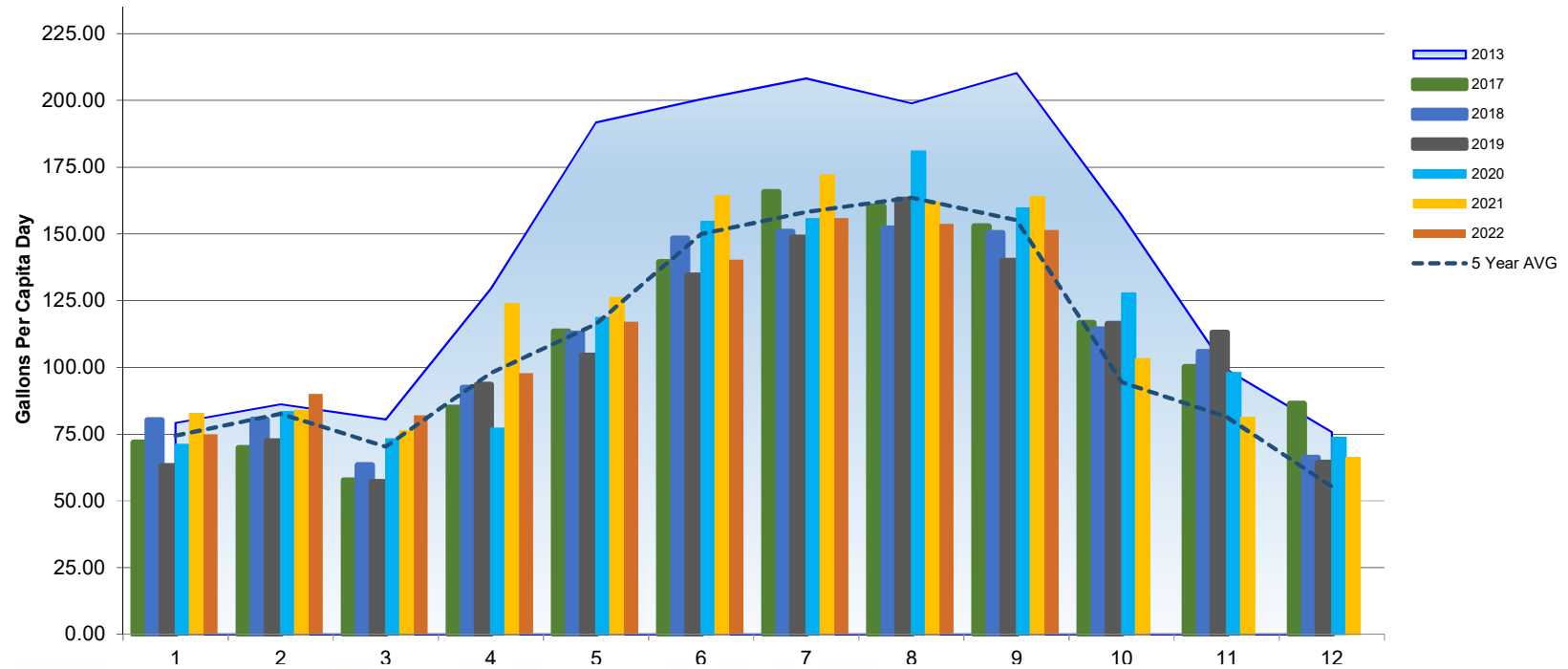
Production

Cumulative Total 20%

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	0%	11%	5%	-22%	-33%	-24%	-22%	-19%	-25%			

Percent Comparison to 2013 Production

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



GPCD

Cumulative Total 25%

	2017	-9%	-19%	-28%	-34%	-41%	-30%	-20%	-19%	-27%	-26%	1%	14%
	2018	1%	-7%	-21%	-29%	-41%	-26%	-28%	-24%	-29%	-27%	7%	-13%
	2019	-20%	-16%	-29%	-28%	-46%	-33%	-29%	-18%	-33%	-26%	14%	-15%
	2020	-10%	-3%	-9%	-40%	-38%	-23%	-25%	-9%	-24%	-19%	-1%	-3%
	2021	4%	-3%	-5%	-4.4%	-34%	-18%	-17%	-19%	-22%	-34%	-18%	-13%
	2022	-5%	4%	2%	-24.3%	-39%	-30%	-25%	-19%	-28%			

Percent Comparison to 2013 Production



DROUGHT RESPONSE Phase III

Mandatory Odd/Even Watering Schedule, based on address.
Residents will be allowed **TWO** days a week to water lawns and landscapes. No watering allowed on Mondays, Thursdays, and 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.

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 III water conservation regulations could result in citations with fines up to **\$500**.

DROUGHT RESPONSE PHASE III

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

Mandatory Odd/Even Watering Schedule

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

Odd Address
 Even Address

ODD NUMBER ADDRESSES

If your address ends with an “odd” number, 1, 3, 5, 7, or 9, your watering days are Tuesday and Saturday *only*.

OR

EVEN NUMBER ADDRESSES

If your address ends with an “even” number, 0, 2, 4, 6, or 8, your watering days are Wednesday and 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 ON
MONDAYS, THURSDAYS,
AND FRIDAYS.**



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 – OCTOBER 18, 2022

SUBJECT: City Council Minutes of October 4, 2022

SOURCE: Administrative Services

COMMENT: Staff has prepared the draft Minutes of October 4, 2022, for the City Council's consideration.

RECOMMENDATION: That the City Council approve the draft Minutes of October 4, 2022.

ATTACHMENTS: 1. Draft Minutes of October 4, 2022

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, Deputy City Manager

Final Approver: Patrice Hildreth, Deputy City Manager

**CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
OCTOBER 4, 2022, 5:30 PM**

Call to Order at 5:30 p.m.

Roll Call: Mayor Martha A. Flores, Council Member Milt Stowe, Council Member Lawana Tate,
Council Member Donald Weyhrauch

Absent: Council Member Kellie Carrillo

ORAL COMMUNICATIONS

None.

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

1 - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 261-130-004. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Cornerstone Main Partners II, L.P. Under Negotiation: Terms and Price.

2 - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 298 North Main Street, Suites 2 and 3, Porterville, CA. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Friends of The Porterville Library. Under Negotiation: Terms and Price.

3 - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis and Patrice Hildreth. Employee organizations: Porterville Peace Officers Association and Porterville City Firefighters Association.

4 - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Rae Dean Strawn v. Bruce Sokoloff Et Al., U.S. District Court, Eastern Div., Case No. 1:22-At-00742.

5 - Government Code Section 54956.9(d)(3) – Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation: Eight (8) cases in which facts are not yet known to potential plaintiff.

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

**6:31 P.M. RECONVENE OPEN SESSION AND REPORT ON REPORTABLE ACTION
TAKEN IN CLOSED SESSION**

City Attorney Lew reported that there was no reportable action.

Pledge of Allegiance Led by Council Member Tate

Invocation – A member of the public came forward to give in invocation.

PRESENTATIONS

Employee of the Month - Rosio Mejia

ORAL COMMUNICATIONS

- Brock Neeley, Porterville, recited a verse from the King James Version of the bible.
- David Horowitz, Porterville, spoke of his recent visit to the local hospital and suggested a comparison could be made between his doctors' poor decision making and that of the City Council in matters concerning the process for cannabis dispensaries.
- Rae Dean Strawn, Porterville, stated she is running for Porterville School Board Trustee and stated she does not remember calling anyone any derogatory remarks.

AB 1234 REPORTS

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

1 - Cannabis Ad Hoc Committee - September 21, 2022

Council Member Tate stated three proposals were received and reviewed by the committee and a recommendation was made to interview the applicants in the upcoming weeks.

Council Member Weyhrauch stated this was one of the first meetings he attended as a newly appointment Council Member; and that there would be a presentation by the applicants in the next few weeks by the applicants.

2 - Tulare County Homeless Task Force - September 21, 2022

Mayor Flores reported on the adoption AB361 Resolution, approval of minutes, updates on projects room key and home key and two presentations. The next meeting is scheduled for October 19th.

3 - Council of Cities - September 21, 2022

Mayor Flores reported on the approval of minutes and two items that were presented for discussion. The next meeting is scheduled for November 16th.

4 - Casino Relocation Meeting - September 26, 2022

Mayor Flores reported on status updates that were given regarding roadway improvements, non-potable water for casino supply and detention basin.

5 - Tulare County Economic Development Corporation - September 28, 2022

Mayor Flores reported on the approval of minutes, approval of financials, and a presentation by the Tule River Economic Development Corporation.

6 - Internal City Audit Committee Meeting - September 28, 2022

Mayor Flores reported on the approval of minutes, review of the Barn Theater agreement, an update on the FTA Triennial review, review of Status of Pension Obligation Bond Validation Suit, and the review of proposed Friends of the Library Lease Agreement. The next meeting is scheduled for October 26th.

7 - Tulare County Regional Transit Agency Meeting - September 28, 2022

Council Member Stowe reported on the Transdev Transition Training and Cross Valley Corridor Presentations as well as the approval of the Cash Advance and Repayment

Agreements with several cities and the approval of grant agreements with the Federal Transit Administration. The next meeting is scheduled for October 17th.

8 - Tulare County Economic Development Corporation Coordination Meeting - September 29, 2022

Mayor Flores reported on a conversation and tour with CEO Airica de Oliveira relating to economic development, within the City of Porterville.

9 - Sierra View Medical Center Foundation Gala - October 1, 2022

Mayor Flores reported on her attendance and stated the events goal was to raise funds for various equipment for the hospital.

10 - Police Department Badge Pinning Ceremony - October 3, 2022

Mayor Flores reported on her attendance to the ceremony and congratulated new officer Sarai Jimenez.

REPORTS

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

I. Staff Informational Reports

1. Fall Community Clean-Up Event

CONSENT CALENDAR

There were no items removed from the Consent Calendar for discussion.

COUNCIL ACTION: MOVED by Council Member Weyhrauch, SECONDED by Council Member Tate that the City Council approve Items Nos. 1-19. The motion carried unanimously.

1. CODE ENFORCEMENT VEHICLE PURCHASE

Recommendation: That the City Council:

1. Authorize staff to negotiate for the purchase of two vehicles up to a cost of \$62,000 per vehicle, which is based on the Manufacturer's Suggested Retail Price plus tax, license, and applicable fees;
2. Authorize staff to negotiate up to \$20,000 per vehicle for all the necessary equipment, including emergency lights, radios, and other tools required to place the vehicles into service. The vehicles will be negotiated either separately or as a unit through a process requesting quotes from not less than three vendors;
3. Due to the unique purchasing parameters requested, staff is further requesting a ten percent (10%) contingency for the total purchase, at a total price not to exceed \$90,200 per vehicle; and
4. Approve the appropriation of \$90,200 in the Fire Department's General Fund budget from revenues to be generated by cannabis dispensaries and an additional appropriation of \$40,200 from Measure I Funds.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 01-100422

Disposition: Approved.

2. AUTHORIZATION TO PURCHASE SPECIALIZED EQUIPMENT - BLOWER
MAGNETIC BEARING CONTROLLER

Recommendation: That City Council:

1. Authorize the purchase of a new magnetic bearing controller for a not to exceed amount of \$18,421 which includes taxes, shipping and a ten percent (10%) contingency from Kaeser Compressors;
2. Direct the Finance Director to initiate a Purchase Order to Kaeser Compressors for a not to exceed amount of \$18,421 which includes taxes, freight and a ten percent (10%) contingency; and
3. Direct the Finance Director to make payment to Kaeser Compressors upon receipt of the invoice approved by the Public Works Director.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 02-100422

Disposition: Approved.

3. AUTHORIZATION TO REPAIR RAW SEWAGE PUMP #1

Recommendation: That City Council:

1. Award the repair of influent pump #1 to Shape Incorporated for a do not exceed amount of \$21,419 which includes taxes and a ten percent (10%) contingency;
2. Direct the Finance Director to initiate a Purchase Order to Shape Incorporated for a do not exceed amount of \$21,419 which includes taxes and a ten percent (10%) contingency; and
3. Direct the Finance Director to make payment to Shape Incorporated upon receipt of an invoice approved by the Public Works Director.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 03-100422

Disposition: Approved.

4. AUTHORIZATION TO ADVERTISE FOR BIDS - AKIN AND CENTRAL MUTUAL WATER SYSTEM IMPROVEMENT PROJECT

Recommendation: That City Council:

1. Approve Staff's recommended Plans and Project Manual; and
2. Authorize staff to advertise for bids on the project.

AYES: Weyhrauch, Tate, Stowe, Flores

NOES: None

ABSTAIN: None

ABSENT: Carrillo

Documentation: M.O. 04-100422

Disposition: Approved.

5. ACCEPTANCE OF PROJECT - PUBLIC SAFETY BUILDING STORAGE PROJECT

Recommendation: That City Council:

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

AYES: Weyhrauch, Tate, Stowe, Flores

NOES: None

ABSTAIN: None

ABSENT: Carrillo

Documentation: M.O. 05-100422

Disposition: Approved.

6. AWARD OF CONTRACT FOR CONSULTING SERVICES FOR LOCAL EARLY ACTION PLANNING GRANT SOUTH OF TULE RIVER SPECIFIC PLAN

Recommendation: That the City Council:

1. Authorize staff to negotiate a contract with Precision Engineering, Inc. to complete the Land Use and Circulation Elements for the Draft SoTu Specific plan and associated entitlements and environmental review; and
2. Authorize the Community Development Director to execute the contract.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 06-100422

Disposition: Approved.

7. AUTHORIZATION TO EXECUTE CONSULTANT AGREEMENT WITH RRM DESIGN GROUP

Recommendation: That City Council:

1. Authorize the Engineering and Project Management Director to execute the Consultant Service Agreement for the Fourth Street Community Center and Park Project with RRM Design Group in the amount of \$1,149,613; and
2. Authorize progress payments up to one hundred percent (100%) of the fee amount.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 07-100422

Disposition: Approved.

8. AUTHORIZATION TO SIGN AGREEMENT - EAGLE AERIAL SOLUTIONS

Recommendation: That City Council:

1. Authorize entering into a 5-year agreement with Eagle Aerial Solutions for five user seats in an amount not to exceed \$38,478 per year;
2. Direct the Finance Director to initiate a Purchase Order for five user seats to Eagle Aerial Solutions in an amount not exceed \$38,478 per year; and
3. Direct the Finance Director to make payment to Eagle Aerial Solutions upon receipt of an invoice approved by the Public Works Director.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 08-100422

Disposition: Approved.

9. RESOLUTION ACCEPTING A DEED OF EASEMENT FROM THE UNITED STATES
DEPARTMENT OF AGRICULTURE FOREST SERVICE - HENRAHAN STREET

Recommendation: That City Council:
1. Adopt the draft Resolution for the acceptance of the Easement from the
United States Department of Agriculture Forest Service; and
2. Direct the City Clerk to record the Easement in the office of the Tulare
County Recorder.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: Resolution No. 99-2022

Disposition: Approved.

10. APPROVAL OF RESOLUTION FOR THE SUBMITTAL OF AN APPLICATION,
ACCEPTANCE OF FUNDS AND EXECUTION OF A GRANT AGREEMENT WITH
THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR AN AIRPORT
IMPROVEMENT PROGRAM MATCHING GRANT

Recommendation: That the City Council adopt the attached draft Resolution authorizing the
Finance Director to file an application and execute the AIP Matching Grant
Agreement with the California Department of Transportation.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: Resolution No. 100-2022

Disposition: Approved.

11. EAST PORTERVILLE WATER CONNECTION ACCESSORY DWELLING UNIT

Recommendation: That the City Council adopt the draft Resolution approving the second
water service connection for the Accessory Dwelling Unit (ADU).

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: Resolution No. 101-2022

Disposition: Approved.

12. PROGRAM SUPPLEMENT TO THE ADMINISTERING AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS - OLIVE AVENUE AND PORTER ROAD/CLOVERLEAF STREET INTERSECTION SIGNAL REPLACEMENT PROJECT

Recommendation: That the City Council:

1. Approve the program supplement by passing a Resolution authorizing the Mayor to sign the subject program supplement; and
2. Direct the City Clerk to return the signed program supplement to the Department of Transportation.

AYES: Weyhrauch, Tate, Stowe, Flores

NOES: None

ABSTAIN: None

ABSENT: Carrillo

Documentation: Resolution No. 102-2022

Disposition: Approved.

13. CONSENT TO SUBLET - LOT NO. 6 AT THE PORTERVILLE MUNICIPAL AIRPORT

Recommendation: That the City Council:

1. Authorize the Lessee, TREDC Real Estate, to sublet the airport hangar on Lot No. 6 at the Porterville Municipal Airport to Green Power Motor Company, Inc. through July 31, 2023; and
2. Authorize the Mayor to sign the City's Consent to Sublet Airport Hangar Lot No. 6 on behalf of the City.

AYES: Weyhrauch, Tate, Stowe, Flores

NOES: None

ABSTAIN: None

ABSENT: Carrillo

Documentation: M.O. 09-100422

Disposition: Approved.

14. ASSIGNMENT OF AIRPORT LEASE - LOT NO. 38

Recommendation: That the City Council:

1. Approve the Assignment of Lease for Lot No. 38 at the Porterville Municipal Airport from Raymond Broad and Dernie Waikiki to Thomas S. Raya and Elizabeth M. Raya; and
2. Authorize the Mayor to sign the Lessor's Consent to Assignment of Lease on behalf of the City.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 10-100422

Disposition: Approved.

15. AUTHORIZATION OF STREET CLOSURE

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 October 11, 2022.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 11-100422

Disposition: Approved.

16. AUTHORIZATION OF STREET CLOSURE - PORTER ROAD

Recommendation: That the City Council:

1. Approve the request of the Porterville Military Academy to close Porter Road on Monday, October 31, 2022, from 5:00 P.M. to 9:00 P.M.; and
2. Direct City staff to locate and remove City-owned traffic safety barriers.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 12-100422

Disposition: Approved.

17. AUTHORIZATION FOR OUT-OF-STATE TRAVEL TO GEORGIA SMOKE DIVER TRAINING

Recommendation: That the City Council authorize travel by City representatives to Dalton, Georgia to attend Smoke Divers Training.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 13-100422

Disposition: Approved.

18. REAFFIRM CONDITIONS OF STATE ASSEMBLY BILL 361 TO CONTINUE REMOTE ATTENDANCE AT PUBLIC MEETINGS

Recommendation: That the City Council consider adoption of the draft Resolution to continue allowing the option to participate in the City's public meetings remotely through the use of the teleconferencing provisions of AB 361.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: Resolution No. 103-2022

Disposition: Approved.

19. STATUS AND REVIEW OF LOCAL EMERGENCY: DROUGHT

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.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 14-100422

Disposition: Approved.

SCHEDULED MATTERS

20. CONSIDERATION OF APPOINTMENTS TO THE ANIMAL CONTROL COMMISSION

Recommendation: That the City Council consider the reappointment requests of Kathy Guinn, Jerry Hall, and Kathleen Harris for terms expiring in September 2026; and consider the appointment of individuals to the vacant seat on the commission with a term expiring in September 2024.

City Manager Lollis introduced the item and Deputy City Manager Patrice Hildreth presented the staff report.

COUNCIL ACTION: MOVED by Mayor Flores, SECONDED by Council Member Weyhrauch that the City Council approve the reappointment of Kathy Guinn, Jerry Hall, and Kathleen Harris.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 15-100422

Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Stowe, SECONDED by Mayor Flores that the City Council appoint Lacie Goodlett to the vacant seat with a term set to expire in September 2024.

AYES: Weyhrauch, Tate, Stowe, Flores
NOES: None
ABSTAIN: None
ABSENT: Carrillo

Documentation: M.O. 16-100422

Disposition: Approved.

21. WHOLLY-LOCAL CANNABIS ADULT-USE DISPENSARY REQUEST FOR PROPOSALS

Recommendation: That the City Council approve the scheduling of a Special Meeting for Monday, October 24, 2022 at 6:00 P.M. to interview the qualified respondents to the RFP for wholly-local cannabis business operating permit for retail dispensary.

City Manager Lollis introduced the item and presented the staff report.

Discussion ensued between members of the council and a recommendation was made to coordinate with its Ad Hoc Committee (comprised of Council Members Tate and Weyhrauch) in recommending the interview process.

COUNCIL ACTION: MOVED by Council Member Weyhrauch, SECONDED by Council Member Milt Stowe that the City Council approve the scheduling of a Special Meeting for Monday, October 24, 2022 at 6:00 p.m. to interview the qualified responders to the RFP for a wholly-local cannabis business operating permit for retail dispensary, and meeting to be held by the Cannabis Ad Hoc Committee to review and approve a questionnaire for the applicants.

AYES: Weyhrauch, Tate, Stowe, Flores

NOES: None.

ABSTAIN: None.

ABSENT: Carrillo

Documentation: M.O. 17-100422

Disposition: Approved.

ORAL COMMUNICATIONS

- David Horowitz, Porterville, spoke of the Request for Proposals (RFP) Process and spoke in favor of a truly locally-owned business.
- Rae Dean Strawn, Porterville, reported on the local regulations of the cannabis dispensaries and offered her expertise regarding the history of the RFP Process.
- Maria Morerro, Porterville, presented the council with the copies of the RFP and cited language from the RFP.
- Darren Garrett, Porterville, stated he and his proponents were not present to create conflict and stated that the other applicants were not wholly-local like Bloom Farms and that the City should do what is right.

OTHER MATTERS

- Council Member Tate stated she is anxious to get the cannabis dispensary business established.
- Council Member Weyhrauch thanked Mayor Flores for her attendance at all the meetings in which she participates, and thanked the public for their participation at the meeting.
- Mayor Flores congratulated Rogelio Caudillo from the ETGSA who is soon-to-be seated on the Tulare County Water Commission, and thanked him for his attendance that evening. Mayor Flores also spoke of her attendance at Dr. Claudia Habib's invitation at a PC event with Author Gary Soto.
- City Manager Lollis spoke of the successful conclusion of the City of Porterville Corporate Games, mentioned the upcoming Pioneer Days, as well as the scheduled check presentation next week by Senator Melissa Hurtado for the Emergency Operations Center. Mr. Lollis also congratulated Finance Director Maria Bemis on her upcoming birthday.

ADJOURNMENT -

The Council adjourned at 7:57 to the meeting of October 18, 2022 at 5:30 p.m.

Fernando Gabriel-Moraga, Deputy City Clerk

SEAL

Martha A. Flores, Mayor



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Police Department Communications Center Radio Upgrade

SOURCE: Police

COMMENT: The Porterville Police Department's Communications Center is currently operating the Motorola MCC5500 dispatch console radio system. This specific communications system was purchased in 2009 and has become antiquated, subsequently reaching end of life and end of service support on December 31, 2021. Department staff have already begun to experience hardware malfunctions and related system components are costly and difficult to obtain. Due to the now outdated equipment, components in need of replacement or repair are predominantly purchased from a third party and are refurbished parts without warranty.

Both the Police and Fire Departments rely on the Communications Center for support, which is the lifeline of their daily activity, and for emergency responses throughout the city. Public safety personnel must be confident that their Communications Center can consistently offer and transmit, without failure, when an emergency or critical incident occurs. The Police Department's Communication Center is in need of an updated radio console system as it remains the main line of communication between public safety personnel and dispatchers.

In the continual effort for operational efficiency, staff began researching various models of radio equipment from the current vendor and sole source provider, Motorola Solutions, to replace the Motorola MCC5500 dispatch console radio system. The goal was to not only replace outdated hardware, but to replace it with a cost-effective feature-rich system that will continue to provide communication capabilities while managing the flow of critical information to our first responders. Department staff has determined, based on extensive research, that the Motorola MCC7500E Console and ASTRO 25 K2 Core would suit communications capabilities well into the next decade.

The Motorola MCC7500E offers state of the art secure communications, seamless IP-based connectivity, flexible system architecture via the conventional channel gateways and complete redundancy from switch to console. This system will pave the way for a future upgrade path to a fully digital system as the need arises or becomes a State requirement. The proposed system would include six operator stations as well as a fully redundant core site that includes dual site controllers, routers, and LAN switches that will provide dispatchers with access to their dispatch consoles even during failures with the LAN switches.

The following features are at the core of the Motorola MCC7500E system and

are the fundamental reasons the Police Department staff chose this system:

- Mobility - provides a full console interface experience anywhere inside or outside of the radio network. It can operate as a permanent back up or mobile solution, with full console functionality. Whether for a planned event or immediate emergency response, it commands a wealth of information for high-impact results.
- High Availability - as a fully redundant system, the MCC7500E automatically detects the failure and initiates a seamless switchover with no need to perform manual intervention, allowing dispatchers to remain focused on the task at hand. This feature ensures no interruption in dispatching operations occurs.
- Security and Reliability - operations rely on the communication of often-sensitive information. End-to-end encryption protects information in transit and agency partitioning goes a step further to help maintain autonomy of communications within a single system.

The cost of the Motorola MCC7500E system is \$309,474, to include applied discounts. Additionally, in order to effectively manage this system, staff is requesting to purchase Advanced Hardware Replacement and Remote Technical Support at a cost of \$49,922.43 for years 2-4 (year 1 is covered by the manufacturer's warranty), bringing the total project cost to \$359,396.43.

The Department's entire radio, computer automated dispatch, and records management system is a Motorola platform. In addition, this is an upgrade to the Motorola-based platform and qualifies as a noncompetitive process due to the following:

- a. The item is available only from a single source (Motorola).
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation as these radio systems are past their end of life term and the system is already experiencing failures which could jeopardize public safety.

Funding for this project is available through funds provided to the City in the federal American Rescue Plan Act (ARPA).

RECOMMENDATION: That the City Council:

1. Authorize Police Department staff to negotiate the purchase of the Motorola MCC7500E Console and ASTRO 25 K2 Core; and
2. Authorize payment upon receipt and successful integration of the new radio consoles.

ATTACHMENTS: 1. Motorola Solutions Proposal

Appropriated/Funded:

Review By:

Department Director:

Jake Castellow, Chief of Police

Final Approver: John Lollis, City Manager



MOTOROLA SOLUTIONS

Firm Priced Proposal

City of Porterville Police Department

6-Position MCC 7500E Console and ASTRO 25 K2 Core

September 28, 2022

The design, technical, and price information furnished with this proposal is proprietary information of Motorola Solutions, Inc. (Motorola). Such information is submitted with the restriction that it is to be used only for the evaluation of the proposal, and is not to be disclosed publicly or in any manner to anyone other than those required to evaluate the proposal, without the express written permission of Motorola Solutions, Inc.

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PS-000123456

Motorola Solutions, Inc.
500 W Monroe Street, Ste 4400
Chicago, IL 60661-3781
USA

September 28, 2022

Captain Josh Maniss
City of Porterville Police Department
350 N D Street
Porterville, CA 93257

Subject: 6-Position MCC 7500E Console and ASTRO 25 Conventional K2 Redundant Core

Dear Captain Maniss,

Motorola Solutions, Inc. ("Motorola Solutions") is pleased to have the opportunity to provide City of Porterville Police Department with quality communications equipment and services. The Motorola Solutions project team has taken great care to propose a solution that will meet your needs and provide exceptional value.

To best meet the functional and operational specifications of this solicitation, our solution includes a combination of hardware, software, and services. Specifically, this solution is for the upgrade of six MCC 7500E consoles and a new ASTRO 25 Conventional -Redundant K2-core that provides:

- One (1) K2 Redundant Core
- Six (6) MCC7500 E Consoles
- Two (2) CCGWs
- One (1) AUX I/O

This proposal consists of this cover letter and the Communications System and Services Agreement (CSSA), together with its Exhibits. This proposal shall remain valid for a period of 120 days from the date of this cover letter. City of Porterville Police Department may accept the proposal by delivering to Motorola the CSSA signed by the City of Porterville representative. Alternatively, Motorola Solutions would be pleased to address any concerns Customer may have regarding the proposal. Any questions can be directed to your Motorola Account Executive, Jeff Wade at (707) 548-6527.

We thank you for the opportunity to furnish City of Porterville Police Department with "best in class" solutions and we hope to strengthen our relationship by implementing this project. Our goal is to provide you with the best products and services available in the communications industry.

Sincerely,



Gordon Poole
Area Sales Manager

Motorola Solutions, Inc.

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Section 1

System Description

1.1 MCC 7500E CONSOLE UPGRADE AND ASTRO 25 K2 CORE SOLUTION OVERVIEW

Motorola Solutions, Inc. ("Motorola Solutions") proposes an ASTRO 25 MCC 7500E dispatch console with an ASTRO 25 Conventional Redundant K2-core to interface to the existing Analog Conventional system. This will provide the Porterville Police Department (Porterville P.D.) with the confidence of state-of-the-art secure communications, seamless IP-based connectivity, flexible system architecture with scalable components, and centralized console management and an Astro 25 Conventional K Core that will provide connectivity to the existing analog radio infrastructure via the conventional channel gateways (CCGW) and would allow for a future upgrade path to a fully digital P25 compliant radio system.

Motorola Solutions designs its console to help reduce the total cost of owning an IP-based, feature-rich dispatch system without compromising quality and reliability. The console provides Porterville PD with sophisticated network management and easy migration to future capabilities.

As your existing equipment continues to age and more parts become obsolete, Motorola Solutions understands the importance of replacing your existing system to maintain your organization's mission critical operations.

The proposed ASTRO 25 K-Core and six (6) MCC 7500E IP Dispatch Consoles solution will be located at the Porterville Police Department in the dispatch center.

The Dispatch Center will consist of six (6) operator positions; each position will be equipped with the following main components:

- (1) Standard Z2 G5 Mini Workstation Computers, keyboard & mouse (excludes monitors)
- (15) Conventional Radio Resources
- (1) Audio Interface Module (AIM)
- (2) Headset Jacks
- (1) Desktop Microphone
- (2) Network Interface (NIC) Cards
- (1) Dual Pedal Transmit Footswitch
- (2) Console Desktop Speakers
- (1) Dual Instant Recall Recorder (IRR)
- (1) 7 port USB Hub

- Spares

The ASTRO 25 K2 -redundant system and Master Site will consist of the following Core Site equipment and main components:

- (2) GCP 8000 Site Controllers
- (2) Core Routers
- (2) Core Backhaul Switches
- (1) Configuration Management Workstation (excludes monitor) with Console Alias Manager (MKM 7000) cohabitating
- (2) Conventional Channel Gateway (CCGW) High Density Routers
- (1) Aux I/O Site Manager
- Spares

The proposed K-core and six (6) dispatch consoles will be located at the Porterville Police Department Building. A system diagram is shown in Figure 1-1 below.

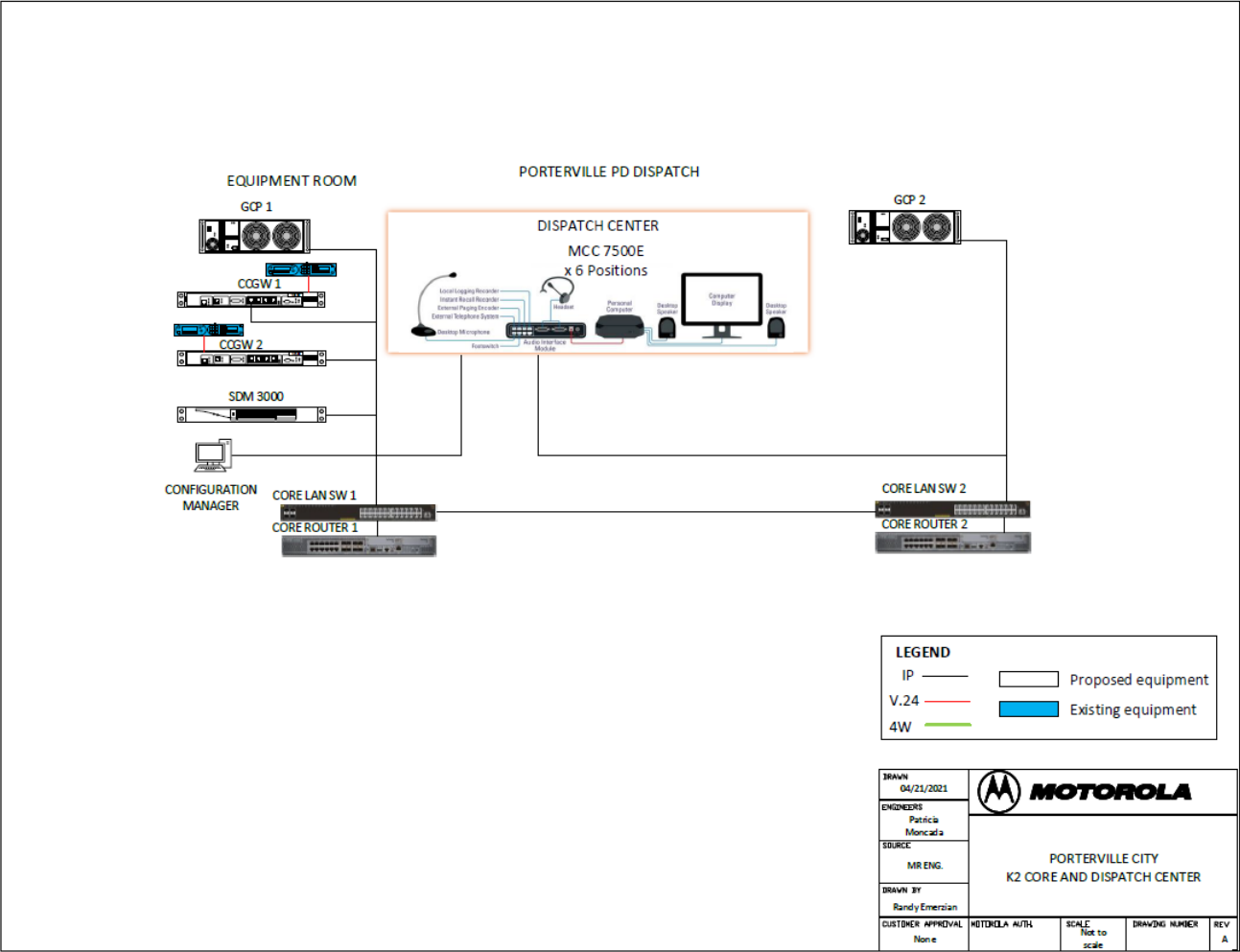


Figure 1-1: System Diagram - Porterville P.D.

1.1.1 Proposed Console and Infrastructure

The proposed ASTRO 25 conventional system is comprised of an ASTRO 25 conventional core site and six (6) MCC7500E consoles. Motorola has included a K2 conventional core for Porterville. The network equipment will facilitate the routing of radio audio across the system.

The proposed solution offers the Porterville PD six (6) dispatch positions to replace the existing MCC 5500 positions.

The proposed components are connected together and to the rest of the ASTRO 25 system on an IP network through console site routers and switches. The console functions as an integrated component of the total radio system and fully participates in system-level features, such as end-to-end encryption and Agency Partitioning.

The console connects directly to the radio system’s IP transport network without gateways or interface boxes. Audio processing, encryption, and switching intelligence for dispatch are performed within each software- based dispatch position without additional centralized electronics.

Since the network is IP-based, the system interfaces and components can be distributed physically throughout the network. Some of the available console components are identified below.

The dispatch position supports commercially available accessories, including a USB microphone, USB headset, and USB footswitch, as shown in the Figure 1-2 titled “MCC 7500E Dispatch Position.”

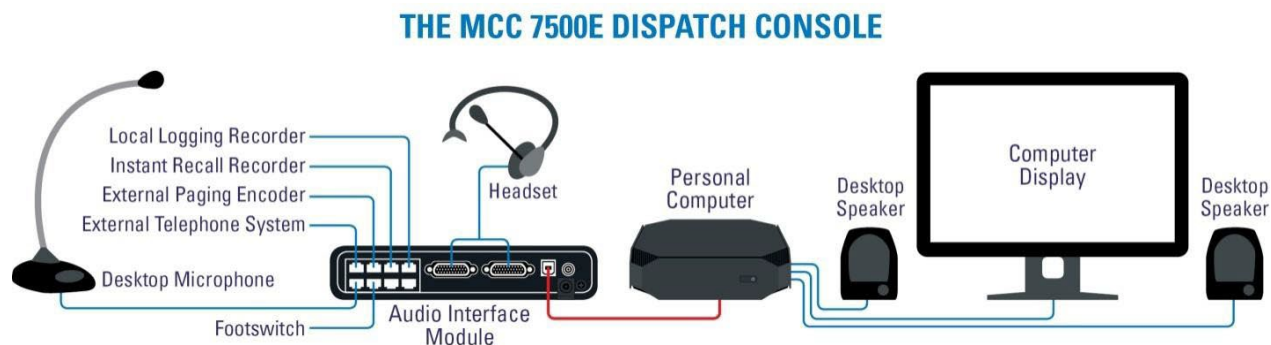


Figure 1-2: MCC 7500E Dispatch position supports multiple accessories. (*note: Figure for reference only. The proposed accessories may differ. Please reference equipment list for details)

1.2 Assumptions

Motorola's design is contingent upon the following assumptions being true. Any deviation from these assumptions will result in a change order to the customer:

- All existing sites or equipment locations will have sufficient space available for the system described.
- All existing sites or equipment locations will have adequate electrical power and site grounding suitable to support the requirements of the system described.
- Any site/location upgrades or modifications are the responsibility of the City.
- Approved local, State, or Federal permits as may be required for the installation and operation of the proposed equipment, are the responsibility of the City.
- Any required system interconnections not specifically outlined here will be provided by the City, including but not limited to dedicated phone circuits or microwave links.
- Where necessary, the City will provide a dedicated delivery point—such as a warehouse—for receipt, inventory, and storage of equipment prior to delivery to the sites.
- Work is performed during normal business hours on non-holidays, Monday – Friday, 8am – 5pm.
- Union labor and Prevailing Wage labor are not requirements.
- No performance bond is required.
- Motorola Solutions has proposed one (1) 7.5' rack at the Porterville PD Dispatch Center.

- Any necessary demarcation points are defined as the Motorola Solutions-provided equipment. This includes demarcation for the following services:
 - 120VAC/ -48DC Power & Circuits
 - Backup Power
 - Grounding
 - Communication Circuits and backhaul links between sites.
- Spares for the K core are included.
- Dispatch console spares are included.
- Control stations are not included in this design.
- Any logging recorder, 9-1-1, CAD or any 3rd party upgrades or reconfigurations will be the responsibility of Porterville Police Department.
- A logging recorder is not included.
- Interfacing services to a logging recorder have not been included.
- Subscribers, installations and programming have not been included.
- Encryption is not included.
- Application Server Equipment and Unified Event Manager (UEM) Fault Management is not included.
- Integrated Data is not included.
- System Support Center (SSC) terminal server with firewall is not included
- IP radio system infrastructure is not included.
- Backhaul switch is not included.
- Wireline or telephony interfaces will be provided by Porterville.
- Furniture for the dispatch operators will be provided by Porterville.
- Computer Monitors for each dispatch position and the configuration manager will be provided by Porterville PD.
- Emergency backup / UPS power is available or will be provided by the City.
- Radio only interfaces will be accommodated by the proposed equipment using CCGWs for existing analog radio interfaces.
- Adequate power outlets are available within 6 feet of the proposed equipment.
- Emergency backup / UPS power is available or will be provided by the City.
- Adequate cooling is available from the HVAC system to support the proposed equipment.

Section 2

Statement of Work

Motorola Solutions is proposing to Porterville PD installation and configuration of the following equipment at the specified locations.

Site Name	Major Equipment
Porterville PD (Core and Dispatch)	• One (1) Conventional K2-Core • Two (2) GCP 8000 Site Controllers • Six (6) MCC 7500E Dispatch Consoles • Two (2) Core LAN Switches • Two (2) Core Routers • One (1) Configuration Manager Desktop PC • Two (2) Conventional Channel Gateways (CCGWs) • One (1) Auxiliary Input/Output Server

This section delineates the general responsibilities between Motorola Solutions and Porterville PD.

2.1 Responsibility Matrix

This section delineates the responsibilities between Motorola and Porterville PD (Customer) as agreed to by contract.

Tasks	Motorola	Customer
PROJECT INITIATION		
Contract Finalization and Team Creation		
Execute contract and distribute contract documents.	X	X
Assign a Project Manager as a single point of contact.	X	X
Assign resources.	X	X
Schedule project kickoff meeting.	X	X
Deliverable: Signed contract, defined project team, and scheduled project kickoff meeting.		

Tasks	Motorola	Customer
Project Administration		
Ensure that project team members attend all meetings relevant to their role on the project.	X	X
Set up the project in the Motorola Solutions information system.	X	
Record and distribute project status meeting minutes.	X	
Maintain responsibility for third-party services contracted by Motorola Solutions.	X	
Complete assigned project tasks according to the project schedule.	X	X
Submit project milestone completion documents.	X	
Upon completion of tasks, approve project milestone completion documents.		X
Conduct all project work Monday thru Friday, 7:30 a.m. to 5:00 p.m.).	X	
Deliverable: Completed and approved project milestones throughout the project.		
Project Kickoff and Design Review		
Introduce team, review roles, and decision authority.	X	X
Present project scope and objectives.	X	
Review SOW responsibilities and project schedule.	X	X
Present the system design and operational requirements for the solution.	X	
Present installation plan.	X	
Present preliminary cutover plan and methods to document final cutover process.	X	
Present configuration and details of sites required by system design.	X	
Validate that Customer site(s) can accommodate proposed equipment.	X	X
Provide approvals required to add equipment to proposed existing sites.		X
Review safety, security, and site access procedures.	X	

Tasks	Motorola	Customer
Present equipment layout plans and system design drawings.	X	
Provide backhaul performance specifications and demarcation points.	X	
Provide heat load and power requirements for new equipment.	X	
Provide for heat load and power requirements as specified by Motorola for new equipment.		X
Provide information on existing system interfaces.		X
Assume liability and responsibility for proving all information necessary for complete installation.		X
Assume responsibility for issues outside of Motorola Solutions' control.		X
Review and update design documents, including System Description, Statement of Work, Project Schedule, and Acceptance Test Plan, based on Design Review agreements.	X	
Provide minimum acceptable performance specifications for customer provided hardware, software, LAN, WAN and internet connectivity.	X	
Provide minimum acceptable performance as specified by Motorola for customer provided hardware, software, LAN, WAN and internet connectivity.		X
Execute Change Order (if any) in accordance with all material changes to the Contract resulting from the Design Review.	X	
Deliverable: Finalized design documentation based upon "frozen" design, along with any relevant Change Order documentation.		
SITE PREPARATION		
Site Access		
Provide site owners/managers with written notice to provide entry to sites identified in the project design documentation.		X
Obtain site licensing and permitting, including site lease/ownership, zoning, permits, regulatory approvals, easements, power, and telco connections, if required.		X
Deliverable: Access, permitting, and licensing necessary to install system equipment at each site.		

Tasks	Motorola	Customer
General Facility Improvements		
Provide adequate HVAC, grounding, lighting, cable routing, and surge protection based upon Motorola Solutions' Standards and Guidelines for Communication Sites (R56)		X
Provide adequate rack/cabinet space to accommodate new equipment.		X
Ensure the resolution of environmental and hazardous material issues at each site including, but not limited to, asbestos, structural integrity (tower, rooftop, water tank, etc.), and other building risks.		X
Ensure that electrical service will accommodate installation of system equipment, including isolation transformers, circuit breakers, surge protectors, and cabling.		X
Provide obstruction-free area for the cable run between the demarcation point and system equipment.		X
Provide structure penetrations (wall or roof) for transmission equipment (e.g. antennas, microwave radios, etc.).		X
Supply interior building cable trays, raceways, conduits, and wire supports.		X
Pay for usage costs of power and generator fueling, both during the construction and installation effort, and on an ongoing basis.		X
Deliverable: Sites meet physical requirements for equipment installation.		
SYSTEM INSTALLATION		
Equipment Order and Manufacturing		
Create equipment order and reconcile to contract.	X	
Manufacture Motorola Solutions-provided equipment necessary for system based on equipment order.	X	
Procure non-Motorola Solutions equipment necessary for the system.	X	
Deliverable: Equipment procured and ready for shipment.		
Equipment Shipment and Storage		

Tasks	Motorola	Customer
Provide secure location for solution equipment.		X
Pack and ship solution equipment to the identified, or site locations.	X	
Receive solution equipment.		X
Inventory solution equipment.	X	
Deliverable: Solution equipment received and ready for installation		
Field System Staging		
Provide information on existing system interfaces, room layouts, or other information necessary for the assembly to meet field conditions.		X
Set up and rack the solution equipment.	X	
Cut and label the cables with to/from information to specify interconnection for field installation and future servicing needs.	X	
Complete the cabling/connecting of the subsystems to each other ("connectorization" of the subsystems).	X	
Assemble required subsystems to assure system functionality.	X	
Power up, load application parameters, program, and test all staged equipment.	X	
Confirm system configuration and software compatibility with the existing system.	X	
Inventory the equipment with serial numbers and installation references.	X	
Perform factory functional acceptance tests of system features – Customer will not be attending.	X	
Deliverable: System staged and ready for shipment.		
General Installation		
Deliver solution equipment to installation location.	X	
Coordinate receipt of and inventory solution equipment with designated contact.	X	

Tasks	Motorola	Customer
Install all proposed fixed equipment as outlined in the System Description based upon the agreed-upon floor plans, connecting audio, control, and radio transmission cables to connect equipment to the power panels or receptacles, and audio/control line connection points. Installation performed in accordance with R56 standards and state/local codes.	X	
Provide system interconnections that are not specifically outlined in the system design, including dedicated phone circuits, microwave links, or other types of connectivity.		X
Install and terminate all network cables between site routers and network demarcation points.	X	
Ensure that Type 1 and Type 2 AC suppression is installed to protect installed equipment.		X
Connect installed equipment to the provided ground system.	X	
Label equipment, racks, and cables.	X	
Identify circuits for connection to console and a demarcation point located within 25 feet of the console interface.		X
Perform preliminary audit of installed equipment to ensure compliance with requirements and R56 standards.	X	
Note any required changes to the installation for inclusion in the "as-built" system documentation.	X	
Remove, transport, and dispose of old equipment.		X
Deliverable: Equipment installed.		
Console System Installation and Configuration		
Identify circuits for connection to console and a demarcation point located within 25 feet of the console interface.		X
Provide desk space for six (6) new dispatch consoles		X
Tasks	Motorola	Customer
Install six (6) MCC 7500E consoles in the Dispatch Center on existing customer-provided desk space.	X	
Connect console to circuit demarcation points.	X	

Tasks	Motorola	Customer
Install purchased peripheral console equipment in accordance with R56 standards and state/local codes.	X	
Provide all Cat6 cable to connect the consoles to the switches in the backroom		X
Permanently install, cable, and ground equipment in the backroom in customer provided cabinet space.	X	
Develop templates for console programming.	X	
Perform console programming and configuration.	X	
Deliverable: Console system equipment installation completed.		
SYSTEM OPTIMIZATION AND TESTING		
R56 Site Audit		
Perform R56 site-installation quality-audits, verifying proper physical installation and operational configurations.	X	
Create site evaluation report to verify site meets or exceeds requirements, as defined in Motorola Solutions' R56 Standards and Guidelines for Communication Sites.	X	
Deliverable: R56 Standards and Guidelines for Communication Sites audits completed successfully.		
Solution Optimization		
Verify that all equipment is operating properly and that all electrical and signal levels are set accurately.	X	
Verify that all audio and data levels are at factory settings.	X	
Verify communication interfaces between devices for proper operation.	X	
Ensure that functionality meets manufacturers' specifications and complies with the final configuration established during design review or system staging.	X	
Deliverable: Completion of System Optimization.		
Tasks	Motorola	Customer
Functional Acceptance Testing		

Tasks	Motorola	Customer
Verify the operational functionality and features of the solution supplied by Motorola Solutions, as contracted.	X	
Witness the functional testing.		X
Document all issues that arise during the acceptance tests.	X	
If any major task for the system as contractually described fails during the Customer acceptance testing or beneficial use, repeat that particular task after Motorola Solutions determines that corrective action has been taken.	X	
Resolve any minor task failures before Final System Acceptance.	X	
Document the results of the acceptance tests and present for review.	X	
Review and approve final acceptance test results.		X
If any major task as contractually described fails, repeat that particular task after Motorola Solutions determines that corrective action has been taken.	X	
Document all issues that arise during the acceptance tests.	X	
Document the results of the acceptance tests and present to the Customer for review.	X	
Resolve any minor task failures before Final System Acceptance.	X	
Deliverable: Completion of functional testing and approval by Customer.		
PROJECT TRANSITION		
Cutover		
Finalize Cutover Plan.	X	X
Conduct cutover meeting with relevant personnel to address both how to mitigate technical and communication problem impacts to the users during cutover and during the general operation of the system.	X	
Notify the personnel affected by the cutover of the date and time planned for cutover.		X
Tasks	Motorola	Customer

Tasks	Motorola	Customer
Provide ongoing communication with users regarding the project and schedule.	X	X
Cut over console system.	X	
Resolve punchlist items, documented during the Acceptance Testing phase, in order to meet all the criteria for final system acceptance.	X	
Assist Motorola with resolution of identified punchlist items by providing support, such as access to the sites, equipment and system, and approval of the resolved punchlist items.		X
Deliverable: Migration to new system completed, and punchlist items resolved.		
PROJECT TRANSITION		
Transition to Warranty		
Review the items necessary for transitioning the project to warranty support and service.	X	
Motorola Solutions to provide services during year 1 warranty which align with the proposed services. Additional out-years have been included as an option for Essential Plus and SUA II post-warranty services.	X	
Provide a Customer Support Plan detailing the warranty support associated with the contract equipment.	X	
Participate in the Transition Service/Project Transition Certificate (PTC) process.		X
Provide a Customer Support Plan detailing the warranty support associated with the contract equipment.	X	
Participate in the Transition Service/Project Transition Certificate (PTC) process.		X
Deliverable: Service information delivered and approved by Customer		
Finalize Documentation and System Acceptance		
Resolve punchlist items, documented during the Acceptance Testing phase, in order to meet all the criteria for final system acceptance.	X	
Assist Motorola Solutions with resolution of identified punchlist items by providing support, such as access to the sites, equipment and system, and approval of the resolved punchlist items.		X

Tasks	Motorola	Customer
Provide manufacturer's installation material, part list and other related material to Customer upon project completion.	X	
Tasks	Motorola	Customer
Provide an electronic as-built system manual on CD or other Customer preferred electronic media. The documentation will include the following: ▪ Site Floor Plans. ▪ Site Equipment Rack Configurations. ▪ ATP Test Checklists. ▪ Functional Acceptance Test Plan Test Sheets and Results. ▪ Equipment Inventory List. ▪ Console Programming Template (where applicable). ▪ Maintenance Manuals (where applicable). ▪ Technical Service Manuals (where applicable). Drawings will be delivered in Adobe PDF format.	X	
Receive and approve documentation.		X
Execute Final Project Acceptance.	X	X
Deliverable: All required documents are provided and approved. Final Project Acceptance.		

2.2 MOTOROLA SOLUTIONS RESPONSIBILITIES

Motorola Solutions' responsibilities include the following:

- Ship equipment to Porterville PD facility.
- Configure the K2 core for the new consoles.
- At the dispatch center, program the new consoles:
 - Develop a console template based on the existing MCC5500 screen layout.
- Program the new MCC 7500E consoles with the template.
- Perform Cutover in Dispatch:
 - Cutover details will be worked out in more detail during the project deployment with the aid of Porterville PD

2.3 PORTERVILLE POLICE DEPARTMENT RESPONSIBILITIES

Porterville PD will assume responsibility for the installation and performance of all other equipment and work necessary for completion of this project that is not provided by Motorola Solutions. Porterville PD general responsibilities include the following:

- Provide the required Cat 6 cables for Ethernet connectivity between the new K2 Core at the IT room and all the dispatch consoles.
- Provide dispatch furniture and monitors for the 6 new MCC 7500E consoles in the existing dispatch room.
- Provide a monitor for the Console Alias Manager workstation.
- Coordinate the activities of all Porterville PD vendors or other contractors.
- Supply adequately sized electrical service, backup power (UPS, generator, batteries, etc.) including the installation of conduit, circuit breakers, outlets, etc., at each equipment location.
- Porterville PD is responsible for supplying all necessary power circuits for both the dispatch positions and for the back room equipment. Porterville PD is responsible for supplying a power source for the Motorola provided power strips at the dispatch positions. Porterville PD is also responsible for providing the backup power for all dispatch equipment.
- Provide any necessary demarcation points for the Motorola Solutions-provided equipment. This includes demarcation for the following services:
 - 120VAC/ -48DC Power & Circuits.
 - Backup Power.
 - Grounding.
 - Communication Circuits and backhaul links between sites.
- Provide any Logging recorder, 911, CAD or any third-party upgrades or reconfigurations required. Integration with 3rd party solutions is outside of the scope of this proposal.
- Provide desk space for the new Configuration Manager dedicated PC.
- Any required system interconnections not specifically outlined here will be provided by the Customer, per Motorola Solutions specifications. Test results to confirm specification compliancy are required prior to equipment installation.
 - Note: These may include dedicated phone circuits, microwave links, or other types of connectivity.

- Provide required system interconnections, including:
 - Connection from Porterville PD provided access control panel to Motorola Solutions-provided Aux I/O punchblocks.
 - Conventional channel resource punchblock demarcation points (documented and working).
 - Connection from Porterville PD provided logging recorder to the Motorola Solutions punchblock demarcation point.

2.4 CHANGE ORDER PROCESS

Either Party may request changes within the general scope of this SOW. If a requested change causes an increase or decrease in the cost or time required to perform this SOW, the Parties will agree to an equitable adjustment of the Contract Price, Performance Schedule, or both, and will reflect the adjustment in a change order. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

Section 3

Acceptance Test Plan

PORTERVILLE POLICE DEPARTMENT

Porterville PD K2 Core and Dispatch

In-Field Draft



3.1 MCC 7500E CONVENTIONAL RESOURCES

3.1.1 Console Priority

1. DESCRIPTION

Console Operator Positions have ultimate control of transmitted audio on an assigned resource. The Console Position has the capability to take control of an assigned voice channel for a channel/talkgroup call so that the operator's audio overrides any subscriber audio. Console priority is a feature that enables dispatchers to gain immediate access to an assigned voice channel so that a central point of audio control exists.

SETUP

RADIO-1 - CONVENTIONAL CHANNEL 1
RADIO-2 - CONVENTIONAL CHANNEL 1

CONSOLE-1 - CONVENTIONAL CHANNEL 1

VERSION #1.040

2. TEST

- Step 1. Initiate a call from RADIO-1 on CONVENTIONAL CHANNEL 1. Keep this call in progress until the test has completed.
- Step 2. Observe that RADIO-2 receives the call.
- Step 3. While the call is in progress, key up CONSOLE-1 on CONVENTIONAL CHANNEL 1.
- Step 4. Observe that RADIO-2 is now receiving audio from CONSOLE-1 on CONVENTIONAL CHANNEL 1.
- Step 5. De-key CONSOLE-1.
- Step 6. Verify RADIO-2 now receives RADIO-1 audio.
- Step 7. End the CONVENTIONAL CHANNEL 1 call from RADIO-1.

Pass _____ Fail _____



MCC 7500 Conventional Resources

3.1.2 Alert Tones - Conventional Channel

1. DESCRIPTION

Pre-defined alert tones can be transmitted on the selected Radio Resource to subscribers which can alert members of a channel / talkgroup to a particular event or signify to radio users special instructions are to follow. The Console has the ability to send an Alert-Tone signal on selected conventional or talkgroup resources.

SETUP

RADIO-1 - CONVENTIONAL CHANNEL 1
RADIO-2 - CONVENTIONAL CHANNEL 1
CONSOLE-1 - CONVENTIONAL CHANNEL 1

VERSION #1.030

2. TEST

- Step 1. Select CONVENTIONAL CHANNEL 1 on CONSOLE-1.
- Step 2. Select Alert Tone 1 and depress the Alert Tone button.
- Step 3. Verify that RADIO-1 and RADIO-2 hear Alert Tone 1.
- Step 4. Repeat Steps 2-3 for Alert Tone 2 and 3.

Pass_____Fail_____



MCC 7500 Conventional Resources

3.1.3 Activity Log - Conventional

1. DESCRIPTION

The MCC 7100/7500 Console activity log will show all traffic for the resource assigned to that console to include the time, radio alias, Channel, PTT ID and Emergency Call.

The dispatcher has the capability of selecting a logged call within in the "Activity Log Window" for instant transmit on the corresponding logged resource.

This activity log can be logged to a text file for archival purposes.

Note: The log file in the ops will only be seen if you first check Log Activity in Elite Admin application then in folder options uncheck hide hidden system files. The location will be c:\Program Data\MCC 7500\MessageMonitorLogs.

SETUP

RADIO-1 – CONVENTIONAL CHANNEL 1
 RADIO-2 – CONVENTIONAL CHANNEL 2
 RADIO-3 – CONVENTIONAL CHANNEL 3
 RADIO-4 – CONVENTIONAL CHANNEL 4

CONSOLE-1 – CONVENTIONAL CHANNEL 1,
 CONVENTIONAL CHANNEL 2, CONVENTIONAL
 CHANNEL 3, CONVENTIONAL CHANNEL 4

VERSION #1.060

2. TEST

- Step 1. On CONSOLE-1 select the "Show Activity Log" button on the tool bar to open the Activity Log Window.
- Step 2. Initiate calls on RADIO-1, RADIO-2, RADIO-3 and RADIO-4 to log call information and verify calls are displayed in the activity log window.
- Step 3. Select a logged call in the Activity Log Window and verify that the Channel Control Window (CCW) at the top of the Activity log window changes to the corresponding resource. Verify the dispatcher is capable of responding via the instant transmit button.
- Step 4. Open the text file created by the Activity Log and verify call traffic has been archived to the document file.

Pass _____ Fail _____



MCC 7500 Conventional Resources

3.1.4 Tone Generation on Conventional Resource

1. DESCRIPTION

This test will demonstrate that the dispatch console is able to transmit on a conventional resource during the tone generation period.

SETUP

RADIO-1 - CONVENTIONAL CHANNEL 1

CCGW-1 - CONVENTIONAL CHANNEL 1
CCGW-1 - SITE 1

CONSOLE-1 - CONVENTIONAL CHANNEL 1
CONSOLE-1 - SITE - CONSITE 1

(Note: Use General Transmit by keying up CONVENTIONAL CHANNEL 1 via console microphone or footswitch)

VERSION #1.040

2. TEST

- Step 1. Send an Alert tone from CONSOLE-1, followed by a voice announcement.
- Step 2. Verify that RADIO-1 hears Alert tone from CONSOLE-1.
- Step 3. Verify that RADIO-1 hears audio from CONSOLE-1 during the Alert Tone Talk Extend period.

Pass _____ Fail _____



5.1 SIGNOFF CERTIFICATE

By their signatures below, the following witnesses certify they have observed the system Acceptance Test Procedures.

Signatures

WITNESS:

_____, Date: _____

Please Print Name: _____

Initials:

Please Print Title: _____

WITNESS:

_____, Date: _____

Please Print Name: _____

Initials:

Please Print Title: _____

WITNESS:

_____, Date: _____

Please Print Name: _____

Initials:

Please Print Title: _____



Section 4

Service/Warranty

Motorola Solutions will provide the Porterville Police Department Warranty services as outlined in the CSSA. In addition, Motorola Solutions will include our Remote Technical Support and Network Hardware Repair with Advanced Replacement during the Warranty period. Maintenance services are described generally below and full statements of work describing the services are available upon request.

1.1.1 Remote Technical Support

Motorola Solutions' Centralized Managed Support Operations (CMSO) will provide Remote Technical Support for infrastructure issues that require specific technical expertise. Experienced technical support specialists will be available to consult with Porterville PD to help diagnose, troubleshoot, and resolve infrastructure issues. Service Desk maintenance procedures and incident resolution techniques are based on ISO 9001 and TL 9000 standards.

1.1.2 Network Hardware Repair with Advanced Replacement

To restore Porterville PD's ASTRO 25 network components if they malfunction, Motorola Solutions will repair Motorola Solutions-provided infrastructure equipment. This includes select third-party infrastructure equipment supplied by Motorola Solutions. Motorola Solutions will ship and return repaired equipment, and will coordinate the repair of third-party solution components.

To reduce the impact of a malfunction, Motorola Solutions will exchange malfunctioning equipment with Advanced Replacement units or Field Replacement Units (FRU), as available. Motorola Solutions' repair depot will diagnose and repair malfunctioning components, and once repaired, add those to the depot's FRU inventory. Replacement components will remain in Porterville PD's ASTRO 25 network to maintain continued network functionality.

If Porterville PD prefers to maintain their existing FRU inventory rather than using Motorola Solutions' depot inventory, Motorola Solutions can provide "loaner" FRUs during the repair process.

Section 5

Equipment List

This section lists the equipment necessary for the proposed solution.

BLOCK	LIM	O	QTY	NOMENCLATURE	DESCRIPTION
OP_POS	1	-	1	B1948	MCC 7500E DISPATCH POSITION LICENSE
OP_POS	1	a	6	UA00653AA	ADD: BASIC CONSOLE OPERATION
OP_POS	1	b	6	UA00655AA	ADD: ADVANCED CONVENTIONAL OPERATIO
OP_POS	1	c	6	UA00249AA	ADD: 15 RADIO RESOURCES LICENSE
OP_POS	1	d	6	UA00661AA	ADD: ENHANCED IRR
OP_POSIT	2	-	6	TT3903A	Z2 G5 MINI WORKSTATION NON RETURNAB
OP_POSIT	3	-	12	B1952	SPEAKER, DESKTOP, USB
OP_POSIT	3	a	12	CA03405AA	ADD: POWER SUPPLY WITH DC CORD
OP_POSIT	3	b	12	CA03406AA	ADD: AC LINE CORD, NORTH AMERICA
OP_POSIT	3	c	12	CA03412AA	ADD: USB CABLE, TYPE C TO TYPE C, 4
OP_POSIT	4	-	6	B1941	USB AUDIO INTERFACE MODULE
OP_POSIT	5	-	6	B1951	MICROPHONE, DESKTOP, USB
OP_POSIT	5	a	6	CA03412AA	ADD: USB CABLE, TYPE C TO TYPE C, 4
OP_POSIT	6	-	12	B1913	MCC SERIES HEADSET JACK
OP_POSIT	7	-	6	DSTWIN6328A	PROVIDES ONE DUAL PEDAL FOOTSWITCH
OP_POSIT	8	-	6	T8742	MCAFFEE FOR WINDOWS CLIENT, A2019.2
OP_POSIT	9	-	6	DSUSB31000S	STARTECH USB 3.0 TO GIGABIT ETHERNE
OP_POSIT	10	-	6	DSST7300U3M	STARTECH 7 PORT USB 3.0 HUB
OP_POSIT	11	-	6	T8807A	WINDOWS SUPP FULL CONFIG, A2020.1/A
OP_POSIT	12	-	1	DSF2B56AA	USB EXTERNAL DVD DRIVE
CCGW	13	-	1	SQM01SUM0205	GGM 8000 GATEWAY
CCGW	13	a	1	CA01616AA	ADD: AC POWER

BLOCK	LIM	O	QTY	NOMENCLATURE	DESCRIPTION
CCGW	13	b	1	CA02086AA	ADD: HIGH DENSITY ENH CONV GATEWAY
CCGW	14	-	1	SQM01SUM0205	GGM 8000 GATEWAY
CCGW	14	a	1	CA01616AA	ADD: AC POWER
CCGW	14	b	1	CA02086AA	ADD: HIGH DENSITY ENH CONV GATEWAY
CORE	15	-	1	SQM01SUM0237	SINGLE ZONE CONV NON-RED CORE
CORE	15	a	1	CA01663AB	ADD: RACK
CORE	15	b	1	CA02259AA	ADD: Redundancy
RACK	16	-	1	DS1101990	SPD, SHIELDED RJ-45 JACK, SINGLE LI
RACK	17	-	1	DSTSJADP	RACK MOUNT GROUND BAR, 19 IN FOR TS
RACK	18	-	2	DSRMP615A	SPD, TYPE 3, 120V RACK MOUNT, 15A P
CONF_TOOL	19	-	1	TT3903A	Z2 G5 MINI WORKSTATION NON RETURNAB
CONF_TOOL	20	-	1	T8807A	WINDOWS SUPP FULL CONFIG, A2020.1/A
CONF_TOOL	21	-	1	T8742	MCAFFEE FOR WINDOWS CLIENT, A2019.2
CONF_TOOL	22	-	1	BVN1013	MKM 7000 Console Alias Manager Soft
AUX_IO	23	-	1	F0016A	MC IOT MAIN MODEL
AUX_IO	23	a	1	VA01370AA	ADD: MC-EDGE
AUX_IO	23	b	1	VA00985AA	ADD: NO PIGGY_ MC-EDGE
AUX_IO	23	c	2	VA00989AA	ADD: 8DO EE 16DI 5-18 V /DRY
AUX_IO	23	d	1	VA00147	ADD: FRONT CABLE COVERS
AUX_IO	23	e	1	VA00155	ADD:DC POWER CABLE
AUX_IO	23	f	1	VA00009	ADD: AC POWER SUPPLY UNIT 12V / 5A
AUX_IO	24	-	1	DSIABDIN4	PANDUIT IABDIN4 4 RACK UNIT DIN RAI
AUX_IO	25	-	2	FHN0057	DIN RAIL STOPPER
AUX_IO	26	-	1	CDN6135	CABLE ASSY 25 PR M-NONE 25FT
AUX_IO	27	-	1	QRN5066	punchblock w/ panel
SPARES	28	-	1	SQM01SUM0205	GGM 8000 GATEWAY
SPARES	28	a	1	CA01616AA	ADD: AC POWER

BLOCK	LIM	O	QTY	NOMENCLATURE	DESCRIPTION
SPARES	28	b	1	CA02086AA	ADD: HIGH DENSITY ENH CONV GATEWAY
SPARES	29	-	1	B1941	USB AUDIO INTERFACE MODULE
SPARES	30	-	1	B1952	SPEAKER, DESKTOP, USB
SPARES	30	a	1	CA03405AA	ADD: POWER SUPPLY WITH DC CORD
SPARES	30	b	1	CA03406AA	ADD: AC LINE CORD, NORTH AMERICA
SPARES	30	c	1	CA03412AA	ADD: USB CABLE, TYPE C TO TYPE C, 4
SPARES	31	-	1	B1951	MICROPHONE, DESKTOP, USB
SPARES	31	a	1	CA03412AA	ADD: USB CABLE, TYPE C TO TYPE C, 4
SPARES	32	-	1	B1913	MCC SERIES HEADSET JACK
SPARES	33	-	1	TT3903A	Z2 G5 MINI WORKSTATION NON RETURNAB
SPARES	34	-	1	CLN1868	2930F 24-PORT SWITCH
SPARES	35	-	1	CLN1866	FRU: 1M DAC CABLE
SPARES	36	-	1	T8493	EDGE & HUB ROUTER & FIREWALL - AC
SPARES	36	a	1	CA03445AA	ADD: MISSION CRITICAL HARDENING
SPARES	36	b	1	CA03448AA	ADD: STATEFUL FIREWALL

Section 6

Pricing Summary

6.1 Porterville P.D. MCC 7500E Consoles

Motorola's pricing is based on the equipment list and services for the system designed for Porterville P.D. The Statement of Work (SOW) describes the work to be performed for the installation, optimization, and testing of the system and the equipment list provides the equipment necessary for this project.

Below pricing includes: (6) MCC 7500E Consoles, Implementation Services and 1st Year Warranty.

Description	Price (USD)
Equipment:	
- One Redundant K2 Core	
- Six MCC7500E Consoles	
- Two CCGWs	
- Network Routers and Switches	
- Configuration Manager and Console Alias Manager	
- MC-EDGE for AUX I/Os	\$250,882
	-\$16,020
Additional Equipment Discount if purchased by 11/17/2022	-\$60,340
Equipment Total	\$174,522
Project Services:	
- Project Management	
- Engineering Support	
- Detailed Design Review	
- Equipment Ordering and Manufacturing	
- Equipment Shipment	
- Field Staging	
- Equipment Installation	
- Programming and Configuration	
- Functional Acceptance Testing	\$165,468
Additional Service Discount if purchased by 11/17/2022	-\$42,512
Estimated Tax on Equipment (9.25%)	\$11,996
Project Total	\$309,474

6.2 Network Hardware Repair with Advanced Replacement Service and Tech Support Services

Below pricing is Maintenance Pricing through 2026 on the Porterville PD MCC 7500E Consoles:

Network Hardware Repair with Advanced Replacement and Tech Support Services 24 x 7

YEAR 2	YEAR 3	YEAR 4	TOTAL YEARS 2-4
\$ 16,151.42	\$ 16,635.96	\$ 17,135.04	\$ 49,922.43

6.3 Payment Terms

Except for a payment that is due on the Effective Date, the City of Porterville will make payments to Motorola within thirty (30) days after the date of each invoice. The City of Porterville will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution and in accordance with the following milestones.

1. **50% of the Contract Price due upon contract execution (due upon effective date);**
2. **50% of the Contract Price due upon Final Acceptance.**

Overdue invoices will bear simple interest at the rate of ten percent (10%) per annum, unless such rate exceeds the maximum allowed by law, in which case it will be reduced to the maximum allowable rate. Motorola reserves the right to make partial shipments of equipment and to request payment upon shipment of such equipment. In addition, Motorola reserves the right to invoice for installations or civil work completed on a site-by-site basis, when applicable.

6.4 Lifecycle Sustainment Payment Terms

For Lifecycle Support Plan and Subscription Based Services:

Motorola will invoice Customer annually in advance of each year of the plan.

The chart below outlines the hourly labor rates for Motorola System Integration resources to be used. The staffing requirements shall be multiplied by the appropriate rate per resource in the table below. The hourly labor rates are fully burdened. The hourly rates per resource type and level are listed in Table 1.

	Resource Types			
Levels	Project Management	System Engineering	System Technologist	Project Administration
4	\$ 290.00	\$ 300.00	\$ 280.00	\$ 200.00
3	\$ 240.00	\$ 250.00	\$ 240.00	\$ 180.00
2	\$ 220.00	\$ 220.00	\$ 220.00	\$ 170.00
1	\$ 190.00	\$ 210.00	\$ 210.00	\$ 160.00

Table 1 - Hourly Rates

These rates apply to ordinary days and times (Monday to Friday during the hours 8am to 5pm). Additional surcharges may apply to work done outside these timeframes. The minimum charge for any resource will be 4 hours. Travel expenses are not included in these rates and may be charged separately. The qualifications of each type and level of resource are defined in the tables found at <https://www.motorolasolutions.com/content/dam/msi/secure/services/labor-rates-exhibit-160408.pdf>. All Motorola System Integration personnel assigned to this project will be classified according these levels. Project Administrative roles are varied and their specific duties and qualifications will be determined by the complexity and requirements of each project.

Section 7

Contractual Documentation

Communications System and Services Agreement

Motorola Solutions, Inc. ("Motorola") and _____ ("Customer") enter into this "Agreement," pursuant to which Customer will purchase and Motorola will sell the System and Services, as described below. Motorola and Customer may be referred to individually as a "Party" and collectively as the "Parties." For good and valuable consideration, the Parties agree as follows:

Section 1 ATTACHMENTS

1.1. EXHIBITS. The Exhibits listed below are exhibits related to the System sale and implementation. These Exhibits are incorporated into and made a part of this Agreement.

Exhibit A "Motorola Software License Agreement"

Exhibit B "Payment"

Exhibit C Technical and Implementation Documents

C-1 "System Description" dated _____

C-2 "Pricing Summary & Equipment List" dated _____

C-3 "Implementation Statement of Work" dated _____

C-4 "Acceptance Test Plan" or "ATP" dated _____

C-5 "Performance Schedule" dated _____

Exhibit D "System Acceptance Certificate"

1.2. ADDENDUM (ADDENDA). Customer may elect to purchase professional or subscription services in addition to the System and related services. Any such services will be governed by the terms in the main body of the Agreement and an applicable Addendum containing terms specific to such service. Such Addenda will be labeled with the name of the service being purchased.

1.3 ORDER OF PRECEDENCE. In interpreting this Agreement and resolving any ambiguities: 1) the main body of this Agreement takes precedence over the exhibits (unless otherwise specified in an exhibit), and any inconsistency between Exhibits A through D will be resolved in their listed order, and 2) The applicable service Addendum will take precedence over the main body of the Agreement and the Exhibits.

Section 2 DEFINITIONS

Capitalized terms used in this Agreement have the following meanings:

"Acceptance Tests" means those tests described in the Acceptance Test Plan.

"Addendum (Addenda)" is the title of the document(s) containing a specific set of terms and conditions applicable to a particular service or other offering beyond the Communication System and System implementation services. The terms in the Addendum are applicable only to the specific service or offering described therein.

"Administrative User Credentials" means an account that has total access over the operating system, files, and user accounts and passwords at either the System level or box level. Customer's personnel with access to the Administrative User Credentials may be referred to as the Administrative User.

“Beneficial Use” means when Customer first uses the System or a Subsystem for operational purposes (excluding training or testing).

“Confidential Information” means all information consistent with the fulfillment of this Agreement that is (i) disclosed under this Agreement in oral, written, graphic, machine recognizable, and/or sample form, being clearly designated, labeled or marked as confidential or its equivalent or (ii) obtained by examination, testing or analysis of any hardware, software or any component part thereof provided by discloser to recipient. The nature and existence of this Agreement are considered Confidential Information. Confidential Information that is disclosed orally must be identified as confidential at the time of disclosure and confirmed by the discloser by submitting a written document to the recipient within thirty (30) days after such disclosure. The written document must contain a summary of the Confidential Information disclosed with enough specificity for identification purpose and must be labeled or marked as confidential or its equivalent.

“Contract Price” means the price for the System and implementation Services, excluding applicable sales or similar taxes and freight charges. Further, unless otherwise stated in Exhibit B, “Payment” or the pricing pages of the proposal, recurring fees for maintenance, SUA, or subscription services are not included in the Contract Price.

“Deliverables” means all written information (such as reports, specifications, designs, plans, drawings, analytics, Solution Data, or other technical or business information) that Motorola prepares for Customer in the performance of the Services and is obligated to provide to Customer under this Agreement. The Deliverables, if any, are more fully described in the Statement of Work.

“Derivative Proprietary Materials” means derivatives of the Proprietary Materials that Motorola may from time to time, including during the course of providing the Services, develop and/or use and/or to which Motorola provides Customer access.

“Effective Date” means that date upon which the last Party executes this Agreement.

“Equipment” means the hardware components of the Solution that Customer purchases from Motorola under this Agreement. Equipment that is part of the System is described in the Equipment List.

“Feedback” means comments or information, in oral or written form, given to Motorola by Customer in connection with or relating to Equipment or Services, during the term of this Agreement.

“Force Majeure” means an event, circumstance, or act that is beyond a Party’s reasonable control, such as an act of God, an act of the public enemy, an act of a government entity, strikes, other labor disturbances, supplier performance, hurricanes, earthquakes, fires, floods, epidemics, embargoes, war, riots, or any other similar cause.

“Motorola Software” means software that Motorola or its affiliated companies owns.

“Non-Motorola Software” means software that a party other than Motorola or its affiliated companies owns.

“Open Source Software” (also called “freeware” or “shareware”) means software with either freely obtainable source code, license for modification, or permission for free distribution.

“Proprietary Materials” means certain software tools and/or other technical materials, including, but not limited to, data, modules, components, designs, utilities, subsets, objects, program listings, models, methodologies, programs, systems, analysis frameworks, leading practices and specifications which Motorola has developed prior to, or independently from, the provision of the Services and/or which Motorola licenses from third parties.

“Proprietary Rights” means the patents, patent applications, inventions, copyrights, trade secrets, trademarks, trade names, mask works, know-how, and other intellectual property rights in and to the Equipment and Software, including those created or produced by Motorola under this Agreement and any corrections, bug fixes, enhancements, updates or modifications to or derivative works from the Software whether made by Motorola or

another party.

“Services” means system implementation, maintenance, support, subscription, or other professional services provided under this Agreement, which may be further described in the applicable Addendum and/or SOW.

“Software” (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term “Software” does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

“Software License Agreement” means the Motorola Software License Agreement (Exhibit A).

“Software Support Policy” (“SwSP”) means the policy set forth at https://www.motorolasolutions.com/content/dam/msi/secure/services/software_policy.pdf describing the specific technical support that will be provided to Customers under the Warranty Period and during any paid maintenance support period for Motorola Software. This policy may be modified from time to time at Motorola’s discretion.

“Solution” means the combination of the System(s) and Services provided by Motorola under this Agreement.

“Solution Data” means Customer data that is transformed, altered, processed, aggregated, correlated or operated on by Motorola, its vendors or other data sources and data that has been manipulated or retrieved using Motorola know-how to produce value-added content to data consumers, including customers or citizens which is made available to Customer with the Solution and Services.

“Specifications” means the functionality and performance requirements that are described in the Technical and Implementation Documents.

“SUA” or “SUA II” means Motorola’s Software Upgrade Agreement program.

“Subsystem” means a major part of the System that performs specific functions or operations. Subsystems are described in the Technical and Implementation Documents.

“System” means the Equipment, including incidental hardware and materials, Software, and design, installation and implementation services that are combined together into an integrated system; the System(s) is (are) described in the Technical and Implementation Documents.

“System Acceptance” means the Acceptance Tests have been successfully completed.

“System Data” means data created by, in connection with or in relation to Equipment or the performance of Services under this Agreement.

“Warranty Period” for System Hardware, Software, or services related to system implementation means one (1) year from the date of System Acceptance or Beneficial Use, whichever occurs first. Unless otherwise stated in the applicable Addendum, Warranty Period for other Services means ninety (90) days from performance of the Service.

Section 3 SCOPE OF AGREEMENT AND TERM

3.1. **SCOPE OF WORK.** Motorola will provide, install and test the System(s), and perform its other contractual responsibilities to provide the Solution, all in accordance with this Agreement. Customer will perform its contractual responsibilities in accordance with this Agreement.

3.2. **CHANGE ORDERS.** Either Party may request changes within the general scope of this Agreement. If a

requested change causes an increase or decrease in the cost or time required to perform this Agreement, the Parties will agree to an equitable adjustment of the Contract Price or applicable subscription fees, Performance Schedule, or both, and will reflect the adjustment in a change order or Addendum. Neither Party is obligated to perform requested changes unless both Parties execute a written change order.

3.3. **TERM.** Unless terminated in accordance with other provisions of this Agreement or extended by mutual agreement of the Parties, the term of this Agreement begins on the Effective Date and continues until the date of Final Project Acceptance or expiration of the Warranty Period, or completion of the Services, whichever occurs last. The term and the effective date of recurring Services will be set forth in the applicable Addendum.

3.4. **ADDITIONAL EQUIPMENT OR SOFTWARE.** For three (3) years after the expiration date of the Agreement, Customer may order additional Equipment or Software, if it is then available. Each purchase order must refer to this Agreement, the expiration date of the Agreement, and must specify the pricing and delivery terms. The Parties agree that, notwithstanding expiration of the Agreement, the applicable provisions of this Agreement (except for pricing, delivery, passage of title and risk of loss to Equipment, warranty commencement, and payment terms) will govern the purchase and sale of the additional Equipment or Software. Additional or contrary terms in the purchase order will be inapplicable, unless signed by both parties. Title and risk of loss to additional Equipment will pass at shipment, warranty will commence upon delivery, and payment is due within thirty (30) days after the invoice date. Motorola will send Customer an invoice as the additional Equipment is shipped or Software is licensed. Alternatively, Customer may register with and place orders through the Motorola Solutions Customer Portal eCommerce Shop, and this Agreement will be the "Underlying Agreement" for those eCommerce transactions rather than the eCommerce Shop Terms and Conditions of Sale. eCommerce Shop registration and other information may be found at https://www.motorolasolutions.com/en_us/registration and the shop support telephone number is (800) 814-0601.

3.5. **MOTOROLA SOFTWARE.** Any Motorola Software, including subsequent releases, is licensed to Customer solely in accordance with the Software License Agreement. Customer hereby accepts and agrees to abide by all of the terms and restrictions of the Software License Agreement.

3.6. **NON-MOTOROLA SOFTWARE.** Any Non-Motorola Software is licensed to Customer in accordance with the standard license, terms, and restrictions of the copyright owner on the Effective Date unless the copyright owner has granted to Motorola the right to sublicense the Non-Motorola Software pursuant to the Software License Agreement, in which case it applies and the copyright owner will have all of Licensor's rights and protections under the Software License Agreement. Motorola makes no representations or warranties of any kind regarding Non-Motorola Software. Non-Motorola Software may include Open Source Software.

3.7. **SUBSTITUTIONS.** At no additional cost to Customer, Motorola may substitute any Equipment, Software, or services to be provided by Motorola, if the substitute meets or exceeds the Specifications and is of equivalent or better quality to the Customer. Any substitution will be reflected in a change order.

3.8. **OPTIONAL EQUIPMENT OR SOFTWARE.** This paragraph applies only if a "Priced Options" exhibit is shown in Section 1, or if the parties amend this Agreement to add a Priced Options exhibit. During the term of the option as stated in the Priced Options exhibit (or if no term is stated, then for one (1) year after the Effective Date), Customer has the right and option to purchase the equipment, software, and related services that are described in the Priced Options exhibit. Customer may exercise this option by giving written notice to Seller which must designate what equipment, software, and related services Customer is selecting (including quantities, if applicable). To the extent they apply, the terms and conditions of this Agreement will govern the transaction; however, the parties acknowledge that certain provisions must be agreed upon, and they agree to negotiate those in good faith promptly after Customer delivers the option exercise notice. Examples of provisions that may need to be negotiated are: specific lists of deliverables, statements of work, acceptance test plans, delivery and implementation schedules, payment terms, maintenance and support provisions, additions to or modifications of the Software License Agreement, hosting terms, and modifications to the acceptance and warranty provisions.

Section 4 SERVICES

4.1. If Customer desires and Motorola agrees to continue Services beyond the Term, Customer's issuance and Motorola's acceptance of a purchase order for Services will serve as an automatic extension of the Agreement for purposes of the continuing Services. Only the terms and conditions applicable to the performance of Services will apply to the extended Agreement.

4.2. During the Warranty Period, in addition to warranty services, Motorola will provide maintenance Services for the Equipment and support for the Motorola Software pursuant to the applicable maintenance and support Statements of Work. Support for the Motorola Software will be in accordance with Motorola's established Software Support Policy. Copies of the SwSP can be found at https://www.motorolasolutions.com/content/dam/msi/secure/services/software_policy.pdf and will be sent by mail, email or fax to Customer upon written request. Maintenance Services and support during the Warranty Period are included in the Contract Price. Unless already included in the Contract Price, if Customer wishes to purchase 1) additional maintenance or software support services during the Warranty Period; or 2) continue or expand maintenance, software support, installation, and/or SUA services after the Warranty Period, Motorola will provide the description of and pricing for such services in a separate proposal document. Unless otherwise agreed by the parties in writing, the terms and conditions in this Agreement applicable to maintenance, support, installation, and/or SUA Services, will be included in the Maintenance and Support Addendum, SUA Addendum, the applicable Statements of Work, and the proposal, (if applicable). These collective terms will govern the provision of such Services.

To obtain any such additional Services, Customer will issue a purchase order referring to this Agreement and the separate proposal document. Omission of reference to this Agreement in Customer's purchase order will not affect the applicability of this Agreement. Motorola's proposal may include a cover page entitled "Service Agreement" or "Installation Agreement", as applicable, and other attachments. These cover pages and other attachments are incorporated into this Agreement by this reference

4.3. PROFESSIONAL AND SUBSCRIPTION SERVICES. If Customer purchases professional or subscription Services as part of the Solution, additional or different terms specific to such Service will be included in the applicable Addendum and will apply to those Services. Customer may purchase additional professional or subscription services by issuing a purchase order referencing this Agreement and Motorola's proposal for such additional services.

4.4. Any information in the form of specifications, drawings, reprints, technical information or otherwise furnished to Customer in providing Services under this Agreement or Motorola data viewed, accessed, will remain Motorola's property, will be deemed proprietary, Confidential Information. This Confidential Information will be promptly returned at Motorola's request.

4.5. TOOLS. All tools, equipment, dies, gauges, models, drawings or other materials paid for or furnished by Motorola for the purpose of providing Services under this Agreement will be and remain the sole property of Motorola. Customer will safeguard all such property while it is in Customer's custody or control, be liable for any loss or damage to this property, and return it to Motorola upon request. This property will be held by Customer for Motorola's use without charge and may be removed from Customer's premises by Motorola at any time without restriction. Upon termination of the contract for any reason, Customer shall return to Motorola all equipment delivered to Customer.

4.6. COVENANT NOT TO EMPLOY. During the term of this Agreement and continuing for a period of two (2) years thereafter, Customer will not hire, engage on contract, solicit the employment of, or recommend employment to any third party of any employee of Motorola or its subcontractors without the prior written authorization of Motorola. This provision applies only to those employees of Motorola or its subcontractors who are responsible for rendering Services under this Agreement. If this provision is found to be overly broad under applicable law, it will be modified as necessary to conform to applicable law.

4.7. **CUSTOMER OBLIGATIONS.** If the applicable Statement of Work or Addendum contains assumptions that affect the Services or Deliverables, Customer will verify that they are accurate and complete. Any information that Customer provides to Motorola concerning the Services or Deliverables will be accurate and complete in all material respects. Customer will make timely decisions and obtain any required management approvals that are reasonably necessary for Motorola to perform the Services and its other duties under this Agreement. Unless the Statement of Work states the contrary, Motorola may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions and Customer-provided information, decisions and approvals described in this paragraph.

4.8. **ASSUMPTIONS.** If any assumptions or conditions contained in this Agreement, applicable Addenda or Statements of Work prove to be incorrect or if Customer's obligations are not performed, Motorola's ability to perform under this Agreement may be impacted and changes to the Contract Price, subscription fees, project schedule, Deliverables, or other changes may be necessary.

4.9. **NON-PRECLUSION.** If, as a result of the Services performed under this Agreement, Motorola recommends that Customer purchase products or other services, nothing in this Agreement precludes Motorola from participating in a future competitive bidding process or otherwise offering or selling the recommended products or other services to Customer. Customer represents that this paragraph does not violate its procurement or other laws, regulations, or policies.

4.10. **PROPRIETARY MATERIALS.** Customer acknowledges that Motorola may use and/or provide Customer with access to Proprietary Materials and Derivative Proprietary Materials. The Proprietary Materials and the Derivative Proprietary Materials are the sole and exclusive property of Motorola and Motorola retains all right, title and interest in and to the Proprietary Materials and Derivative Proprietary Materials.

4.11. **ADDITIONAL SERVICES.** Any services performed by Motorola outside the scope of this Agreement at the direction of Customer will be considered to be additional Services which are subject to additional charges. Any agreement to perform additional Services will be reflected in a written and executed change order, Addendum or amendment to this Agreement.

Section 5 PERFORMANCE SCHEDULE

The Parties will perform their respective responsibilities in accordance with the Performance Schedule. By executing this Agreement, Customer authorizes Motorola to proceed with contract performance.

Section 6 CONTRACT PRICE, PAYMENT AND INVOICING

6.1. Customer affirms that a purchase order or notice to proceed is not required for contract performance or for subsequent years of service, if any, and that sufficient funds have been appropriated in accordance with applicable law. The Customer will pay all invoices as received from Motorola and any changes in scope will be subject to the change order process as described in this Agreement. At the time of execution of this Agreement, the Customer will provide all necessary reference information to include on invoices for payment in accordance with this Agreement.

6.2. **CONTRACT PRICE.** The Contract Price in U.S. dollars is \$_____. If applicable, a pricing summary is included with the Payment schedule in Exhibit B. Motorola has priced the Services, Software, and Equipment as an integrated System. A change in Software or Equipment quantities, or Services, may affect the overall Contract Price, including discounts if applicable. Fees for professional, SUA, and/or subscription services which are not included in the Contract Price may be listed in Exhibit B, the pricing pages of the proposal, or the applicable Addendum.

6.3. **INVOICING AND PAYMENT.** Motorola will submit invoices to Customer according to the Payment schedule in Exhibit B. Invoices will be mailed or emailed to Customer pursuant to Section 6.5, Invoicing and

Shipping Addresses. Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Customer will make payments when due in the form of a wire transfer, check, or cashier's check from a U.S. financial institution. Overdue invoices will bear simple interest at the maximum allowable rate. For reference, the Federal Tax Identification Number for Motorola is 36-1115800.

6.4. FREIGHT, TITLE, AND RISK OF LOSS. Motorola will pre-pay and add all freight charges to the invoices. Title and risk of loss to the Equipment will pass to Customer upon shipment. Title to Software will not pass to Customer at any time. Motorola will pack and ship all Equipment in accordance with good commercial practices.

6.5. INVOICING AND SHIPPING ADDRESSES. Invoices will be sent to the Customer at the following address:

Name: _____
Address: _____
Phone: _____

E-INVOICE. To receive invoices via email:

Customer Account Number: _____
Customer Accounts Payable Email: _____
Customer CC(optional) Email: _____

The address which is the ultimate destination where the Equipment will be delivered to Customer is:

Name: _____
Address: _____

The Equipment will be shipped to the Customer at the following address (insert if this information is known):

Name: _____
Address: _____
Phone: _____

Customer may change this information by giving written notice to Motorola.

Section 7 SITES AND SITE CONDITIONS

7.1. ACCESS TO SITES. In addition to its responsibilities described elsewhere in this Agreement, Customer will provide a designated project manager; all necessary construction and building permits, zoning variances, licenses, and any other approvals that are necessary to develop or use the sites and mounting locations; and access to the worksites or vehicles identified in the Technical and Implementation Documents as reasonably requested by Motorola so that it may perform its duties in accordance with the Performance Schedule and Statement of Work. If the Statement of Work so indicates, Motorola may assist Customer in the local building permit process.

7.2. SITE CONDITIONS. Customer will ensure that all work sites it provides will be safe, secure, and in compliance with all applicable industry and OSHA standards. To the extent applicable and unless the Statement of Work states to the contrary, Customer will ensure that these work sites have adequate: physical space; air conditioning and other environmental conditions; adequate and appropriate electrical power outlets, distribution, equipment and connections; and adequate telephone or other communication lines (including modem access and adequate interfacing networking capabilities), all for the installation, use and maintenance of the System. Before installing the Equipment or Software at a work site, Motorola may inspect the work site and advise Customer of any apparent deficiencies or non-conformities with the requirements of this Section. This Agreement is predicated upon normal soil conditions as defined by the version of E.I.A. standard RS-222 in effect on the Effective Date.

7.3. SITE ISSUES. If a Party determines that the sites identified in the Technical and Implementation Documents are no longer available or desired, or if subsurface, structural, adverse environmental or latent conditions at any site differ from those indicated in the Technical and Implementation Documents, the Parties will promptly investigate the conditions and will select replacement sites or adjust the installation plans and

specifications as necessary. If change in sites or adjustment to the installation plans and specifications causes a change in the cost or time to perform, the Parties will equitably amend the Contract Price, Performance Schedule, or both, by a change order.

Section 8 TRAINING

Any training to be provided by Motorola to Customer will be described in the applicable Statement of Work. Customer will notify Motorola immediately if a date change for a scheduled training program is required. If Motorola incurs additional costs because Customer reschedules a training program less than thirty (30) days before its scheduled start date, Motorola may recover these additional costs.

Section 9 SYSTEM ACCEPTANCE

9.1. COMMENCEMENT OF ACCEPTANCE TESTING. Motorola will provide to Customer at least ten (10) days notice before the Acceptance Tests commence. System testing will occur only in accordance with the Acceptance Test Plan.

9.2. SYSTEM ACCEPTANCE. System Acceptance will occur upon successful completion of the Acceptance Tests. Upon System Acceptance, the Parties will memorialize this event by promptly executing a System Acceptance Certificate. If the Acceptance Test Plan includes separate tests for individual Subsystems or phases of the System, acceptance of the individual Subsystem or phase will occur upon the successful completion of the Acceptance Tests for the Subsystem or phase, and the Parties will promptly execute an acceptance certificate for the Subsystem or phase. If Customer believes the System has failed the completed Acceptance Tests, Customer will provide to Motorola a written notice that includes the specific details of the failure. If Customer does not provide to Motorola a failure notice within thirty (30) days after completion of the Acceptance Tests, System Acceptance will be deemed to have occurred as of the completion of the Acceptance Tests. Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance or Subsystem acceptance, but will be corrected according to a mutually agreed schedule.

9.3. BENEFICIAL USE. Customer acknowledges that Motorola's ability to perform its implementation and testing responsibilities may be impeded if Customer begins using the System before System Acceptance. Therefore, Customer will not commence Beneficial Use before System Acceptance without Motorola's prior written authorization, which will not be unreasonably withheld. Motorola is not responsible for System performance deficiencies that occur during unauthorized Beneficial Use. Upon commencement of Beneficial Use, Customer assumes responsibility for the use and operation of the System.

9.4. FINAL PROJECT ACCEPTANCE. Final Project Acceptance will occur after System Acceptance when all deliverables and other work have been completed. When Final Project Acceptance occurs, the parties will promptly memorialize this final event by so indicating on the System Acceptance Certificate.

Section 10 REPRESENTATIONS AND WARRANTIES

10.1. SYSTEM FUNCTIONALITY. Motorola represents that the System will perform in accordance with the Specifications in all material respects. Upon System Acceptance or Beneficial Use, whichever occurs first, this System functionality representation is fulfilled. Motorola is not responsible for System performance deficiencies that are caused by ancillary equipment not furnished by Motorola which is attached to or used in connection with the System or for reasons or parties beyond Motorola's control, such as natural causes; the construction of a building that adversely affects the microwave path reliability or radio frequency (RF) coverage; the addition of frequencies at System sites that cause RF interference or intermodulation; or Customer changes to load usage or configuration outside the Specifications.

10.2. EQUIPMENT WARRANTY. During the Warranty Period, Motorola warrants that the Equipment under normal use and service will be free from material defects in materials and workmanship. If System Acceptance is delayed beyond six (6) months after shipment of the Equipment by events or causes beyond Motorola's control,

this warranty expires eighteen (18) months after the shipment of the Equipment.

10.3. **SOFTWARE WARRANTY.** Except as described in the SwSP and unless otherwise stated in the Software License Agreement, during the Warranty Period, Motorola warrants the Software in accordance with the warranty terms set forth in the Software License Agreement and the provisions of this Section that are applicable to the Software. If System Acceptance is delayed beyond six (6) months after shipment of the Motorola Software by events or causes beyond Motorola's control, this warranty expires eighteen (18) months after the shipment of the Motorola Software. **Nothing in this Warranty provision is intended to conflict or modify the Software Support Policy. In the event of an ambiguity or conflict between the Software Warranty and Software Support Policy, the Software Support Policy governs.**

10.4. **EXCLUSIONS TO EQUIPMENT AND SOFTWARE WARRANTIES.** These warranties do not apply to: (i) defects or damage resulting from: use of the Equipment or Software in other than its normal, customary, and authorized manner; accident, liquids, neglect, or acts of God; testing, maintenance, disassembly, repair, installation, alteration, modification, or adjustment not provided or authorized in writing by Motorola; Customer's failure to comply with all applicable industry and OSHA standards; (ii) breakage of or damage to antennas unless caused directly by defects in material or workmanship; (iii) Equipment that has had the serial number removed or made illegible; (iv) batteries (because they carry their own separate limited warranty) or consumables; (v) freight costs to ship Equipment to the repair depot; (vi) scratches or other cosmetic damage to Equipment surfaces that does not affect the operation of the Equipment; and (vii) normal or customary wear and tear.

10.5. **SERVICE WARRANTY.** During the Warranty Period, Motorola warrants that the Services will be provided in a good and workmanlike manner and will conform in all material respects to the applicable Statement of Work. Services will be free of defects in materials and workmanship for a period of ninety (90) days from the date the performance of the Services are completed. Customer acknowledges that the Deliverables may contain recommendations, suggestions or advice from Motorola to Customer (collectively, "recommendations"). Motorola makes no warranties concerning those recommendations, and Customer alone accepts responsibility for choosing whether and how to implement the recommendations and the results to be realized from implementing them.

10.6. **WARRANTY CLAIMS.** To assert a warranty claim, Customer must notify Motorola in writing of the claim before the expiration of the Warranty Period. Upon receipt of this notice, Motorola will investigate the warranty claim. If this investigation confirms a valid Equipment or Software warranty claim, Motorola will (at its option and at no additional charge to Customer) repair the defective Equipment or Motorola Software, replace it with the same or equivalent product, or refund the price of the defective Equipment or Motorola Software. These actions will be the full extent of Motorola's liability for the warranty claim. In the event of a valid Services warranty claim, Customer's sole remedy is to require Motorola to re-perform the non-conforming Service or to refund, on a pro-rata basis, the fees paid for the non-conforming Service. If this investigation indicates the warranty claim is not valid, then Motorola may invoice Customer for responding to the claim on a time and materials basis using Motorola's then current labor rates. Repaired or replaced product is warranted for the balance of the original applicable warranty period. All replaced products or parts will become the property of Motorola.

10.7. **ORIGINAL END USER IS COVERED.** These express limited warranties are extended by Motorola to the original user purchasing the System or Services for commercial, industrial, or governmental use only, and are not assignable or transferable.

10.8. **DISCLAIMER OF OTHER WARRANTIES.** THESE WARRANTIES ARE THE COMPLETE WARRANTIES FOR THE EQUIPMENT AND MOTOROLA SOFTWARE PROVIDED UNDER THIS AGREEMENT AND ARE GIVEN IN LIEU OF ALL OTHER WARRANTIES. MOTOROLA DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE.

Section 11 DELAYS

11.1. **FORCE MAJEURE.** Neither Party will be liable for its non-performance or delayed performance if caused

by a Force Majeure. A Party that becomes aware of a Force Majeure that will significantly delay performance will notify the other Party promptly (but in no event later than fifteen days) after it discovers the Force Majeure. If a Force Majeure occurs, the Parties will execute a change order to extend the Performance Schedule or applicable Addenda for a time period that is reasonable under the circumstances.

11.2. PERFORMANCE SCHEDULE DELAYS CAUSED BY CUSTOMER. If Customer (including its other contractors) delays the Performance Schedule, it will make the promised payments according to the Payment schedule as if no delay occurred; and the Parties will execute a change order to extend the Performance Schedule and, if requested, compensate Motorola for all reasonable charges incurred because of the delay. Delay charges may include costs incurred by Motorola or its subcontractors for additional freight, warehousing and handling of Equipment; extension of the warranties; travel; suspending and re-mobilizing the work; additional engineering, project management, and standby time calculated at then current rates; and preparing and implementing an alternative implementation plan.

Section 12 DISPUTES

The Parties will use the following procedure to address any dispute arising under this Agreement (a "Dispute").

12.1. GOVERNING LAW. This Agreement will be governed by and construed in accordance with the laws of the State in which the System is installed.

12.2. NEGOTIATION. Either Party may initiate the Dispute resolution procedures by sending a notice of Dispute ("Notice of Dispute"). The Parties will attempt to resolve the Dispute promptly through good faith negotiations including 1) timely escalation of the Dispute to executives who have authority to settle the Dispute and who are at a higher level of management than the persons with direct responsibility for the matter and 2) direct communication between the executives. If the Dispute has not been resolved within ten (10) days from the Notice of Dispute, the Parties will proceed to mediation.

12.3. MEDIATION. The Parties will choose an independent mediator within thirty (30) days of a notice to mediate from either Party ("Notice of Mediation"). Neither Party may unreasonably withhold consent to the selection of a mediator. If the Parties are unable to agree upon a mediator, either Party may request that American Arbitration Association nominate a mediator. Each Party will bear its own costs of mediation, but the Parties will share the cost of the mediator equally. Each Party will participate in the mediation in good faith and will be represented at the mediation by a business executive with authority to settle the Dispute.

12.4. LITIGATION, VENUE and JURISDICTION. If a Dispute remains unresolved for sixty (60) days after receipt of the Notice of Mediation, either Party may then submit the Dispute to a court of competent jurisdiction in the state in which the System is installed. Each Party irrevocably agrees to submit to the exclusive jurisdiction of the courts in such state over any claim or matter arising under or in connection with this Agreement.

12.5. CONFIDENTIALITY. All communications pursuant to subsections 12.2 and 12.3 will be treated as compromise and settlement negotiations for purposes of applicable rules of evidence and any additional confidentiality protections provided by applicable law. The use of these Dispute resolution procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either Party.

Section 13 DEFAULT AND TERMINATION

13.1. DEFAULT BY A PARTY. If either Party fails to perform a material obligation under this Agreement, the other Party may consider the non-performing Party to be in default (unless a Force Majeure causes the failure) and may assert a default claim by giving the non-performing Party a written and detailed notice of default. Except for a default by Customer for failing to pay any amount when due under this Agreement which must be cured immediately, the defaulting Party will have thirty (30) days after receipt of the notice of default to either cure the default or, if the default is not curable within thirty (30) days, provide a written cure plan. The defaulting Party will begin implementing the cure plan immediately after receipt of notice by the other Party that it approves the plan. If Customer is the

defaulting Party, Motorola may stop work on the project until it approves the Customer's cure plan.

13.2. **FAILURE TO CURE.** If a defaulting Party fails to cure the default as provided above in Section 13.1, unless otherwise agreed in writing, the non-defaulting Party may terminate any unfulfilled portion of this Agreement. In the event of termination for default, the defaulting Party will promptly return to the non-defaulting Party any of its Confidential Information. If Customer is the non-defaulting Party, terminates this Agreement as permitted by this Section, and completes the System through a third Party, Customer may as its exclusive remedy recover from Motorola reasonable costs incurred to complete the System to a capability not exceeding that specified in this Agreement less the unpaid portion of the Contract Price. Customer will mitigate damages and provide Motorola with detailed invoices substantiating the charges. In the event Customer elects to terminate this Agreement for any reason other than default, Customer shall pay Motorola for the conforming Equipment and/or Software delivered and all services performed.

Section 14 INDEMNIFICATION

14.1. **GENERAL INDEMNITY BY Motorola.** Motorola will indemnify and hold Customer harmless from any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Customer to the extent it is caused by the negligence of Motorola, its subcontractors, or their employees or agents, while performing their duties under this Agreement, if Customer gives Motorola prompt, written notice of any claim or suit. Customer will cooperate with Motorola in its defense or settlement of the claim or suit. This Section sets forth the full extent of Motorola's general indemnification of Customer from liabilities that are in any way related to Motorola's performance under this Agreement.

14.2. **GENERAL INDEMNITY BY CUSTOMER.** Customer will indemnify and hold Motorola harmless from any and all liability, expense, judgment, suit, cause of action, or demand for personal injury, death, or direct damage to tangible property which may accrue against Motorola to the extent it is caused by the negligence of Customer, its other contractors, or their employees or agents, while performing their duties under this Agreement, if Motorola gives Customer prompt, written notice of any the claim or suit. Motorola will cooperate with Customer in its defense or settlement of the claim or suit. This Section sets forth the full extent of Customer's general indemnification of Motorola from liabilities that are in any way related to Customer's performance under this Agreement.

14.3. PATENT AND COPYRIGHT INFRINGEMENT.

14.3.1. Motorola will defend at its expense any suit brought against Customer to the extent it is based on a third-party claim alleging that the Equipment manufactured by Motorola or the Motorola Software ("Motorola Product") directly infringes a United States patent or copyright ("Infringement Claim"). Motorola's duties to defend and indemnify are conditioned upon: Customer promptly notifying Motorola in writing of the Infringement Claim; Motorola having sole control of the defense of the suit and all negotiations for its settlement or compromise; and Customer providing to Motorola cooperation and, if requested by Motorola, reasonable assistance in the defense of the Infringement Claim. In addition to Motorola's obligation to defend, and subject to the same conditions, Motorola will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim or agreed to, in writing, by Motorola in settlement of an Infringement Claim.

14.3.2 If an Infringement Claim occurs, or in Motorola's opinion is likely to occur, Motorola may at its option and expense: (a) procure for Customer the right to continue using the Motorola Product; (b) replace or modify the Motorola Product so that it becomes non-infringing while providing functionally equivalent performance; or (c) accept the return of the Motorola Product and grant Customer a credit for the Motorola Product, less a reasonable charge for depreciation. The depreciation amount will be calculated based upon generally accepted accounting standards.

14.3.3 Motorola will have no duty to defend or indemnify for any Infringement Claim that is based upon: (a) the combination of the Motorola Product with any software, apparatus or device not furnished by Motorola; (b) the use of ancillary equipment or software not furnished by Motorola and that is attached to or used in connection with the Motorola Product; (c) Motorola Product designed or manufactured in accordance with Customer's designs, specifications, guidelines or instructions, if the alleged infringement would not have occurred without such designs,

specifications, guidelines or instructions; (d) a modification of the Motorola Product by a party other than Motorola; (e) use of the Motorola Product in a manner for which the Motorola Product was not designed or that is inconsistent with the terms of this Agreement; or (f) the failure by Customer to install an enhancement release to the Motorola Software that is intended to correct the claimed infringement. In no event will Motorola's liability resulting from its indemnity obligation to Customer extend in any way to royalties payable on a per use basis or the Customer's revenues, or any royalty basis other than a reasonable royalty based upon revenue derived by Motorola from Customer from sales or license of the infringing Motorola Product.

14.3.4. This Section 14 provides Customer's sole and exclusive remedies and Motorola's entire liability in the event of an Infringement Claim. Customer has no right to recover and Motorola has no obligation to provide any other or further remedies, whether under another provision of this Agreement or any other legal theory or principle, in connection with an Infringement Claim. In addition, the rights and remedies provided in this Section 14 are subject to and limited by the restrictions set forth in Section 15.

Section 15 LIMITATION OF LIABILITY

Except for personal injury or death, Motorola's total liability, whether for breach of contract, warranty, negligence, strict liability in tort, indemnification, or otherwise, will be limited to the direct damages recoverable under law, but not to exceed the price of the Equipment, Software, or implementation and other one-time Services with respect to which losses or damages are claimed. With respect to all subscription or other ongoing Services and unless as otherwise provided under the applicable Addenda, Motorola's total liability will be limited to the direct damages recoverable under law, but not to exceed the price of twelve (12) months of Services preceding the incident giving rise to the claim. **ALTHOUGH THE PARTIES ACKNOWLEDGE THE POSSIBILITY OF SUCH LOSSES OR DAMAGES, THEY AGREE THAT MOTOROLA WILL NOT BE LIABLE FOR ANY COMMERCIAL LOSS, INCONVENIENCE, LOSS OF USE, LOSS TIME, DATA, GOODWILL, REVENUES, PROFITS OR SAVINGS; OR OTHER SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO OR ARISING FROM THIS AGREEMENT, THE SALE OR USE OF THE EQUIPMENT OR SOFTWARE, OR THE PERFORMANCE OF SERVICES BY MOTOROLA PURSUANT TO THIS AGREEMENT.** This limitation of liability provision survives the expiration or termination of the Agreement and applies notwithstanding any contrary provision. No action for contract breach or otherwise relating to the transactions contemplated by this Agreement may be brought more than one (1) year after the accrual of the cause of action, except for money due upon an open account.

Section 16 CONFIDENTIALITY AND PROPRIETARY RIGHTS

16.1. CONFIDENTIAL INFORMATION.

16.1.1. Each party is a disclosing party ("Discloser") and a receiving party ("Recipient") under this Agreement. All Deliverables will be deemed to be Motorola's Confidential Information. During the term of this Agreement and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (i) not disclose Confidential Information to any third party; (ii) restrict disclosure of Confidential Information to only those employees (including, but not limited to, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must be directly involved with the Confidential Information for the purpose and who are bound by confidentiality terms substantially similar to those in this Agreement; (iii) not copy, reproduce, reverse engineer, decompile, or disassemble any Confidential Information; (iv) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (v) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (vi) only use the Confidential Information as needed to fulfill this Agreement.

16.1.2. Recipient is not obligated to maintain as confidential, Confidential Information that Recipient can demonstrate by documentation (i) is now available or becomes available to the public without breach of this

agreement; (ii) is explicitly approved for release by written authorization of Discloser; (iii) is lawfully obtained from a third party or parties without a duty of confidentiality; (iv) is known to the Recipient prior to such disclosure; or (v) is independently developed by Recipient without the use of any of Discloser's Confidential Information or any breach of this Agreement.

16.1.3. All Confidential Information remains the property of the Discloser and will not be copied or reproduced without the express written permission of the Discloser, except for copies that are absolutely necessary in order to fulfill this Agreement. Within ten (10) days of receipt of Discloser's written request, Recipient will return all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain one (1) archival copy of the Confidential Information that it may use only in case of a dispute concerning this Agreement. No license, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. The Discloser warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

16.2. **PRESERVATION OF MOTOROLA'S PROPRIETARY RIGHTS.** Motorola, the third party manufacturer of any Equipment, and the copyright owner of any Non-Motorola Software own and retain all of their respective Proprietary Rights in the Equipment and Software, and nothing in this Agreement is intended to restrict their Proprietary Rights. All intellectual property developed, originated, or prepared by Motorola in connection with providing to Customer the Equipment, Software, or related services remain vested exclusively in Motorola, and this Agreement does not grant to Customer any shared development rights of intellectual property. Except as explicitly provided in the Software License Agreement, Motorola does not grant to Customer, either directly or by implication, estoppel, or otherwise, any right, title or interest in Motorola's Proprietary Rights. Customer will not modify, disassemble, peel components, decompile, otherwise reverse engineer or attempt to reverse engineer, derive source code or create derivative works from, adapt, translate, merge with other software, reproduce, distribute, sublicense, sell or export the Software, or permit or encourage any third party to do so. The preceding sentence does not apply to Open Source Software which is governed by the standard license of the copyright owner.

16.3 **VOLUNTARY DISCLOSURE.** Except as required to fulfill its obligations under this Agreement, Motorola will have no obligation to provide Customer with access to its Confidential Information and/or proprietary information. Under no circumstances will Motorola be required to provide any data related to cost and pricing.

16.4 DATA AND FEEDBACK.

16.4.1 To the extent permitted by law, Customer owns all right, title and interest in System Data created solely by it or its agents (hereafter, "Customer Data"), and grants to Motorola the right to use, host, cache, store, reproduce, copy, modify, combine, analyze, create derivatives from, communicate, transmit, publish, display, and distribute such Customer Data.

16.4.2 Motorola owns all right, title and interest in data resulting from System Data that is or has been transformed, altered, processed, aggregated, correlated or operated on (hereafter, "Derivative Data").

16.4.3 Any Feedback given by Customer is and will be entirely voluntary and, even if designated as confidential, will not create any confidentiality obligation for Motorola. Motorola will be free to use, reproduce, license or otherwise distribute and exploit the Feedback without any obligation to Customer. Customer acknowledges that Motorola's receipt of the Feedback does not imply or create recognition by Motorola of either the novelty or originality of any idea. The parties further agree that all fixes, modifications and improvements made to Motorola products or services conceived of or made by Motorola that are based, either in whole or in part, on the Feedback are the exclusive property of Motorola and all right, title and interest in and to such fixes, modifications or improvements to the Motorola product or service will vest solely in Motorola.

Section 17 GENERAL

17.1. **TAXES.** The Contract Price does not include any excise, sales, lease, use, property, or other taxes, assessments or duties, all of which will be paid by Customer except as exempt by law. If Motorola is required to pay any of these taxes, Motorola will send an invoice to Customer and Customer will pay to Motorola the amount of the taxes (including any interest and penalties) within thirty (30) days after the date of the invoice. Customer will be solely responsible for reporting the Equipment for personal property tax purposes, and Motorola will be solely responsible for reporting taxes on its income or net worth.

17.2. **ASSIGNABILITY AND SUBCONTRACTING.** Except as provided herein, neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, which consent will not be unreasonably withheld. Any attempted assignment, delegation, or transfer without the necessary consent will be void. Notwithstanding the foregoing, Motorola may assign this Agreement to any of its affiliates or its right to receive payment without the prior consent of Customer. In addition, in the event Motorola separates one or more of its businesses (each a "Separated Business"), whether by way of a sale, establishment of a joint venture, spin-off or otherwise (each a "Separation Event"), Motorola may, without the prior written consent of the other Party and at no additional cost to Motorola, assign this Agreement such that it will continue to benefit the Separated Business and its affiliates (and Motorola and its affiliates, to the extent applicable) following the Separation Event. Motorola may subcontract any of the work, but subcontracting will not relieve Motorola of its duties under this Agreement.

17.3. **WAIVER.** Failure or delay by either Party to exercise a right or power under this Agreement will not be a waiver of the right or power. For a waiver of a right or power to be effective, it must be in a writing signed by the waiving Party. An effective waiver of a right or power will not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power.

17.4. **SEVERABILITY.** If a court of competent jurisdiction renders any part of this Agreement invalid or unenforceable, that part will be severed and the remainder of this Agreement will continue in full force and effect.

17.5. **INDEPENDENT CONTRACTORS.** Each Party will perform its duties under this Agreement as an independent contractor. The Parties and their personnel will not be considered to be employees or agents of the other Party. Nothing in this Agreement will be interpreted as granting either Party the right or authority to make commitments of any kind for the other. This Agreement will not constitute, create, or be interpreted as a joint venture, partnership or formal business organization of any kind.

17.6. **HEADINGS AND SECTION REFERENCES.** The section headings in this Agreement are inserted only for convenience and are not to be construed as part of this Agreement or as a limitation of the scope of the particular section to which the heading refers. This Agreement will be fairly interpreted in accordance with its terms and conditions and not for or against either Party.

17.7. **NOTICES.** Notices required under this Agreement to be given by one Party to the other must be in writing and either personally delivered or sent to the address provided by the other Party by certified mail, return receipt requested and postage prepaid (or by a recognized courier service, such as Federal Express, UPS, or DHL), or by facsimile with correct answerback received, and will be effective upon receipt.

17.8. **COMPLIANCE WITH APPLICABLE LAWS.** Each Party will comply with all applicable federal, state, and local laws, regulations and rules concerning the performance of this Agreement or use of the System. Customer will obtain and comply with all Federal Communications Commission ("FCC") licenses and authorizations required for the installation, operation and use of the System before the scheduled installation of the Equipment. Although Motorola might assist Customer in the preparation of its FCC license applications, neither Motorola nor any of its

employees is an agent or representative of Customer in FCC or other matters.

17.9 FUTURE REGULATORY REQUIREMENTS. The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

17.10. AUTHORITY TO EXECUTE AGREEMENT. Each Party represents that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and to perform its duties under this Agreement; the person executing this Agreement on its behalf has the authority to do so; upon execution and delivery of this Agreement by the Parties, it is a valid and binding contract, enforceable in accordance with its terms; and the execution, delivery, and performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

17.11. ADMINISTRATOR LEVEL ACCOUNT ACCESS. If applicable to the type of System purchased by Customer, Motorola will provide Customer with Administrative User Credentials. Customer agrees to only grant access to the Administrative User Credentials to those personnel with the training and experience to correctly use them. Customer is responsible for protecting Administrative User Credentials from disclosure and maintaining Credential validity by, among other things, updating passwords when required. Customer may be asked to provide valid Administrative User Credentials when in contact with Motorola System support personnel. Customer understands that changes made as the Administrative User can significantly impact the performance of the System. Customer agrees that it will be solely responsible for any negative impact on the System or its users by any such changes. System issues occurring as a result of changes made using the Administrative User Credentials may impact Motorola's ability to perform Services or other obligations under the Agreement. In such cases, a revision to the appropriate provisions of the Agreement, including the Statement of Work, may be necessary. To the extent Motorola provides assistance to correct any issues caused by or arising out of the use of or failure to maintain Administrative User Credentials, Motorola will be entitled to bill Customer and Customer will pay Motorola on a time and materials basis for resolving the issue.

17.12. SURVIVAL OF TERMS. The following provisions will survive the expiration or termination of this Agreement for any reason: Section 3.5 (Motorola Software); Section 3.6 (Non-Motorola Software); if any payment obligations exist, Sections 6.2 and 6.3 (Contract Price and Invoicing and Payment); Subsection 10.8 (Disclaimer of Implied Warranties); Section 12 (Disputes); Section 15 (Limitation of Liability); and Section 16 (Confidentiality and Proprietary Rights); and all of the General provisions in Section 17.

17.13. ENTIRE AGREEMENT. This Agreement, including all Exhibits, constitutes the entire agreement of the Parties regarding the subject matter of the Agreement and supersedes all previous agreements, proposals, and understandings, whether written or oral, relating to this subject matter. This Agreement may be executed in multiple counterparts, and shall have the same legal force and effect as if the Parties had executed it as a single document. The Parties may sign in writing, or by electronic signature, including by email. An electronic signature, or a facsimile copy or computer image, such as a PDF or tiff image, of a signature, shall be treated as and shall have the same effect as an original signature. In addition, an electronic signature, a true and correct facsimile copy or computer image of this Agreement shall be treated as and shall have the same effect as an original signed copy of this document. This Agreement may be amended or modified only by a written instrument signed by authorized representatives of both Parties. The preprinted terms and conditions found on any Customer purchase or purchase order, acknowledgment or other form will not be considered an amendment or modification of this Agreement, even if a representative of each Party signs that document.

The Parties hereby enter into this Agreement as of the Effective Date.

Motorola Solutions, Inc.

By:  _____

Name: Gordon Poole _____

Title: Area Sales Manager _____

Date: 8/4/2022 _____

Customer

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A

Motorola Software License Agreement

This Exhibit A Motorola Software License Agreement ("Agreement") is between Motorola Solutions, Inc., ("Motorola"), and _____ ("Licensee").

For good and valuable consideration, the parties agree as follows:

Section 1 DEFINITIONS

1.1 "Designated Products" means products provided by Motorola to Licensee with which or for which the Software and Documentation is licensed for use.

1.2 "Documentation" means product and software documentation that specifies technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.3 "Open Source Software" means software with either freely obtainable source code, license for modification, or permission for free distribution.

1.4 "Open Source Software License" means the terms or conditions under which the Open Source Software is licensed.

1.5 "Primary Agreement" means the agreement to which this exhibit is attached.

1.6 "Security Vulnerability" means a flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

1.7 "Software" (i) means proprietary software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software; (ii) means any modifications, enhancements, new versions and new releases of the software provided by Motorola; and (iii) may contain one or more items of software owned by a third party supplier. The term "Software" does not include any third party software provided under separate license or third party software not licensable under the terms of this Agreement.

Section 2 SCOPE

Motorola and Licensee enter into this Agreement in connection with Motorola's delivery of certain proprietary software or products containing embedded or pre-loaded proprietary software, or both. This Agreement contains the terms and conditions of the license Motorola is providing to Licensee, and Licensee's use of the proprietary software and affiliated documentation.

Section 3 GRANT OF LICENSE

3.1. Subject to the provisions of this Agreement and the payment of applicable license fees, Motorola grants to Licensee a personal, limited, non-transferable (except as permitted in Section 7) and non-exclusive license under Motorola's copyrights and Confidential Information (as defined in the Primary Agreement) embodied in the Software to use the Software, in object code form, and the Documentation solely in connection with Licensee's use of the Designated Products. This Agreement does not grant any rights to source code.

3.2. If the Software licensed under this Agreement contains or is derived from Open Source Software, the terms

and conditions governing the use of such Open Source Software are in the Open Source Software Licenses of the copyright owner and not this Agreement. If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of the Open Source Software Licenses governing Licensee's use of the Open Source Software, the terms and conditions of the license grant of the applicable Open Source Software Licenses will take precedence over the license grants in this Agreement. If requested by Licensee, Motorola will use commercially reasonable efforts to: (i) determine whether any Open Source Software is provided under this Agreement; and (ii) identify the Open Source Software (or specify where that license may be found).

3.3 TO THE EXTENT, IF ANY, THAT THERE IS A SEPARATE LICENSE AGREEMENT PACKAGED WITH, OR PROVIDED ELECTRONICALLY WITH, A PARTICULAR PRODUCT THAT BECOMES EFFECTIVE ON AN ACT OF ACCEPTANCE BY THE END USER, THEN THAT AGREEMENT SUPERSEDES THE SOFTWARE LICENSE AGREEMENT AS TO THE END USER OF EACH SUCH PRODUCT.

Section 4 LIMITATIONS ON USE

4.1. Licensee may use the Software only for Licensee's internal business purposes and only in accordance with the Documentation. Any other use of the Software is strictly prohibited. Without limiting the general nature of these restrictions, Licensee will not make the Software available for use by third parties on a "time sharing," "application service provider," or "service bureau" basis or for any other similar commercial rental or sharing arrangement.

4.2. Licensee will not, and will not allow or enable any third party to: (i) reverse engineer, disassemble, peel components, decompile, reprogram or otherwise reduce the Software or any portion to a human perceptible form or otherwise attempt to recreate the source code; (ii) modify, adapt, create derivative works of, or merge the Software; (iii) copy, reproduce, distribute, lend, or lease the Software or Documentation to any third party, grant any sublicense or other rights in the Software or Documentation to any third party, or take any action that would cause the Software or Documentation to be placed in the public domain; (iv) remove, or in any way alter or obscure, any copyright notice or other notice of Motorola's proprietary rights; (v) provide, copy, transmit, disclose, divulge or make the Software or Documentation available to, or permit the use of the Software by any third party or on any machine except as expressly authorized by this Agreement; or (vi) use, or permit the use of, the Software in a manner that would result in the production of a copy of the Software solely by activating a machine containing the Software. Licensee may make one copy of Software to be used solely for archival, back-up, or disaster recovery purposes; *provided* that Licensee may not operate that copy of the Software at the same time as the original Software is being operated. Licensee may make as many copies of the Documentation as it may reasonably require for the internal use of the Software.

4.3. Unless otherwise authorized by Motorola in writing, Licensee will not, and will not enable or allow any third party to: (i) install a licensed copy of the Software on more than one unit of a Designated Product; or (ii) copy onto or transfer Software installed in one unit of a Designated Product onto one other device. Licensee may temporarily transfer Software installed on a Designated Product to another device if the Designated Product is inoperable or malfunctioning, if Licensee provides written notice to Motorola of the temporary transfer and identifies the device on which the Software is transferred. Temporary transfer of the Software to another device must be discontinued when the original Designated Product is returned to operation and the Software must be removed from the other device. Licensee must provide prompt written notice to Motorola at the time temporary transfer is discontinued.

4.4 Licensee will maintain, during the term of this Agreement and for a period of two years thereafter, accurate records relating to this license grant to verify compliance with this Agreement. Motorola or an independent third party ("Auditor") may inspect Licensee's premises, books and records, upon reasonable prior notice to Licensee, during Licensee's normal business hours and subject to Licensee's facility and security regulations. Motorola is responsible for the payment of all expenses and costs of the Auditor. Any information obtained by Motorola and the Auditor will be kept in strict confidence by Motorola and the Auditor and used solely for the purpose of verifying Licensee's compliance with the terms of this Agreement.

Section 5 OWNERSHIP AND TITLE

Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to Licensee under this Agreement by implication, estoppel or otherwise, except for those rights which are expressly granted to Licensee in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Designated Products, Documentation or related services, remains vested exclusively in Motorola, and Licensee will not have any shared development or other intellectual property rights.

Section 6 LIMITED WARRANTY; DISCLAIMER OF WARRANTY

6.1. Unless otherwise stated in the Primary Agreement, the commencement date and the term of the Software warranty will be a period of ninety (90) days from Motorola's shipment of the Software (the "Warranty Period"). If Licensee is not in breach of any of its obligations under this Agreement, Motorola warrants that the unmodified Software, when used properly and in accordance with the Documentation and this Agreement, will be free from a reproducible defect that eliminates the functionality or successful operation of a feature critical to the primary functionality or successful operation of the Software. Whether a defect occurs will be determined by Motorola solely with reference to the Documentation. Motorola does not warrant that Licensee's use of the Software or the Designated Products will be uninterrupted, error-free, completely free of Security Vulnerabilities, or that the Software or the Designated Products will meet Licensee's particular requirements. Motorola makes no representations or warranties with respect to any third party software included in the Software. Notwithstanding, any warranty provided by a copyright owner in its standard license terms will flow through to Licensee for third party software provided by Motorola.

6.2 Motorola's sole obligation to Licensee and Licensee's exclusive remedy under this warranty is to use reasonable efforts to remedy any material Software defect covered by this warranty. These efforts will involve either replacing the media or attempting to correct significant, demonstrable program or documentation errors or Security Vulnerabilities. If Motorola cannot correct the defect within a reasonable time, then at Motorola's option, Motorola will replace the defective Software with functionally-equivalent Software, license to Licensee substitute Software which will accomplish the same objective, or terminate the license and refund the Licensee's paid license fee.

6.3. Warranty claims are described in the Primary Agreement.

6.4. The express warranties set forth in this Section 6 are in lieu of, and Motorola disclaims, any and all other warranties (express or implied, oral or written) with respect to the Software or Documentation, including, without limitation, any and all implied warranties of condition, title, non-infringement, merchantability, or fitness for a particular purpose or use by Licensee (whether or not Motorola knows, has reason to know, has been advised, or is otherwise aware of any such purpose or use), whether arising by law, by reason of custom or usage of trade, or by course of dealing. In addition, Motorola disclaims any warranty to any person other than Licensee with respect to the Software or Documentation.

Section 7 TRANSFERS

Licensee will not transfer the Software or Documentation to any third party without Motorola's prior written consent. Motorola's consent may be withheld at its discretion and may be conditioned upon transferee paying all applicable license fees and agreeing to be bound by this Agreement. If the Designated Products are Motorola's radio products and Licensee transfers ownership of the Motorola radio products to a third party, Licensee may assign its right to use the Software (other than CPS and Motorola's FLASHport® software) which is embedded in or furnished for use with the radio products and the related Documentation; *provided* that Licensee transfers all copies of the Software and Documentation to the transferee, and Licensee and the transferee sign a transfer form to be provided by

Motorola upon request, obligating the transferee to be bound by this Agreement.

Section 8 TERM AND TERMINATION

8.1 Licensee's right to use the Software and Documentation will begin when the Primary Agreement is signed by both parties and will continue for the life of the Designated Products with which or for which the Software and Documentation have been provided by Motorola, unless Licensee breaches this Agreement, in which case this Agreement and Licensee's right to use the Software and Documentation may be terminated immediately upon notice by Motorola.

8.2 Within thirty (30) days after termination of this Agreement, Licensee must certify in writing to Motorola that all copies of the Software have been removed or deleted from the Designated Products and that all copies of the Software and Documentation have been returned to Motorola or destroyed by Licensee and are no longer in use by Licensee.

8.3 Licensee acknowledges that Motorola made a considerable investment of resources in the development, marketing, and distribution of the Software and Documentation and that Licensee's breach of this Agreement will result in irreparable harm to Motorola for which monetary damages would be inadequate. If Licensee breaches this Agreement, Motorola may terminate this Agreement and be entitled to all available remedies at law or in equity (including immediate injunctive relief and repossession of all non-embedded Software and associated Documentation unless Licensee is a Federal agency of the United States Government).

Section 9 Commercial Computer Software

9.1 *This Section 9 only applies to U.S. Government end users.* The Software, Documentation and updates are commercial items as that term is defined at 48 C.F.R. Part 2.101, consisting of "commercial computer software" and "computer software documentation" as such terms are defined in 48 C.F.R. Part 252.227-7014(a)(1) and 48 C.F.R. Part 252.227-7014(a)(5), and used in 48 C.F.R. Part 12.212 and 48 C.F.R. Part 227.7202, as applicable. Consistent with 48 C.F.R. Part 12.212, 48 C.F.R. Part 252.227-7015, 48 C.F.R. Part 227.7202-1 through 227.7202-4, 48 C.F.R. Part 52.227-19, and other relevant sections of the Code of Federal Regulations, as applicable, the Software, Documentation and Updates are distributed and licensed to U.S. Government end users: (i) only as commercial items, and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions contained herein.

9.2 If Licensee is licensing Software for end use by the United States Government or a United States Government agency, Licensee may transfer such Software license, but only if: (i) Licensee transfers all copies of such Software and Documentation to such United States Government entity or interim transferee, and (ii) Licensee has first obtained from the transferee (if applicable) and ultimate end user an enforceable end user license agreement containing restrictions substantially identical to the ones contained in this Agreement. Except as stated in the foregoing, Licensee and any transferee(s) authorized by this subsection 9.2 may not otherwise use or transfer or make available any Motorola software to any third party nor permit any party to do so.

Section 10 CONFIDENTIALITY

Licensee acknowledges that the Software and Documentation contain Motorola's valuable proprietary and Confidential Information and are Motorola's trade secrets, and that the provisions in the Primary Agreement concerning Confidential Information apply.

Section 11 LIMITATION OF LIABILITY

The Limitation of Liability provision is described in the Primary Agreement.

Section 12 NOTICES

Notices are described in the Primary Agreement.

Section 13 GENERAL

13.1. **COPYRIGHT NOTICES.** The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

13.2. **COMPLIANCE WITH LAWS.** Licensee acknowledges that the Software is subject to the laws and regulations of the United States and Licensee will comply with all applicable laws and regulations, including export laws and regulations of the United States. Licensee will not, without the prior authorization of Motorola and the appropriate governmental authority of the United States, in any form export or re-export, sell or resell, ship or reship, or divert, through direct or indirect means, any item or technical data or direct or indirect products sold or otherwise furnished to any person within any territory for which the United States Government or any of its agencies at the time of the action, requires an export license or other governmental approval. Violation of this provision is a material breach of this Agreement.

13.3 **FUTURE REGULATORY REQUIREMENTS.** The Parties acknowledge and agree that this is an evolving technological area and therefore, laws and regulations regarding Services and use of Solution may change. Changes to existing Services or the Solution required to achieve regulatory compliance may be available for an additional fee. Any required changes may also impact the price for Services.

13.4. **ASSIGNMENTS AND SUBCONTRACTING.** Motorola may assign its rights or subcontract its obligations under this Agreement, or encumber or sell its rights in any Software, without prior notice to or consent of Licensee.

13.5. **GOVERNING LAW.** This Agreement is governed by the laws of the United States to the extent that they apply and otherwise by the internal substantive laws of the State to which the Software is shipped if Licensee is a sovereign government entity, or the internal substantive laws of the State of Illinois if Licensee is not a sovereign government entity. The terms of the U.N. Convention on Contracts for the International Sale of Goods do not apply. In the event that the Uniform Computer Information Transaction Act, any version of this Act, or a substantially similar law (collectively "UCITA") becomes applicable to a party's performance under this Agreement, UCITA does not govern any aspect of this Agreement or any license granted under this Agreement, or any of the parties' rights or obligations under this Agreement. The governing law will be that in effect prior to the applicability of UCITA.

13.6. **THIRD PARTY BENEFICIARIES.** This Agreement is entered into solely for the benefit of Motorola and Licensee. No third party has the right to make any claim or assert any right under this Agreement, and no third party is deemed a beneficiary of this Agreement. Notwithstanding the foregoing, any licensor or supplier of third party software included in the Software will be a direct and intended third party beneficiary of this Agreement.

13.7. **SURVIVAL.** Sections 4, 5, 6.4, 7, 8, 9, 10, 11 and 13 survive the termination of this Agreement.

13.8. **ORDER OF PRECEDENCE.** In the event of inconsistencies between this Exhibit and the Primary Agreement, the parties agree that this Exhibit prevails, only with respect to the specific subject matter of this Exhibit, and not the Primary Agreement or any other exhibit as it applies to any other subject matter.

13.9. **SECURITY.** Motorola uses reasonable means in the design and writing of its own Software and the acquisition of third party Software to limit Security Vulnerabilities. While no software can be guaranteed to be free from Security Vulnerabilities, if a Security Vulnerability is discovered, Motorola will take the steps set forth in Section 6 of this Agreement.

Exhibit B Payment

Except for a payment that is due on the Effective Date, Customer will make payments to Motorola within thirty (30) days after the date of each invoice. Customer will make payments when due in the form of a check, cashier's check, or wire transfer drawn on a U.S. financial institution. If Customer has purchased additional Professional or Subscription services, payment will be in accordance with the applicable addenda. Payment for the System purchase will be in accordance with the following milestones.

System Purchase (excluding Subscribers, if applicable)

1. **50% of the Contract Price due upon contract execution (due upon effective date);**
2. **50% of the Contract Price due upon Final Acceptance.**

If Subscribers are purchased, 100% of the Subscriber Contract Price will be invoiced upon shipment (as shipped).

Motorola shall make partial shipments of equipment and will request payment upon shipment of such equipment. In addition, Motorola shall invoice for installations completed on a site-by-site basis or when professional services are completed, when applicable. The value of the equipment shipped/services performed will be determined by the value shipped/services performed as a percentage of the total milestone value. Unless otherwise specified, contract discounts are based upon all items proposed and overall system package. For invoicing purposes only, discounts will be applied proportionately to the FNE and Subscriber equipment values to total contract price. Overdue invoices will bear simple interest at the maximum allowable rate by state law.

For Lifecycle Support Plan and Subscription Based Services:

Motorola will invoice Customer annually in advance of each year of the plan.

The chart below outlines the hourly labor rates for Motorola System Integration resources to be used. The staffing requirements shall be multiplied by the appropriate rate per resource in the table below. The hourly labor rates are fully burdened. The hourly rates per resource type and level are listed in Table 1.

Levels	Resource Types			
	Project Management	System Engineering	System Technologist	Project Administration
4	\$ 290.00	\$ 300.00	\$ 280.00	\$ 200.00
3	\$ 240.00	\$ 250.00	\$ 240.00	\$ 180.00
2	\$ 220.00	\$ 220.00	\$ 220.00	\$ 170.00
1	\$ 190.00	\$ 210.00	\$ 210.00	\$ 160.00

Table 1 - Hourly Rates

These rates apply to ordinary days and times (Monday to Friday during the hours 8am to 5pm). Additional surcharges may apply to work done outside these timeframes. The minimum charge for any resource will be 4 hours. Travel expenses are not included in these rates and may be charged separately. The qualifications of each type and level of resource are defined in the tables found at <https://www.motorolasolutions.com/content/dam/msi/secure/services/labor-rates-exhibit-160408.pdf>. All Motorola System Integration personnel assigned to this project will be classified according to these levels. Project Administrative roles are varied and their specific duties and qualifications will be determined by the complexity and requirements of each project.

Exhibit D
System Acceptance Certificate

Customer Name: _____

Project Name: _____

This System Acceptance Certificate memorializes the occurrence of System Acceptance. Motorola and Customer acknowledge that:

1. The Acceptance Tests set forth in the Acceptance Test Plan have been successfully completed.
2. The System is accepted.

Customer Representative:

Motorola Representative:

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____
Title: _____
Date: _____

FINAL PROJECT ACCEPTANCE:

Motorola has provided and Customer has received all deliverables, and Motorola has performed all other work required for Final Project Acceptance.

Customer Representative:

Motorola Representative:

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____
Title: _____
Date: _____



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Authorization to Amend Digester No. 4 Cleaning Project

SOURCE: Public Works

COMMENT: At its meeting on September 20, 2022, the City Council awarded the Digester No. 4 Cleaning Project to Wastewater Solids Management Company. Since that time, digester No.1 has experienced damage to its gas system piping which requires it to be taken out of service to perform the required repairs. Digester No.1 must be emptied and cleaned of its contents in order to eliminate potentially explosive atmospheres (methane) before the required repairs are completed.

As Wastewater Solids Management Company was the only company to submit a quote for the cleaning of digester No.4, staff is requesting to amend the project to include the cleaning and dewatering of digester No.1. Amending the project will expedite the cleaning and repairs to both digesters.

Wastewater Solids Management Company submitted quotes of \$49,690 and \$44,690 to clean digesters No.4 and No.1 respectively, bringing the total project amount not to exceed \$103,818, inclusive of prevailing wage and a ten percent (10%) contingency. Expenditure for the project is to be funded from the Wastewater Treatment Facility Capital Reserve Fund.

RECOMMENDATION: That City Council:

1. Amend the Digester No. 4 Cleaning Project awarded to Wastewater Solids Management Company, to include digester No.1 for a total project amount not to exceed \$103,818, which includes a ten percent (10%) contingency;
2. Direct the Finance Director to initiate a Purchase Order to Wastewater Solids Management Company for a not to exceed amount of \$103,818, which includes a ten percent (10%) contingency; and
3. Direct the Finance Director to make payment to Wastewater Solids Management Company upon receipt of the invoice approved by the Public Works Director.

ATTACHMENTS: 1. Wastewater Solids Management Co. Inc. Quote - Digester #1

2. Wastewater Solids Management Co. Inc. Quote - Digester
#4

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager



October 10, 2022

Mr. Robert Alvarez
City of Porterville
1333 W Grand Ave.
Porterville, CA 93257
(559) 782-7505
(559) 783-1419 (fax)
ralvarez@ci.porterville.ca.us

Dear Robert:

I would like to thank you for your continued interest in Wastewater Solids Management, Inc. We are a corporation with over 30 years cumulative experience in digester/lagoon cleaning and biosolids management. We are pleased to provide this estimate for the removal and dewatering of solids from Digester #1 at the City of Porterville Wastewater Facility.

Above all else we are concerned with safety on the job and closely follow the OSHA rules and regulations set forth for maintenance activities. These procedures include lock out/tag out and confined space entry among others.

Attached is a proposal for digester cleaning, solids dewatering and on site solids removal services. The scope of work has been prepared based on the data you provided along with historical data (dimensions, etc.), however, if there is anything which needs to be corrected, please let me know. Our anticipated project duration is approximately one week of operations for the removal of the material from the digester structure.

If you have any questions or require any further information, please advise by contacting (541) 547-3213 or (916) 425-0531. We look forward to this opportunity to work with you.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "V. Prince", followed by a horizontal line.

Victoria E. Prince
General Manager
Wastewater Solids Management Co., Inc.
vprince@wastewatermanagement.com
www.wastewatermanagement.com

Enclosures: quotation / agreement

ADMINISTRATIVE OFFICE
P.O. BOX 430
YACHATS, OR 97498
(541) 547-3213 PHONE
(541) 971-4571 FAX

ACCOUNTING OFFICE
P.O. BOX 1327
LINCOLN, CA 95648

CORPORATE OFFICE
P.O. BOX 826
YERINGTON, NV 89447

City of Porterville
Request for Quotation
City of Porterville – Digester #1 Dewatering

	QUOTATION DATE:	OCTOBER 10, 2022
	Mobilization/Demobilization:	<u>\$ 8,000.00</u>
	Digester Dewatering Operations:	<u>\$ 36,690.00</u>
	Project Total:	<u>\$ 44,690.00</u>



Description:

 Wastewater Solids Management Co., Inc. will remove all sludge, grit, sand, rags, plastics, grease and other miscellaneous debris from the digester structure. Prior to turning over the primary digester for cleaning operations, City of Porterville personnel will drain the digester below the side hatch entryway. There will be approximately 62,000 gallons of material remaining in place (~7'). The sludge material will be screened to a 3/16" capture rate. The screenings will be deposited in roll-off bins or other receptacle for end disposal by City of Porterville personnel. The screened sludge will be transferred to a mixing type tank and fed to a mobile belt press unit. The material will be dewatered with the filtrate being discharged back to the plant at a point designated by plant personnel. The dewatered sludge cake will be deposited in end dump trailers or stockpiled onsite for end disposal by City of Porterville personnel. WWSMC will hydro-wash the interior of the digester at the City of Porterville Wastewater Treatment Plant utilizing high volume water (300 gpm, 80 psi). Hydro-washing services will remove sludge and other material from the interior surfaces of the digester structure, however, some closely adhered materials may remain upon completion. (Struvite, vivianite, etc.). Wastewater Solids Management Co., Inc. will provide these services with the following provisions:

-  Digester Dimensions: D: 40'; SWD: 29'; Solids Depth: 7'
-  Maximum volume: 62,000 gallons (7' estimated depth)
-  ≤ 8% solids concentration
-  Coned bottom surface
-  Minimum top access: 30"; Minimum side access: 30"
-  ≤ 1,000 ft. to staging, processing and filtrate return point
-  Min. Filtrate Return: 200 gpm; Max Filtrate Conc. 500 mg/L
-  Prevailing wage determinations included

This will include all labor and materials except as listed below.



City of Porterville will provide the following:

-  150 amps; 480 V; 3-phase power available
-  Water available: 300 gpm, 80 psi (1 1/2" connection or other)
-  Remove & replace access hatch covers
-  Roll-off bins for transport and disposal of screenings
-  Sufficient storage space for sludge solids
-  Sufficient staging area for WWSM, Inc. Equipment
-  Equipment for the unloading and placement of WWSM, Inc. equipment (backhoe or other).

Integrated Agreement
Between City of Porterville and Wastewater Solids Management Co., Inc.

This agreement with attachments of addends, represents the entire and integrated agreement between the City of Porterville and Wastewater Solids Management Co., Inc. and supersedes all prior negotiations, representations or agreements, written or oral. However, the proposal submitted by Wastewater Solids Management Co., Inc. and related documents establish the background and framework in which the contract was prepared and do set forth the expectations of each party to the contract. This agreement may be amended only by written instrument signed by both the City of Porterville and Wastewater Solids Management Co., Inc.

Dated this the 10th day of October, 2022

City of Porterville

Title



Wastewater Solids Management Co., Inc.

General Manager

Title

City of Porterville
Request for Quotation
City of Porterville – Digester #4 Dewatering

④ QUOTATION DATE: AUGUST 23, 2022

④ Mobilization/Demobilization: \$ 8,000.00
Digester Dewatering Operations: \$ 41,690.00
Project Total: \$ 49,690.00

④ Description:

- ④ Wastewater Solids Management Co., Inc. will remove all sludge, grit, sand, rags, plastics, grease and other miscellaneous debris from the digester structure. Prior to turning over the primary digester for cleaning operations, City of Porterville personnel will drain the digester below the side hatch entryway. There will be approximately 90,000 gallons of material remaining in place (7'). The sludge material will be screened to a 3/16" capture rate. The screenings will be deposited in roll-off bins or other receptacle for end disposal by City of Porterville personnel. The screened sludge will be transferred to a mixing type tank and fed to a mobile belt press unit. The material will be dewatered with the filtrate being discharged back to the plant at a point designated by plant personnel. The dewatered sludge cake will be deposited in end dump trailers or stockpiled onsite for end disposal by City of Porterville personnel. WWSMC will hydro-wash the interior of the digester at the City of Porterville Wastewater Treatment Plant utilizing high volume water (300 gpm, 80 psi). Hydro-washing services will remove sludge and other material from the interior surfaces of the digester structure, however, some closely adhered materials may remain upon completion. (Struvite, vivianite, etc.). Wastewater Solids Management Co., Inc. will provide these services with the following provisions:

- ④ Digester Dimensions: D: 50'; SWD: 29'; Solids Depth: 7'
- ④ Maximum volume: 102,760 gallons (7' estimated depth)
- ④ $\leq 8\%$ solids concentration
- ④ Coned bottom surface
- ④ Minimum top access: 30"; Minimum side access: 30"
- ④ $\leq 1,000$ ft. to staging, processing and filtrate return point
- ④ Min. Filtrate Return: 200 gpm; Max Filtrate Conc. 500 mg/L
- ④ Prevailing wage determinations included

This will include all labor and materials except as listed below.

- ④ City of Porterville will provide the following:
- ④ 150 amps; 480 V; 3-phase power available
 - ④ Water available: 300 gpm, 80 psi (1 1/2" connection or other)
 - ④ Remove & replace access hatch covers
 - ④ Roll-off bins for transport and disposal of screenings
 - ④ Sufficient storage space for sludge solids
 - ④ Sufficient staging area for WWSM, Inc. Equipment
 - ④ Equipment for the unloading and placement of WWSM, Inc. equipment (backhoe or other).



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Authorization to Purchase by Negotiation Equipment Scheduled for Replacement

SOURCE: Public Works

COMMENT: As part of the annual budget process, the Public Works Department requests City Council authorization to negotiate equipment purchases scheduled for replacement. Due to supply chain issues, staff is finding it more challenging to coordinate the ordering windows provided by manufacturers to government fleets with the budget approval and purchase order process. The windows are often as short as two (2) weeks.

Staff is currently working on its third-year attempt to purchase three (3) pickup trucks under the State contract. It is unknown when or if the supply chain issues will return to normal. Staff is seeking Council authorization to begin the equipment replacement purchase process earlier than in previous years to align with these narrow windows to purchase heavy-duty vehicles from State contracts or Co-op purchasing agreements. These efforts will secure procurement of Solid Waste Refuse vehicles and improve on a two-year build timeline. Replacement equipment not identified in this staff report will remain on the regularly scheduled negotiated purchase list to be presented with the annual budget approval.

In accordance with the City's Purchasing Policy and Procedure Manual, as amended by Resolution No. 122-87 adopted by City Council on October 20, 1987, staff hereby requests approval to begin negotiations for the purchase of the following equipment scheduled for replacement in the FY 2023-2024 for the Solid Waste Division.

<u>Division</u>	<u>Equipment Description</u>	<u>Estimated Cost</u>
Solid Waste	Roll-Off	\$296,730
	Frontloader (2)	\$735,168
	Sideloader (3)	\$1,096,987

Funds for the purchase of these equipment items are available in the Solid Waste Equipment Replacement Fund.

RECOMMENDATION: That the City Council authorize the purchase by negotiation of the Solid Waste Division equipment listed and authorize payment for

said equipment upon satisfactory delivery.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Authorization to Amend and Continue with the Purchase of Water Shares or Surface Water for Groundwater Recharge

SOURCE: Public Works

COMMENT: The City Council has annually approved staff's request to fund the purchase of surface water and/or water shares, when available, from surrounding water entities to be used for groundwater recharge, which offsets groundwater pumping demands.

It has been the Council's direction to increase the City's holdings and water rights when opportunities arise. If approved, when water shares become available, the Public Works Director will be authorized to submit bids for share purchases. The authorization will also be given to negotiating surface water purchases with local irrigation districts that may have water available for sale to be used as groundwater recharge.

At its meeting on July 19, 2022, the Council provided the authorization for the Public Work Director or the City Managers designee to move forward with surface water and/or water share purchases to be used for groundwater recharge. Since Council approval for the annual expenditure, and the end of the irrigation year, surface water rates have been increased due to continued drought conditions. In addition to increased costs of surface water, the City was able to secure eight Pioneer Shares, raising its share total to 481. The City is expected to receive surface water totals from the 2022-2023 irrigation year deliveries at roughly 2,107 acre-feet of water available to the City for purchase. The total cost to secure surface water for recharge is expected to exceed the Council's current expenditure authorization of \$500,000. The cost to cover all current allocations available to the City is \$835,000, with a projected cost for the remaining fiscal year to be \$665,000. Staff would request that the Council authorize a budgeted amount of \$1,500,000 to cover the current allocation and continue to perform through the end of the 2022 - 2023 Fiscal Year.

Staff recommends that Council amend the previous authorization to the Public Works Director, or the City Manager's designee, to purchase or bid on any available water shares in the 2022-2023 Fiscal Year with Pioneer Water Company and/or other water entities who may have available water for purchase, also allowing for the purchase of surface water being offered for sale. Funds for the purchase of water shares or surface water have been set aside in the Water Operating Fund budget for the 2022-2023 Fiscal Year.

RECOMMENDATION: That the City Council amend and authorize the Public Works Director, or the City Manager's designee, to purchase up to \$1,500,000 of water shares or surface water during the 2022-2023 Fiscal Year.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Ratification of Expenditures - Emergency Sterilization & Haul Away Services

SOURCE: Engineering and Project Management

COMMENT: On Wednesday, October 12, 2022, staff were made aware that the building at the site of the City's future Animal Shelter had been broken into, vandalized, and littered with waste. The amount of human waste and other dangerous items makes the situation within the building hazardous and requires immediate clean-up and sterilization to remediate the hazardous environment.

Due to the need for the emergency work to be completed, the normal bid process was not used. Staff contacted a couple of companies in the area that specialize in this type of clean-up and found that only one was willing and available to start the work immediately. Staff received a quote from Service Master by Benevento of Visalia in the amount of \$13,044.30. Staff found the quote acceptable emergency authorization to engage the services of Service Master by Benevento was obtained from the Mayor by the City Manager. Funding is available from Risk Management Funds.

RECOMMENDATION: That the City Council:

1. Ratify the emergency sterilization and haul away services at the future Animal Shelter building as necessary and that it met the emergency criteria as promulgated in Article VII, Section 2-38 of the City Code;
2. Direct the Finance Director to initiate a Purchase Order to Service Master by Benevento in an amount not to exceed \$13,044.30; and
3. Direct the Finance Director to make payment to Service Master by Benevento upon receipt of invoice approved by the Engineering & Project Management Director.

ATTACHMENTS: 1. ServiceMaster by Benevento Estimate

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: Patrice Hildreth, Deputy City Manager

Service Master By Benevento:

ServiceMaster by Benevento
8230 East Doe Ave.
Visalia Ca. 93291
C.L. #: 723039
Tax ID# 770361244

Insured: City of Porterville
Property: 165 N D St
Porterville, CA 93257
Billing: 291 N Main St
Porterville, CA 93257

Home: (559) 310-6607
E-mail: sweaver@ci.porterville.ca.us

Claim Rep.: Private Pay

Estimator: Guy Fawkes
Position: DR Estimator
Company: ServiceMaster by Benevento
Business: 8230 W. Doe Ave
Visalia 93291

Business: (559) 333-9605
E-mail: guyf@smcbenevento.com

Contractor:
Company: Service Master by Benevento CL# 723039
Business: 8230 East Doe Ave.
Visalia, CA 93291

Business: (559) 625-8554

Claim Number: PRIVATE PAY

Policy Number: PRIVATE PAY

Type of Loss: Vandalism

Coverage	Deductible	Policy Limit
Dwelling	\$0.00	\$0.00
Other Structures	\$0.00	\$0.00
Contents	\$0.00	\$0.00

Date Contacted: 10/12/2022 12:00 PM

Date of Loss: 10/11/2022 12:00 PM

Date Inspected: 10/13/2022 10:00 AM

Date Received: 10/12/2022 12:00 PM

Date Entered: 10/13/2022 7:55 AM

Price List: CAVL8X_OCT22
Restoration/Service/Remodel
Estimate: 22-2421-BIO

Depreciate Material: Yes
Depreciate Non-material: Yes
Depreciate Removal: No
Depreciate O&P: No
Depreciate Taxes: Yes

Service Master By Benevento:

ServiceMaster by Benevento
8230 East Doe Ave.
Visalia Ca. 93291
C.L. #: 723039
Tax ID# 770361244

This Time and Materials Estimate is an approximation of the Labor Hours and Materials needed to perform Vandalism Cleanup at the site due to Homeless / Transient Intrusion and Encampment.

Actual Labor Hours and Materials used will be applied to a Finalized Estimate / Invoice once the Scope of Work has been completed.

ServiceMaster by Benevento technicians will wear full PPE during services for their safety, due to the nature and unknown nature of the contamination at the site.

Bio Waste, Garbage and Debris will need to be removed from site and disposed of, Exterior Surfaces where Feces and other waste has accumulated will need to be pressure-washed, and floors, lower parts of walls and high-touch surfaces such as doors and door hardware will need to be decontaminated with a cleaning agent.

Service Master By Benevento:

ServiceMaster by Benevento
8230 East Doe Ave.
Visalia Ca. 93291
C.L. #: 723039
Tax ID# 770361244

22-2421-BIO

SKETCH1

Main Level

Main Level

CAT	SEL	ACT DESCRIPTION	REMOVE	REPLACE	TAX	TOTAL
	CALC	QTY				
*** DEBRIS REMOVAL & Pressure Wash ***						
1. CLN	PWASHMN	+ Pressure/chemical wash				
	1	1.00 EA [*]	0.00+	350.00 =	0.85	350.85
2. HMR	LABH	+ Hazardous Waste/Mold Cleaning Technician - per hour				
	6*8*1	48.00 HR [*]	0.00+	80.00 =	0.00	3,840.00
3. DMO	DTRLR	- Tandem axle dump trailer - per load - including dump fees				
	1	1.00 EA	210.49+	0.00 =	0.00	210.49
4. HMR	PPE+	+ Add for personal protective equipment - Heavy duty				
	6*3*1	18.00 EA	0.00+	38.65 =	64.35	760.05
5. HMR	PPERF	+ Respirator - Full face - multi-purpose resp. (per day)				
	6*1	6.00 DA	0.00+	7.61 =	0.00	45.66
6. HMR	PPERCM	+ Respirator cartridge - HEPA & vapor & gas (per pair)				
	6*1	6.00 EA	0.00+	34.29 =	19.03	224.77
7. DMO	BAG	- Plastic contractor debris bag				
	200	200.00 EA	0.83+	0.00 =	15.36	181.36
*** CLEANING / APPLY DISINFECTANT ***						
8. HMR	PPE	+ Add for personal protective equipment (hazardous cleanup)				
	4*3*3	36.00 EA	0.00+	13.91 =	41.59	542.35
9. HMR	PPEE	+ Eye protection - plastic goggles - Disposable				
	4*1	4.00 EA	0.00+	9.79 =	3.62	42.78
10. HMR	PPEM	+ Personal protective mask (N-95)				
	4*3*3	36.00 EA	0.00+	2.91 =	9.69	114.45
11. CAP	LABM	+ Cleaning Technician - incl. cleaning agent - per hour				
	4*8*3	96.00 HR [*]	0.00+	70.00 =	11.54	6,731.54
Total: Main Level					166.03	13,044.30
Total: SKETCH1					166.03	13,044.30
Line Item Totals: 22-2421-BIO					166.03	13,044.30

Service Master By Benevento:

ServiceMaster by Benevento
8230 East Doe Ave.
Visalia Ca. 93291
C.L. #: 723039
Tax ID# 770361244

Grand Total Areas:

513.33	SF Walls	254.69	SF Ceiling	768.03	SF Walls and Ceiling
254.69	SF Floor	28.30	SY Flooring	64.17	LF Floor Perimeter
0.00	SF Long Wall	0.00	SF Short Wall	64.17	LF Ceil. Perimeter
254.69	Floor Area	276.53	Total Area	513.33	Interior Wall Area
601.50	Exterior Wall Area	66.83	Exterior Perimeter of Walls		
0.00	Surface Area	0.00	Number of Squares	0.00	Total Perimeter Length
0.00	Total Ridge Length	0.00	Total Hip Length		

Coverage	Item Total	%	ACV Total	%
Dwelling	6,312.76	48.39%	6,312.76	48.39%
Other Structures	0.00	0.00%	0.00	0.00%
Contents	6,731.54	51.61%	6,731.54	51.61%
Total	13,044.30	100.00%	13,044.30	100.00%



Service Master By Benevento:

ServiceMaster by Benevento
8230 East Doe Ave.
Visalia Ca. 93291
C.L. #: 723039
Tax ID# 770361244

Summary for Dwelling

Line Item Total	6,158.27
Material Sales Tax	154.49
Replacement Cost Value	\$6,312.76
Net Claim	\$6,312.76

Guy Fawkes
DR Estimator



Service Master By Benevento:

ServiceMaster by Benevento
8230 East Doe Ave.
Visalia Ca. 93291
C.L. #: 723039
Tax ID# 770361244

Summary for Contents

Line Item Total	6,720.00
Material Sales Tax	11.54
Replacement Cost Value	\$6,731.54
Net Claim	\$6,731.54

Guy Fawkes
DR Estimator

Service Master By Benevento:

ServiceMaster by Benevento
8230 East Doe Ave.
Visalia Ca. 93291
C.L. #: 723039
Tax ID# 770361244

Recap of Taxes

	Material Sales Tax (9.25%)	Storage Rental Tax (9.25%)
Line Items	166.03	0.00
Total	166.03	0.00

Service Master By Benevento:

ServiceMaster by Benevento
8230 East Doe Ave.
Visalia Ca. 93291
C.L. #: 723039
Tax ID# 770361244

Recap by Room

Estimate: 22-2421-BIO

Area: SKETCH1

Area: Main Level

Coverage: Dwelling	47.82% =	6,158.27	12,878.27	100.00%
Coverage: Contents	52.18% =	6,720.00		

Area Subtotal: Main Level

Coverage: Dwelling	47.82% =	6,158.27	12,878.27	100.00%
Coverage: Contents	52.18% =	6,720.00		

Area Subtotal: SKETCH1

Coverage: Dwelling	47.82% =	6,158.27	12,878.27	100.00%
Coverage: Contents	52.18% =	6,720.00		

Subtotal of Areas

Coverage: Dwelling	47.82% =	6,158.27	12,878.27	100.00%
Coverage: Contents	52.18% =	6,720.00		

Total			12,878.27	100.00%
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Service Master By Benevento:

ServiceMaster by Benevento
8230 East Doe Ave.
Visalia Ca. 93291
C.L. #: 723039
Tax ID# 770361244

Recap by Category

Items			Total	%
CONT: CLEAN APPLIANCES			6,720.00	51.52%
Coverage: Contents	@	100.00% =	6,720.00	
CLEANING			350.00	2.68%
Coverage: Dwelling	@	100.00% =	350.00	
GENERAL DEMOLITION			376.49	2.89%
Coverage: Dwelling	@	100.00% =	376.49	
HAZARDOUS MATERIAL REMEDIATION			5,431.78	41.64%
Coverage: Dwelling	@	100.00% =	5,431.78	
Subtotal			12,878.27	98.73%
Material Sales Tax			166.03	1.27%
Coverage: Dwelling	@	93.05% =	154.49	
Coverage: Contents	@	6.95% =	11.54	
Total			13,044.30	100.00%



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Selection of On-Call Environmental Consultants

SOURCE: Community Development

COMMENT: On July 19, 2022, the City Council authorized staff to distribute a Request for Qualifications (RFQ) for On-Call Consulting Services. The City received seven responses and offered interviews to all responsive firms. The responding firms were Crawford & Bowen, LSA, 4 Creeks, Precision Civil Engineering, Ultra Systems, Soar Environmental Consulting, and Provost & Pritchard Consulting Group. All firms were found to meet the desired qualifications.

Since 2003, the City has maintained an on-call consulting services contract. Until 2012, the City contracted with only one consulting firm at any given time; in 2012, the contract was amended to include multiple firms, so that staff could solicit proposals from multiple firms, rank them appropriately, and execute task orders as needed. In keeping with that intent, staff recommends the selection of the top five consulting firms, allowing flexibility, expedited response time, and capacity for the City's consulting needs. The proposed contract has a term of three years, with two (2) possible one (1) year extensions.

During the review of the Statements of Qualifications and the interview process, the top ranking firms were identified as Crawford & Bowen, LSA, 4 Creeks, Precision Civil Engineering, and Provost & Pritchard Consulting Group.

RECOMMENDATION: That the City Council:

1. Authorize staff to negotiate on-call contracts with Crawford & Bowen, LSA, 4 Creeks, Precision Civil Engineering, and Provost & Pritchard Consulting Group;
2. Authorize the Mayor to sign contract documents;
3. Authorize the Assistant City Manager to sign task orders; and
4. Authorize staff to make payments up to 100% upon satisfactory completion of tasks.

ATTACHMENTS: 1. On-Call Environmental Consultant RFQ

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Community Development Director

Final Approver: Fernando Gabriel-Moraga, Deputy City Clerk



REQUEST FOR QUALIFICATIONS

On-Call Environmental Services JULY 2022

PREPARED BY:
DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING DIVISION
July 2022

I INTRODUCTION AND OBJECTIVES:

The City of Porterville (hereinafter referred to as "CITY") is requesting statements of qualifications (SOQs) to establish a list of competent consultants to provide on-call environmental services for multiple Capital Improvement Projects and developer-initiated projects through task orders on an as-needed basis. On-call services are expected to begin in October 2022 and terminate five years from date of award of contract.

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 RFQ and that it is capable of performing quality work to achieve the objectives of CITY.

III ADDENDA/CLARIFICATIONS:

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

IV PROPOSAL REQUIREMENTS:

Proposals for this project will be accepted at this office until 4:00 p.m., on Monday, August, 22, 2022. Three (3) copies of the proposal shall be submitted in a sealed envelope, plainly marked "On- Call Environmental Services Qualifications for the City of Porterville." Cost proposals shall not be submitted until requested by the CITY. Proposals shall be addressed to:

Jason Ridenour, Comm Dev. Director
Community Development Department
City of Porterville
291 N. Main Street
Porterville, CA 93257

The City reserves the right to reject any and all proposals that do not meet the requirements of this RFQ 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 RFQ; 2) submitting its proposal to CITY; 3) negotiating with CITY any matter related to this RFQ 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 CONSULTANT in the preparation of proposals. Pre-contractual expenses shall not be included in the cost proposal.

VI EXCEPTIONS/DEVIATIONS:

Any exceptions to the requirements of this RFQ 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 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 project. Should the CONSULTANT's primary representative be unable to continue with the project, 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 this project. 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 this project to the satisfaction of CITY.

VIII LOCAL AGENCY REPRESENTATIVE:

Jason Ridenour, Community Development Director, shall be the Contract Administrator and contact person for all communications with CITY.

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 \$1 million per occurrence.

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 subconsultants arising out of performance of the requirements of the Contract.

XI SUBCONTRACTING:

Only those firms identified in the Contract as subcontractors or subconsultants shall be allowed to perform work for this project. 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 this project.

XII FEDERAL, STATE, AND LOCAL LAWS:

The CONSULTANT shall comply with all federal, state, and local laws, rules, regulations, ordinances, and statutes. In accordance with federal-aid funded projects, Disadvantaged Business Enterprise (DBE) requirements must be met. The DBE participation goal percentage will be established on a project-by-project basis.

XIII PROPOSAL EVALUATION CRITERIA:

Evaluation criteria used to select the CONSULTANT shall include, but not be limited to, the following:

- A. Firm(s) experience with similar projects;
- B. Firm(s) key personnel qualifications/certifications and experience, especially the project manager and individuals performing services;
- C. Firm(s) understanding of the project 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 late June 2018. 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.

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 subconsultants. The list of chosen on-call CONSULTANTS is expected to be presented at the City Council meeting scheduled for Tuesday, September 20, 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 format specified in each task order request. Projects that involve Caltrans approval for any phase of the project must follow LAPM Chapter 10 cost proposal format requirements. 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. 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 brief and include a concise address of the following information:

A. Firm Experience:

1. 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. Other information that might aid CITY in ascertaining proposing firm's qualifications.

B. Consultant Team:

Name of prime consulting firm, subconsultant(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 subconsultants are used, names of subconsultant's 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 subconsultant.
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. Page numbering;
 - b. Table of Contents, if applicable;
 - c. Section dividers with tabs, if applicable;
 - d. Identification of offering firms, including name, address, and telephone number of each firm;
 - e. Prime CONSULTANT organizational chart, which includes subconsultant(s) with names and titles of personnel to be used for this project;
 - f. Acknowledgment of receipt of RFQ addenda, if any;
 - g. Concise, complete response to the technical aspects requested in the "Environmental Consultant Qualifications and Selection Criteria"; and
 - h. 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 (RFQ) FOR ON-CALL ENVIRONMENTAL SERVICES

The City of Porterville seeks the services of an environmental consultant or consulting firm to provide assistance to City Staff as necessary in the preparation of environmental documents for multiple capital improvement projects and developer-initiated projects. The services to be rendered under this contract would consist of the preparation of Initial Studies, Negative Declarations, Environmental Impact Reports and where appropriate, Categorical Exclusions, Environmental Assessments, and other documents as necessary to comply with state and federal environmental guidelines. It is anticipated that the majority of the work effort would be focused on CEQA compliance. The selected environmental consultant must have a substantial working knowledge of CEQA and NEPA, must possess strong writing and communication skills, and have a flexible schedule that will allow for attendance at meetings as necessary. Although the consultant's work will be reviewed by the Community Development Director or Community Development Manager, the above referenced skills are essential to meeting the objectives of this program.

In addition to the preparation of environmental documents and studies, it is anticipated that the City will have a number of projects requiring on-site biological and/or archaeological monitoring during construction. Other services typically rendered by the selected firm(s) may also be utilized during the course of this agreement.

SCOPE OF ENVIRONMENTAL CONSULTANT SERVICES:

The consultant will respond directly to the Community Development Manager or her designee on a particular project. The selected consultant will perform, but not be limited to the following tasks:

1. Compile background data necessary for the preparation of the appropriate environmental documents.
2. Prepare Initial Study checklists, technical studies, categorical exemptions, negative declarations, mitigated negative declarations, environmental impact reports, environmental assessments, categorical exclusions, and environmental impact statements.
3. Develop timelines and work hour estimates necessary for the preparation of the environmental documents based on specific projects.
4. Identify key factors that need to be evaluated, which may require hiring a specialist in a particular area of analysis (i.e. air quality, noise, etc.). This may be addressed through services normally rendered by the consultant under this contract.

5. Coordinate early consultation and ongoing meetings with City staff and staff at other agencies.
6. Prepare appropriate forms associated with the applicable environmental document such as public hearing notices, notices of determination, negative declarations, notice of completion, etc.
7. Prepare requests for proposals for the preparation of technical studies to be utilized in the preparation of the environmental documents.
8. Provide biological and archaeological and other technical analysis staff or subconsultants for project site monitoring during construction activities in response to project specific mitigation measures.
9. Provide other consulting services as available through the selected firm(s).

DESIRABLE QUALIFICATIONS OF THE CONSULTANT:

The City is seeking a qualified consultant to provide on-call consulting services for the preparation of environmental documents, studies, related notices, and mitigation monitoring for compliance with the applicable environmental regulations and other consulting services. The desired consultant shall have the following qualifications:

1. Extensive experience in the preparation of environmental documents in compliance with CEQA and NEPA.
2. The Consultant's proven ability to expeditiously and accurately produce the required product in a concise and useable format.
3. Knowledge of the City of Porterville development and environmental review process is highly desirable.
4. The consultant must possess strong writing skills and be proficient using Microsoft Word and other standard software programs.
5. Be equipped with qualified biologists available for construction monitoring for project specific mitigation measures, and to provide site-specific project reviews for non-discretionary projects as needed.
6. Provide archaeological services either in-house or through a subconsultant that is listed on the Southern San Joaquin Valley Information List of qualified consultants.

LOCAL AGENCY RESPONSIBILITIES:

The CONSULTANT will report to the CITY's Contract Administrator who reports to the CITY's Public Works Director. The CONSULTANT shall not proceed with any work until the CITY provides the Notice to Proceed to the CONSULTANT.

The CITY's Contract Administrator will directly handle the project management and monitoring of the CONSULTANT's work to ensure it is complete, accurate, and consistent with the terms and conditions of the CONSULTANT contract. The Contract Administrator and designees will also inspect, review, and discuss project progress, comply with Federal, State and Local policies and regulations, and other requirements to further the prosecution of the contract work with the least delay.

The CITY's Contract Administrator shall be responsible for the following:

- Serve as the CITY's primary contact person for the CONSULTANT
- Monitor the CONSULTANT's progress and provide direction
- Review billings and determines whether costs billed are reasonable in relation to the work performed during billing period
- Approve the CONSULTANT's progress payments
- Identify other CITY personnel for CONSULTANT to contact, if needed

All records and documentation produced by the CONSULTANT become property of the CITY.

CONSULTANT SELECTION RATING FORM		Rating Factor Numerical Range & Weighting Based on Importance of Factor	FIRM	FIRM	FIRM	FIRM
Project Name: Project Number:	Date:					
Evaluation Factor			Score	Score	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:						

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 (\$1,000,000) per occurrence; and
- (iii) Errors and Omissions insurance of One Million Dollars (\$1,000,000) 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 (\$1,000,000) 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 indemnify, defend (at CITY'S election), and hold harmless the CITY against any claims, actions or demands against CITY, and against any damages, liabilities for personal injury or death or for loss or damage to property, or any of them arising out of negligence of CONSULTANT or any of its employees or agents, ***or CONSULTANT'S activities related to the terms and conditions of or implementation of this Agreement.***

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_____

Scope of Services as Attachment "A"

(Scope of Services shall identify the project specifics as well as duration of the project or the duration of the contract. For example, lab services shall include page identifying charges for specific tests as well as hourly rates for personnel. The scope shall also include any potential/optional extensions of this contract).

EXHIBIT 10-R A &E SAMPLE CONTRACT 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 CONTRACT LANGUAGE IS ONLY SUGGESTED LANGUAGE. MODIFY AS RECOMMENDED BY YOUR OWN LEGAL STAFF AND TO FIT YOUR PARTICULAR REQUIREMENTS AND PROJECT.

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ARTICLE I INTRODUCTION

- A. This contract 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: _____

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: _____

The Contract Administrator for LOCAL AGENCY will be _____ (Name)

- B. The work to be performed under this contract is described in Article II entitled Statement of Work and the approved CONSULTANT's Cost Proposal dated _____ (Date) . The approved CONSULTANT's Cost Proposal is attached hereto (Attachment I) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this contract, this contract shall take precedence.
- C. CONSULTANT agrees to indemnify and hold harmless LOCAL AGENCY, its officers, agents, and employees from any and all claims, demands, costs, or liability arising from or connected with the services provided hereunder due to negligent acts, errors, or omissions of CONSULTANT. CONSULTANT will reimburse LOCAL AGENCY for any expenditure, including reasonable attorney fees, incurred by LOCAL AGENCY in defending against claims ultimately determined to be due to negligent acts, errors, or omissions of CONSULTANT.
- D. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of LOCAL AGENCY.
- E. Without the written consent of LOCAL AGENCY, this contract is not assignable by CONSULTANT either in whole or in part.
- F. No alteration or variation of the terms of this contract shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- G. 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 STATEMENT OF WORK

(INSERT APPROPRIATE STATEMENT OF WORK INCLUDING A DESCRIPTION OF THE DELIVERABLES)

- 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 contract 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 contract 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 Chapter 6, “*Environmental Procedures*” in the LAPM, 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 plots 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 or another agency, or government that are to be made available to CONSULTANT are referred to in the contract. Any other assistance or services to be furnished to CONSULTANT are to be stated clearly.

F. Conferences, Visits to Site, Inspection of Work

The contract provides for conferences as needed, visits to the site, and inspection of the work by representatives of the state, or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee.

G. Checking Shop Drawings

For contracts requiring the preparation of construction drawings, make provision for checking shop drawings. Payment for checking shop drawings by CONSULTANT may be included in the contract 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 contract together with the method of payment for such services.

I. Documentation and Schedules

Contracts 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 contract objectives.

J. Deliverables and Number of Copies

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

ARTICLE III CONSULTANT'S REPORTS OR MEETINGS

(Choose either Option 1 or Option 2)

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

- A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the 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 contract.

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

- 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 IV PERFORMANCE PERIOD (Verbatim)

(A time must be set for beginning and ending the work under the contract. 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 contract. 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 contract.)

(Choose either Option 1 or Option 2)

(Option 1 - Use paragraphs A & B below for standard and on-call contracts)

- A. This contract 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 contract shall end on _____ (Date) , unless extended by contract amendment.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the contract is fully executed and approved by LOCAL AGENCY.

(Option 2 - Use paragraph C below in addition to paragraphs A & B above for on-call contracts)

- 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 contract, the terms of the contract shall be extended by contract amendment.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS (Verbatim)

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

(Option 1 - Use paragraphs A through J below for Actual Cost-Plus-Fixed Fee contracts. Use Exhibit 10-H, Example #1 for Cost Proposal Format)

- A. The method of payment for this contract 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 contract 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 contract is required, the contract time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceeded, unless authorized by contract amendment.

- B. 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 contract, except in the event of a significant change in the scope of work and such adjustment is made by contract amendment.
- C. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- D. 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.
- E. 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 the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.
- F. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this contract.
- G. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 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 contract 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 of this contract. The final invoice should be submitted within 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)
- H. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$ (Amount) .
- I. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.

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 contracts, 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-H, Example #3 for 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 a fully equipped vehicle, with radio and flashing yellow light (if needed), as specified in Article II of this contract.
- The specified rate to be paid for equipment shall be, as listed in Attachment (Insert Attachment Number).
- C. The method of payment for this contract, 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 contract 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 contract is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by contract amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I," shall not be exceeded unless authorized by contract amendment.

(Option 3 - Use paragraphs A through P for Specific Rates of Compensation contracts [such as on-call contracts]. Use Exhibit 10-H, Example #2 for Cost Proposal Format)

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANT's Cost Proposal (Attachment Number). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the cost proposal and identified in the 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 contract 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 Cost Proposal.
- F. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.
- G. 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 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 contract 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 contract.
- 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, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than 45 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 contract number, project title and Task Order number. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract, must be reimbursed by CONSULTANT prior to the expiration or termination of this contract. 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 Contract.
- 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 contract amendment.
- N. If the 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 this Agreement and may not exceed the scope of work under this Agreement.
- P. The total amount payable by LOCAL AGENCY for all Task Orders resulting from this contract 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 contract through Task Orders.

(Option 4 - Use paragraphs A through E below for lump sum contracts. Use Exhibit 10-H, Example #1 for Cost Proposal Format)

- A. The method of payment for this contract 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 II Statement of Work of this contract. 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 contract 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 the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this Contract in accordance with the provisions of Article VI Termination.

- C. CONSULTANT shall not commence performance of work or services until this contract 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 contract.
- D. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit, upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 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 Cost Proposal and shall reference this contract 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 of this contract. The final invoice should be submitted within 60-calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

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

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

ARTICLE VI TERMINATION (Verbatim)

- A. LOCAL AGENCY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- B. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS (Verbatim)

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. 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 CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.

ARTICLE VIII RETENTION OF RECORDS/AUDIT (Verbatim)

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and LOCAL AGENCY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of

administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, LOCAL AGENCY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

ARTICLE IX AUDIT REVIEW PROCEDURES (Verbatim)

- A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than 30 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 contract.

(The following AUDIT CLAUSE must be inserted into all contracts of \$150,000 or greater)

- D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, 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, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager 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 contract 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, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

(The following AUDIT CLAUSE must be inserted into all contracts of \$3,500,000 or greater).

- E. CONSULTANT Cost Proposal is subject to a CPA ICR Audit Work Paper Review by Caltrans' Audit and Investigation (Caltrans). Caltrans, 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 contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.
 - 1. During a Caltrans' review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans 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 Caltrans identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at a provisional ICR until a FAR 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 Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I. Provisional rates will be as follows:

- a. If the proposed rate is less than 150% - the provisional rate reimbursed will be 90% of the proposed rate.
 - b. If the proposed rate is between 150% and 200% - the provisional rate will be 85% of the proposed rate.
 - c. If the proposed rate is greater than 200% - the provisional rate will be 75% of the proposed rate.
2. If Caltrans is unable to issue a cognizant letter per paragraph E.1. above, Caltrans 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. Caltrans 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 Section E, or if Caltrans 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 provisional 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 provisional ICR will become the actual and final ICR for reimbursement purposes under this contract.
 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) Caltrans approves or rejects the original or revised independent CPA-audited ICR; (2) all work under this contract has been completed to the satisfaction of LOCAL AGENCY; and, (3) Caltrans has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO local agency no later than 60 days after occurrence of the last of these items.

The provisional ICR will apply to this contract and all other contracts executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING (Verbatim)

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) 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 CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.
- D. All subcontracts entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

ARTICLE XI EQUIPMENT PURCHASE (Verbatim)

- 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 \$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 Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following: "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 \$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 contract, or if the contract 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 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES (Verbatim)

(Choose either Option 1 or Option 2)

(Option 1 - For contracts where a portion of the proposed work to be performed are crafts affected by state labor laws, use paragraphs A and B)

- A. CONSULTANT shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

(Option 2 - Use only paragraph A below when all of the proposed work in the contract is performed by crafts not affected by state labor laws or are not contemplated for use)

- A. The State of California's General Prevailing Wage Rates are not applicable to this contract.

Note: The Federal "Payment of Predetermined Minimum Wage" applies only to federal-aid construction contracts.

ARTICLE XIII CONFLICT OF INTEREST (Verbatim)

- A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing LOCAL AGENCY construction project, which will follow.

- B. 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 contract.

(Choose either Option 1 or Option 2 if appropriate)

(Option 1 - Use paragraphs C & D below with paragraphs A & B above for PS&E contracts only)

- C. CONSULTANT hereby certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- D. Except for subconsultants whose services are limited to providing surveying or materials testing information, no subconsultant who has provided design services in connection with this contract shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this contract.

(Option 2 - Use paragraphs C, D & E below with paragraphs A & B above for Construction Contract Administration contracts only)

- C. CONSULTANT hereby certifies that neither CONSULTANT, its employees, nor any firm affiliated with CONSULTANT providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint- ownership, or otherwise.
- D. CONSULTANT further certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT, will bid on any construction subcontracts included within the construction contract. Additionally, CONSULTANT certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.
- E. Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this contract shall have provided services on the design of any project included within this contract.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (Verbatim)

CONSULTANT warrants that this contract 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 the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract 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 (Verbatim)

(Include this article in all contracts where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the contract; delete this article and re-number the notification article which follows.)

- A. 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 CONSULTANT to any person for influencing or attempting to influence an officer or employee of any 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 of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement,

and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative 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 federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; 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 Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. 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 subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

ARTICLE XVI STATEMENT OF COMPLIANCE

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. 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.

(For contracts with Federal funding, add paragraphs C & D)

- C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California 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.
- D. The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of

materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and 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. Any exceptions to this certification must be disclosed to LOCAL AGENCY.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

ARTICLE XVIII FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this contract 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 contract were executed after that determination was made.
- B. This contract is valid and enforceable only, if sufficient funds are made available to LOCAL AGENCY for the purpose of this contract. In addition, this contract 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 contract in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to void the contract under the 30-day termination clause pursuant to Article VI, or by mutual agreement to amend the contract to reflect any reduction of funds.

ARTICLE XIX CHANGE IN TERMS

- A. This contract 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 contract without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XX DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. The goal for DBE participation for this contract is _____. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Contract. 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. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. CONSULTANT 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, Part 26 in the award and administration of US DOT-assisted agreements. Failure by 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 LOCAL AGENCY deems appropriate.
- D. Any subcontract entered into as a result of this contract shall contain all of the provisions of this section.
- E. A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting LOCAL AGENCY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f).
- F. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract 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 contract, 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 contract is commensurate with the work it is actually performing, and other relevant factors.
- G. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, 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.
- H. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract 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.
- I. 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 prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- J. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of

the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.

- K. If a DBE subconsultant is decertified during the life of the contract, 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 Contract, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within 30 days.

ARTICLE XXI CONTINGENT FEE

CONSULTANT warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract 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 contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXII DISPUTES

(Choose either Option 1 or Option 2)

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

- A. Any dispute, other than audit, concerning a question of fact arising under this contract 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 30 days after completion of all work under the contract, 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 contract.

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

- B. Not later than 30 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 XXIII INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

ARTICLE XXIV SAFETY

(Use on all contracts regardless of funding source)

- 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 Section 591 of the Vehicle Code, 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.

C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

(Add to all contracts, 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 California Labor Code Sections 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 feet or deeper.

ARTICLE XXV INSURANCE

(Choose either Option 1 or Option 2)

(Option 1 - for Contracts 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 30 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 contract 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 contract. In the event said insurance coverage expires at any time or times during the term of this contract, CONSULTANT agrees to provide at least thirty (30) 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 contract, 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 contract upon occurrence of such event.

(Option 2 - For Contracts 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 XXVI OWNERSHIP OF DATA

- A. Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in LOCAL AGENCY; and no further agreement will be necessary to transfer ownership to LOCAL AGENCY. CONSULTANT shall furnish LOCAL AGENCY all necessary copies of data needed to complete the review and approval process.
- B. It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.
- C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by LOCAL AGENCY of the machine-readable information and data provided by CONSULTANT under this contract; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by LOCAL AGENCY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as may be authorized in writing by CONSULTANT.
- 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 contract.
- 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 contract 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 contract, 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 contract, 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 contract or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this contract, 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 contract without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.
(For PS&E contracts add paragraph F, below, to paragraphs A through E, above)
- F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity other than LOCAL AGENCY.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 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 contract record.

ARTICLE XXXI RETENTION OF FUNDS

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
(Local agency to include either B, C, or D below; delete the other two)
- B. No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.
- C. No retainage will be held by the Agency from progress payments due the prime consultant. Any retainage held by the prime consultant or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within 30 days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR 26.29) requires that any delay or postponement of payment over the 30 days may take place only for good cause and with the Agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant,

deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

- D. The Agency shall hold retainage from the prime consultant and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime consultant based on these acceptances. The prime consultant, or subconsultant, shall return all monies withheld in retention from a subconsultant within thirty (30) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49 CFR 26.29) requires that any delay or postponement of payment over thirty (30) days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime consultant or subconsultant to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime Consultant, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultant and subconsultants.

ARTICLE XXXII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this contract 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 XXXIII CONTRACT

The two parties to this contract, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this contract 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 contract as evidenced by the signatures below.

ARTICLE XXXIV SIGNATURES

(Name of Signer)

(Name of Signer)

Date: _____

EXHIBIT 10-H1 COST PROPOSAL Page 1 of 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (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
(Project Manager)*	_____	_____	\$ _____	\$ _____
(Sr. Civil Engineer)	_____	_____	\$ _____	\$ _____
(Envir. Scientist)	_____	_____	\$ _____	\$ _____
(Inspector)**	_____	_____	\$ _____	\$ _____

LABOR COSTS

a) Subtotal Direct Labor Costs \$ _____

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

c) **TOTAL DIRECT LABOR COSTS** [(a) + (b)] \$ _____**INDIRECT COSTS**

d) Fringe Benefits (Rate: _____%) e) Total Fringe Benefits [(c) x (d)] \$ _____

Overhead (Rate: _____%) g) Overhead [(c) x (f)] \$ _____

h) General and Administrative (Rate: _____%) i) Gen & Admin [(c) x (h)] \$ _____

j) **TOTAL INDIRECT COSTS** [(e) + (g) + (i)] \$ _____**FIXED FEE**k) **TOTAL FIXED FEE** [(c) + (j)] x fixed fee _____% \$ _____**l) CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)**

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

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

Subconsultant 1: \$ _____

Subconsultant 2: \$ _____

Subconsultant 3: \$ _____

Subconsultant 4: \$ _____

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

3. Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL Page 2 of 3

ACTUAL COST-PLUS-FIXED FEE OR LUMP SUM (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	5000	=	\$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 *:_____

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			\$	\$
Equipment Rental and Supplies			\$	\$
Permit Fees			\$	\$
Plan Sheets			\$	\$
Test			\$	\$
Vehicle			\$	\$
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 *: _____

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
ODC Example: Travel/Mileage Costs			\$	\$
ODC Example: Mobilization/De-mobilization			\$	\$
ODC Example: Supplies/Consumables			\$	\$
ODC Example: Report			\$	\$
ODC (List more ODCs as applicable)			\$	\$
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*: _____

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-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of _____%

OR

The Agency has not established a goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract.

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Contracts financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Consultant must ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).

- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Business and Economic Opportunity Web site at: <http://www.dot.ca.gov/hq/bep/>.
 - 1. Click on the link in the left menu titled Disadvantaged Business Enterprise;
 - 2. Click on Search for a DBE Firm link;
 - 3. Click on Access to the DBE Query Form located on the first line in the center of the page.

Searches can be performed by one or more criteria. Follow instructions on the screen.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the

purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
3. Project Description: _____
4. Project Location: _____
5. Consultant's Name: _____ 6. Prime Certified DBE: ☐

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	%
17. Local Agency Contract Number: 18. Federal-Aid Project Number: 19. Proposed Contract Execution Date: _____ Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			
20. Local Agency Representative's Signature	21. Date	12. Preparer's Signature	13. Date
22. Local Agency Representative's Name	23. Phone	14. Preparer's Name	15. Phone
24. Local Agency Representative's Title		16. Preparer's Title	

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT**CONSULTANT SECTION**

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
- 4. Project Location** - Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 8. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 9. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 10. DBE %** - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 11. Total Claimed DBE Participation %** - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 12. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 13. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 14. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 15. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 16. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 17. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 18. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 19. Proposed Contract Execution Date** - Enter the proposed contract execution date.
- 20. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 21. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 22. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 23. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 24. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: _____
3. Project Description: _____
4. Project Location: _____
5. Consultant's Name: _____ 6. Prime Certified DBE: ☐ 7. Total Contract Award Amount: _____
8. Total Dollar Amount for **ALL** Subconsultants: _____ 9. Total Number of **ALL** Subconsultants: _____

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Local Agency to Complete this Section		14. TOTAL CLAIMED DBE PARTICIPATION	\$
20. Local Agency Contract Number: 21. Federal-Aid Project Number:			%
22. Contract Execution Date: Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.	
23. Local Agency Representative's Signature	24. Date	15. Preparer's Signature	16. Date
25. Local Agency Representative's Name	26. Phone	17. Preparer's Name	18. Phone
27. Local Agency Representative's Title		19. Preparer's Title	

DISTRIBUTION: 1. Original – Local Agency
2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENT**CONSULTANT SECTION**

- 1. Local Agency** - Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
- 3. Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
- 4. Project Location** - Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name** - Enter the consultant's firm name.
- 6. Prime Certified DBE** - Check box if prime contractor is a certified DBE.
- 7. Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
- 8. Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 9. Total number of ALL subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
- 10. Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- 11. DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 12. DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 13. DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 14. Total Claimed DBE Participation** - \$: Enter the total dollar amounts entered in the "DBE Dollar Amount" column. %: Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
- 15. Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 16. Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
- 17. Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 18. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 19. Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 20. Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
- 21. Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
- 22. Contract Execution Date** - Enter the date the contract was executed.
- 23. Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 24. Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
- 25. Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 26. Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 27. Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Acquisition of Real Property APN 261-130-004

SOURCE: Community Development

COMMENT: At its meeting on December 15, 2020, the City Council began the process of planning for the development of a new Porterville Public Library by establishing the Library Facility Planning Committee. At its meeting on September 7, 2021, the Council adopted the Library Services and Facility Needs Assessment for a new Porterville Public Library. The space recommendations that emerged from the Needs Assessment indicate the need for a building of approximately 40,000 square feet. At its meeting on December 7, 2021, the Council selected APN 261-130-004, which is approximately 3.86 acres of land generally located on the south side of Olive Avenue, east of A Street, as the desired location of the new Porterville Public Library.

Pursuant to Council authorization from its meeting on September 6, 2022, staff has negotiated the purchase of real property, APN 261-130-004, from Cornerstone Main Partners II, L.P. in the accepted amount of \$702,000, with a \$5,000 per month escalation clause. The terms of the purchase are outlined in the Purchase and Sale Agreement which is provided herein, as is the draft Resolution for Council's consideration. Staff has met with the title company, and if approved, closing is expected to occur the week of October 24, 2022. Funding for the property acquisition is available through insurance proceeds.

RECOMMENDATION: That the City Council adopt the draft Resolution approving the purchase of APN 261-130-004, and authorize the Mayor and City Manager to sign all documents necessary to complete the purchase.

ATTACHMENTS:

1. Draft Resolution
2. Draft Purchase and Sale Agreement
3. Locator Map

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Community Development Director

Final Approver: John Lollis, City Manager

RESOLUTION NO. ____-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE ACCEPTING A GRANT DEED IN FEE FOR REAL PROPERTY
FROM CORNERSTONE MAIN PARTNERS II, L.P.

BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville hereby authorizes acceptance of a Grant Deed in fee from Cornerstone Main Partners II, L.P., a California limited partnership, for real property, in the City of Porterville, County of Tulare, State of California, to-wit:

See Exhibit "A" attached hereto and made a part hereof by reference.

BE IT FURTHER RESOLVED that the purchase price of \$702,000 is hereby approved with the City to open escrow account, pay escrow fees, authorize Mayor to sign all necessary documents, and said deed to be recorded in the office of the Tulare County Recorder. The foregoing has been accepted by the City Council for the City of Porterville.

PASSED, APPROVED AND ADOPTED this 18th day of October, 2022.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk

EXHIBIT A

Legal Description

Real property in the City of Porterville, County of Tulare, State of California, described as follows:

Parcel 1 as shown on Parcel Map No. 2207, as per map filed on June 22, 1979 in the Office of the Recorder of Tulare County, in Book 23 of Parcel Maps, at Page 8.

APN: 261-130-004-000

PURCHASE AGREEMENT
(Porterville, California)

THIS AGREEMENT is made and entered into as of last date of execution set forth on the signature page (the "Effective Date"), by and between the **CITY OF PORTERVILLE**, a California municipal corporation, (the "Buyer"), and **Cornerstone Main Partners II, L.P.**, a California limited partnership (the "Seller").

RECITALS

A. Seller is the owner in fee simple of a 3.86 acre property located in the City of Porterville, County of Tulare, and State of California (the "Property"), the legal property description of which is attached hereto as Exhibit A.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

I
PURCHASE AND SALE

1.1 Sale and Purchase. Buyer hereby agrees to acquire and purchase from Seller and Seller hereby agrees to sell and convey to Buyer that certain real property located in the City of Porterville, County of Tulare, California, described above, together with all rights, privileges and easements appurtenant thereto including all minerals, oil, gas and other hydrocarbon substances thereon including water, water rights, water stock, development, and air rights.

1.2 Purchase Price. The purchase price (the "Purchase Price") of the property shall be the sum of \$702,000.00 or as adjusted pursuant to Section 3.5.3 below.

1.3 Payment of Purchase Price. The Purchase Price shall be payable as follows: Prior to the Closing (as defined below) Buyer shall make a deposit with Escrow Holder (as defined below) an amount equal to the Purchase Price and any adjustments as a result of any applicable prorations as described below to be held by Escrow Holder pursuant to Article III below until close of Escrow.

II
CONDITIONS TO CLOSING; ACTIONS PENDING CLOSING

2.1 At the Closing (as defined below), Seller shall convey to Buyer marketable fee simple title to the Property, by duly executed and acknowledged grant deed (the "Grant Deed"). Evidence of delivery of marketable fee simple title shall be the issuance of a CLTA Standard Coverage Policy of Title Insurance (1973) (the "Owner's Policy"), at the parties' shared cost and expense, in the full amount of the Purchase Price by First American Title Company (the "Title Company"), insuring fee simple title to the Property in Buyer, subject only to the exceptions set forth in the report of title. Buyer, for Buyer's benefit and at Buyer's election, may elect to require Title Insurer to provide an ALTA policy of title insurance. Seller shall cause all monetary liens and mortgages recorded against the Property to be removed as a lien against the Property as of

the Closing Date. In addition to the condition precedent set forth in Section 2.1, the Closing and Buyer's obligation to perform hereunder are conditioned upon the fulfillment of each and all of the following, any of which Buyer may waive in whole or in part:

2.1.1 Within 30 days of receipt, Buyer's review and approval/disapproval or waiver of a Preliminary Title Report.

2.1.2 Performance by Seller of all of its obligations hereunder and the truthfulness of each representation by Seller contained in this Agreement at the time the same is made and at the Closing Date.

2.1.3 The commitment of and ability to issue by Title Company a CLTA Standard Coverage Policy of Title Insurance (Or ALTA policy as noted above, at Buyer's election), dated as of the Closing Date, with liability in the amount of the Purchase Price, showing title to the Property vested in Buyer, subject only to the Permitted Exceptions (the "Owner's Policy").

2.1.4 That no moratorium, statute, regulation, ordinance or federal, state, county or local legislation, or order, judgment, ruling or decree of any governmental agency or of any court is enacted, adopted, issued, entered or pending which would materially and adversely affect the ability of Seller to convey the Property to Buyer.

2.1.5 Within 30 days from the date of Opening Escrow, Buyer's inspection of the Property that Buyer may reasonably require, and Buyer's review and approval/disapproval or waiver of the results of same.

III ESCROW INSTRUCTIONS

3.1 Opening of Escrow.

3.1.1 Concurrently with the execution of this Agreement, an escrow (the "Escrow") shall be opened by both parties with First American Title, Ann Kay, California, ("Escrow Holder").

3.1.2 The terms and conditions set forth in this Agreement shall constitute both an agreement between the parties hereto and escrow instructions for the Escrow Holder. If the Escrow Holder requires separate or additional escrow instructions, both parties agree to execute promptly and deliver to the Escrow Holder, after request for same from Escrow Holder, such separate or additional escrow instructions (the "Additional Instructions"). In the event of any conflict or inconsistency between this Agreement and the Additional Instructions, this Agreement shall prevail and govern as the Additional Instructions shall so provide. The Additional Instructions shall not modify or amend the provision of this Agreement unless otherwise expressly set forth by mutual consent of Buyer and Seller. "Opening of Escrow", as used herein, shall mean the delivery of a fully executed copy, or counterparts, of this Agreement to Escrow Holder and acceptance thereof by Escrow Holder, and escrow shall be deemed opened as of the date of such delivery and acceptance. "Closing", as used herein, shall mean when the conditions of Section 3.5 below are completed as set forth therein.

3.1.3 Not later than ten (10) business days after the Opening of Escrow, Buyer shall deposit One Thousand and No/100 dollars (\$1,000.00) with the Escrow Holder as a good faith deposit ("Deposit.") The Deposit shall be applied to the purchase price. The Closing shall be held not later than five (5) calendar days after the Buyer has approved or waived all of Buyer's conditions Precedent above (the "Closing Date"). Buyer and Seller may change the Closing Date by joint written notice to Escrow Holder. Escrow Holder is hereby directed to hold the closing on the Closing Date if it has received in a timely manner all the materials required to be delivered into Escrow by Buyer and Seller, and it has received a commitment from the Title Company to insurance title to the Property subject only to the Permitted Exceptions.

3.2 Prior to the Closing Date, Seller shall deposit the Grant Deed with Escrow Holder.

3.3 Prior to the Closing Date, Buyer shall deposit with Escrow Holder funds in accordance with the provisions of Article I above, and the Escrow fee. Other costs not otherwise designated as a particular party's responsibility shall be paid by Seller and Buyer as per custom in the county in which the Property is located. Buyer and Seller shall each be responsible for their own attorney's fees. Buyer shall be responsible for the cost of any inspections of the Property.

3.4 Seller and Buyer shall each deposit with Escrow Holder prior to the Closing Date fully executed and acknowledged copies of such instruments and such additional funds as are reasonably required by the Escrow Holder or otherwise required to close the Escrow and consummate the sale and purchase of the Property in accordance with the terms hereof, including, but not limited to, the settlement statement/statement of sources and uses identifying the funds deposited with Escrow Holder and the payee(s) of such funds. Buyer may waive compliance on Seller's part under any of the items being provided by Seller (except the Grant Deed) by an instrument in writing.

3.5 Closing of Escrow. When Escrow is in the condition to close required by the Agreement, Escrow Holder shall do the following:

3.5.1 Deliver to Buyer the Grant Deed by depositing the same with the County Recorder of the County of Tulare, California, with instructions to record the same. When such Grant Deed has been accepted for recordation and a conformed copy with the recording information is returned to Escrow Holder, Escrow Holder shall mail the same to Buyer along with the Owner's Policy; and

3.5.2 Deliver to Seller funds in the amount of the Purchase Price, less or plus the net debit or credit to Seller by reason of the prorations and allocation of expenses herein provided.

3.5.3 Buyer and Seller agree that Seller has monthly carry costs and that the Purchase Price as defined in Section 1.2 is predicated on a Closing to occur on or before October 30th, 2022. Should Closing occur on or before November 30th, 2022, the Purchase Price shall increase an additional \$5,000.00. If Closing should occur on or before December 31st, 2022, the Purchase Price shall increase another additional \$5,000.00. Should Closing extend beyond the end of the calendar year, Seller and Buyer shall mutually agree on the final Purchase Price.

3.6 Escrow Charges.

3.6.1 Costs and Expenses. The costs and expenses of Escrow upon Close of Escrow will be paid by Buyer, including, without limitation, all recording charges, the premium for the Title Policy, the cost of any documentary or other transfer taxes applicable to the sale, and all other standard costs and charges of the Escrow.

3.6.2 Prorations. Escrow Holder shall prorate real estate taxes as of the Closing on the basis of the most recent tax statement for the Property. Prorations shall be as of 12:01 a.m. on the Closing Date on the basis of a 365 day year.

3.7 Miscellaneous Escrow Instructions.

3.7.1 Time is of the essence of these Escrow Instructions and this Purchase Agreement.

3.7.2 All notices or other communications required or permitted hereunder shall be in writing, and may be personally delivered or sent by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

To Seller:

Cornerstone Main Partners II, L.P.
195 South 'C' Street, #200
Tustin, CA 92780

To Buyer:

City of Porterville
291 N. Main Street
Porterville, CA 93257
Attn: City Clerk

Subject to the right of a party to designate a different address for itself by notice similarly given. Any notice so given by United States mail shall be deemed to have been given on the second business day after the same is deposited in the United States mail as above provided. Any notice not so given by registered or certified mail shall be deemed given upon receipt of the same by the party to whom the same is given.

3.7.3 Failure to insist upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such terms, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right of power at any other time or times by any party hereto.

3.8 If the Escrow Holder is not in a position to consummate the Closing on the Closing Date, it shall close as soon thereafter as possible.

3.9 Possession of the Property shall be delivered to Buyer upon Closing.

IV
REPRESENTATIONS OF SELLER

Seller hereby makes the following representations to Buyer, which are true as of the date hereof, which shall be true as of the Closing, which are not intended to replace or limit in any manner any express or implied warranty provided under the applicable law and which, except to the extent they relate to events or circumstances occurring or arising after the Closing, shall survive the Closing. Buyer shall be entitled to rely upon said representations notwithstanding Buyer's inspections and investigations:

4.1 As of the Closing, to the best knowledge, information and belief of Seller, there shall be no liens, easements, licenses, leases or tenancies of any type on the Property or any portion of the Property other than easements as shown in the Title Company's insurance commitment as approved by Buyer.

4.2 To the best knowledge, information and belief of Seller, there are no liens or encumbrances against the Property for work performed or commenced, or material supplied with respect to the Property nor can there be claimed against the Property any such lien.

4.3 This Agreement when executed by Seller, shall have been duly and properly executed, is a valid obligation of Seller and is binding upon Seller in accordance with its terms.

4.4 After the date of this Agreement, Seller shall not undertake any work on the Property which may result in the creation of a mechanic's lien on the Property or any portion of this Property.

4.5 Seller has no knowledge of any adverse geological or soil or environmental condition affecting the Property.

4.6 Subject to the specific representations of Seller being true and correct in all material respects, it is understood and agreed that the Property has been inspected by Buyer, or Buyer's duly authorized agents, that the same is being purchased as a result of such inspection and not in reliance upon any representations, inducements or promises, either oral or written, made by Seller, Seller's agent or any other person or party whomsoever, including, but not limited to, the fitness of the Property for any specific use, and Seller and Seller's agents shall not be responsible or liable for any agreement, condition or stipulation not specifically set forth in this Agreement relating to or affecting the Property. Seller has not made and will not make any other representations or warranties of any kind or nature with respect to the Property. The provisions of this Paragraph will survive the termination of or completion of Closing under this Agreement.

V
REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby makes the following representations and warranties to and agreements with Seller, which are true as of the date hereof, which shall be true as of the Closing, which are not intended

to replace or limit in any manner any express or implied warranty provided under the applicable law and which, except to the extent they relate to events or circumstances occurring or arising after the Closing, shall survive the Closing. Seller shall be entitled to rely upon said representations and warranties:

5.1 This Agreement when executed by Buyer, shall have been duly and properly executed, is a valid obligation of Buyer and is binding upon Buyer in accordance with its terms. Buyer has taken all necessary action under California law, Buyer's corporate charter and otherwise to duly authorize the execution of this Agreement and the consummation of Buyer's obligations hereunder.

5.2 Buyer has the necessary funds, ready and available, to pay the Purchase Price and complete Closing under this Agreement in accordance with the specific terms hereof.

5.3 Buyer acknowledges and agrees that, except for the representations of Seller in this Agreement, the Property is sold "As Is," and the Purchase Price reflects the "As Is" nature of this sale and includes any faults, liabilities, defects or conditions that may be associated with the Property.

VI MISCELLANEOUS PROVISIONS

6.1 Legal Fees. In the event that an action shall be instituted by either party hereto for the enforcement of any of its rights or remedies in or under this Agreement, the party in whose favor judgment shall be rendered therein shall be entitled to recover from the other party all costs and expenses incurred by said prevailing party in said action, including reasonable attorney's fees as fixed by the court therein.

6.2 Representations of Authority. Each party and each individual executing this Agreement on behalf of each party represents and warrants to the other party that the party and each such individual has full power and authority to execute and deliver this Agreement in the manner contemplated hereby and that this Agreement is binding upon the party in accordance with its terms.

6.3 Brokers. Each party represents and warrants to the other party that it has not hired, retained or dealt with any real estate broker, firm or salesman in connection with the transaction contemplated by this Agreement

6.4 Entire Agreement. This Agreement contains the entire integrated agreement between the parties respecting the matters herein set forth and supersedes all prior agreements between the same respecting such matters. With that regard, Buyer specifically acknowledges that it has not received any promises, representations or assurances from Seller or any of Seller's agents or employees which are not contained herein. No addition or modification of any term or provision hereof shall be effective unless set forth in writing, signed by both Seller and Buyer.

6.5 Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent to be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms,

covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

6.6 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

6.7 Further Assurances. Each party hereby agrees that it shall, upon request of the other, execute and deliver such further documents (in form and substance reasonably acceptable to the party to be charged) and do such other acts and things as are reasonably necessary and appropriate to effectuate the terms and conditions of this agreement, without cost, including (without limitation) the execution and delivery of such documents, and the doing of such acts or things as may be required to satisfy the requirements of the Title Company to issue title insurance in accordance with this Agreement and for Buyer to fully and adequately perform its investigations of the Property. Seller hereby grants to Buyer, its agents and employees, the right and license to go on to the Property for the purpose of performing any activity necessary or appropriate to the satisfaction of the conditions of this Agreement or to Buyer's performance of its duties, obligations and responsibilities hereunder; provided, however, that Seller shall have the right to have one or more of its agents or representatives accompany Buyer, or Buyer's agents and employees, while on the Property.

6.8 Heirs and Assignment. This agreement shall bind and inure to the benefit of the heirs, executors, successors, or assigns of Buyer or any other person or firm that may now be or hereafter an owner of the real property or any part thereof, set forth in Exhibit A of this agreement.

6.9 Venue. The parties agree that this agreement is entered into and to be performed in the County of Tulare, State of California. To the fullest extent permitted by law, the parties hereby waive any rights they might have to remove any such action pursuant to California Code of Civil Procedure Section 394.

6.10 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 have executed this Agreement as of the Effective Date.

SELLER:

Cornerstone Main Partners II, L.P.

By: _____
David H. Paynter

Date: _____

ATTEST:

By: _____

APPROVED AS TO FORM:

By: _____

BUYER:

CITY OF PORTERVILLE

By: _____
Martha A. Flores, Mayor

Date: _____

ATTEST:

By: _____
John Lollis, City Clerk

APPROVED AS TO FORM:

By: _____
Julia M. Lew, City Attorney

EXHIBIT A

Legal Description

Real property in the City of Porterville, County of Tulare, State of California, described as follows:

Parcel 1 as shown on Parcel Map No. 2207, as per map filed on June 22, 1979 in the Office of the Recorder of Tulare County, in Book 23 of Parcel Maps, at Page 8.

This aerial map displays a residential neighborhood with a grid of streets. A red rectangle highlights a specific lot located between Olive Ave and Vine Ave, and between AST and Plan St. The map includes labels for numerous streets: Main St, Second St, Third St, Fourth St, Garden Ave, Willow St, Olive Ave, Vine Ave, Walnut Ave, CST, BST, AST, Orange Ave, Locust Ave, Wallace St, Cornell St, Howard St, Carrillo Pl, Miranda Ave, Andres Ave, Williams Dr, Coronado Dr, Park Dr, Plan St, Eastridge Cir, Olive Ave, Mill Ave, Oak Ave, Fig St, Putnam Ave, Roche St, Baker St, Esther St, and Main St. The highlighted lot is situated in a residential area with other lots and buildings visible on the map.



Date Printed: 10/11/2022 by the Community Development Department



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Permanent Local Housing Allocation 2021 and 2022 Application

SOURCE: Community Development

COMMENT: In 2020, the California Department of Housing and Community Development (HCD) announced the availability of approximately \$195 million in funding for the Permanent Local Housing Allocation (PLHA) program Entitlement and Non-entitlement Local government formula component Notice of Funding Availability (NOFA). This NOFA is funded from monies deposited in the Building Homes and Jobs Trust Fund (Fund) in calendar year 2019.

Funding for this NOFA is provided pursuant to Senate Bill (SB) 2 (Chapter 364, Statutes of 2017). SB 2 established the Fund and authorizes HCD to allocate seventy percent (70%) of monies collected and deposited in the Fund, beginning in calendar year 2019, to local governments for eligible housing and homelessness activities. The intent of the bill is to provide a permanent, ongoing source of funding to local governments for housing-related projects and programs that assist in addressing the unmet housing needs of their local communities.

As an Entitlement local government, the City of Porterville was eligible to apply for funds and submitted a 5-year plan outlining its intention to use the PLHA funds for the eligible activity 6 which is defined as, “Assisting persons who are experiencing or at risk of homelessness, including, but not limited to, providing rapid rehousing, rental assistance, supportive/case management services that allow people to obtain and retain housing, operating and capital costs for navigation centers and emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.”

On February 24, 2021, the City of Porterville received its Executed PLHA Standard Agreement for the 5-Year Plan, making the fiscal year 2019-2020 (1st year) formula allocation of \$342,754 available for use.

On December 10, 2021, The City of Porterville received its Executed PLHA Standard Agreement for the 2nd year 2020-2021 formula allocation of \$532,745 available for use.

On August 17, 2022, HCD announced the release of the 2022 PLHA Program NOFA for approximately \$335 million in calendar year 2021 funds, in addition to the \$131 million remaining in calendar year 2019 and 2020.

The City of Porterville is eligible to apply for \$586,270, which represents the 3rd year funding of the City of Porterville's adopted 5-Year PLHA Plan for use on the approved eligible activity 6 noted above and specifically for Permanent Supportive Housing, Navigation Center, Bridge Housing and Emergency Shelter Operations.

The deadline to submit the streamlined application for these funds is November 30, 2022. Since the 5-Year plan has been approved and adopted by City Council, no new action is required to apply for the 2022 NOFA. However, staff is providing this report to Council as an update and to request that Council authorize the Mayor to sign the streamlined application for the 2021 funding allocation for submittal to HCD and authorize staff to respond to the 2022 PLHA NOFA and submit the streamlined application to HCD for the 2021 (Third year of PLHA 5-Year Plan) funds.

RECOMMENDATION:

That the City Council:

1. Authorize the Mayor to sign the streamlined application for the 2020 PLHA funding allocation for submittal to HCD; and
2. Authorize staff to submit the streamlined application in response to the 2022 PLHA NOFA to HCD for the 2021 (Third year of PLHA 5-Year Plan) funds.

ATTACHMENTS:

1. Draft 2022 PLHA Formula Allocation Application Form for Previous Awardees
2. PLHA Approved 5-year Plan

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Community Development Director

Final Approver: John Lollis, City Manager

Permanent Local Housing Allocation (PLHA) Formula Allocation

Application Form for Previous Awardees



**State of California
Governor, Gavin Newsom**

**Lourdes Castro Ramírez, Secretary
Business, Consumer Services and Housing Agency**

**Gustavo Velasquez, Director
Department of Housing and Community Development**

Program Design and Implementation, PLHA Program
2020 West El Camino Avenue, Suite 150, Sacramento, CA 95833
PLHA Program Email: PLHA@hcd.ca.gov

**Final Filing Date: October 31, 2022
at 4:00 P.M. PST**

Local Government Formula Allocation										Rev. 2/17/22	
This streamlined application form is limited to Applicants who applied for and received an award from the 2020 and/or 2021 Formula Allocation NOFA.											
Did Applicant receive an award from the 2020 and/or 2021 Formula Allocation NOFA?										Yes	
Which NOFA year(s) are you applying for with this application?										2022 Only	
Eligible Applicant Type:		Entitlement									
Local Government Recipient of PLHA Formula Allocation:								Porterville			
2022 PLHA NOFA Formula Allocation Amount:				\$586,270				Allowable Local Admin (5%):		\$29,313.00	
Has applicant received their 2021 NOFA funds?				No		Based on the requirements in guideline section 300(e), how much has the applicant committed?				\$875,499	
Instructions: If the Local Government Recipient of the PLHA Formula Allocation delegated its PLHA formula allocation to another Local Government in its 2020 application, the Applicant (for which information is required below) continues to be the administering Local Government, which received the award. The PLHA award will be made to the Applicant (upon meeting threshold requirements) and the Applicant is responsible for meeting all program requirements throughout the term of the Standard Agreement.											
Eligible Applicants \$300											
§300(a) and (b) Eligible Applicants for the Entitlement and Non-Entitlement formula component described in Section §100(b)(1) and (2) are limited to the metropolitan cities and urban counties allocated a grant for the federal fiscal year 2017 pursuant to the federal CDBG formula specified in 42 USC, Section §5306 and Non-entitlement local governments.											
Applicant:		City of Porterville									
Address:		291 N Main St									
City:		Porterville		State:		CA		Zip:		93257	
County:		Tulare									
Auth Rep Name:		Martha A. Flores		Title:		Mayor		Auth Rep. Email:		mflores@portervilleca.gov	
Phone:		(559) 782-7466									
Address:		291 N Main St		City:		Porterville		State:		CA	
Zip Code:		93257									
Contact Name:		Claudia Calderon		Title:		EcoDev & Housing Manager		Contact Email:		ccalderon@ci.porterville.ca.us	
Contact Phone:		(559) 782-7460									
Address:		291 N Main St		City:		Porterville		State:		CA	
Zip Code:		93257									
Threshold Requirements											
§302(a) Housing Element compliance: Applicant and Delegating Local Government's if applicable Housing Element was adopted by the Local Government's governing body by the application submittal date and subsequently determined to be in substantial compliance with state Housing Element Law pursuant to Government Code Section 65585.										Yes	
§302(b) Applicant and Delegating Local Government have submitted the current or prior year's Annual Progress Report to the Department of Housing and Community Development pursuant to Government Code Section 65400.										Yes	
§302(c)(2) Applicant certifies that submission of the application was authorized by the governing board of the Applicant.										Yes	
§302(c)(5) Applicant certifies that the Plan has not reallocated more than 10 percent of funds among Activities from the approved 5-year Plan included in the PLHA program Standard Agreement, Exhibit E.										Yes	
§300(e) Applicant does not have uncommitted PLHA funds greater than permitted by Section 300(e).										Yes	
§503(b) Applicant has submitted the PLHA Annual Report by July 31, 2021 (if applying <u>before</u> July 31, 2022), or has submitted the PLHA Annual Report due by July 31, 2022 (if applying <u>on or after</u> July 31, 2022).										Yes	
§302(c)(8) If a program income reuse plan was not submitted with the 2020 application, has Applicant attached a program income reuse plan describing how repaid loans and/or accrued interest will be reused for eligible activities specified in Section 301?										N/A	
File Name:		Reuse Plan		Program Income Reuse Plan describing how repaid loans or accrued interest will be used for eligible activities in Section 301.					Narrative uploaded to HCD?		N/A
Certifications											
On behalf of the entity identified below, I certify that: The information, statements and attachments included in this application are, to the best of my knowledge and belief, true and correct and I possess the legal authority to submit this application on behalf of the entity identified in the signature block.											
Martha A. Flores						Mayor					
Authorized Representative Printed Name						Title				Signature	
										Date	

STANDARD AGREEMENT - AMENDMENT

STD 213A (Rev 04/2020)

☒ CHECK HERE IF ADDITIONAL PAGES ARE ATTACHED 9 PAGES

AGREEMENT NUMBER

20-PLHA-15103

AMENDMENT NUMBER

1

Purchasing Authority
Number

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR NAME

City of Porterville

2. The term of this Agreement is:

START DATE

02/24/2021

THROUGH END DATE

6/30/2030

3. The maximum amount of this Agreement after this Amendment is:

\$875,499.00

4. The parties mutually agree to this amendment as follows. All actions noted below are by this reference made a part of the Agreement and incorporated herein:

This amendment is to add May 3, 2021 NOFA funds to contract.

Exhibit A, Authority, Purpose and Scope of Work, is hereby deleted in its entirety and replaced with new Exhibit A, Authority, Purpose and Scope of Work, Am. 1 (Rev. 08/2021) attached hereto and made a part hereof.

Exhibit E, Program-Specific Provisions and Special Conditions, is hereby deleted in its entirety and replaced with new Exhibit E, Program-Specific Provisions and Special Conditions, Am. 1 (Rev. 08/2021) attached hereto and made a part hereof.

All other terms and conditions shall remain the same.

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Porterville

CONTRACTOR BUSINESS ADDRESS

291 N Main Street

CITY

Porterville

STATE

CA

ZIP

93257

PRINTED NAME OF PERSON SIGNING

Adrian Monte Reyes

TITLE

Mayor

CONTRACTOR AUTHORIZED SIGNATURE



DATE SIGNED

11/29/2021

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

2020 W. El Camino Ave., Suite 130

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

Shaun Singh

TITLE

Contracts Manager, Business & Contract Services Branch

CONTRACTING AGENCY AUTHORIZED SIGNATURE



DATE SIGNED

12/10/2021

CALIFORNIA DEPARTMENT OF GENERAL SERVICE APPROVAL

EXEMPTION (If Applicable)

EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority

Pursuant to Part 2 Chapter 2.5 of Division 31 of the Health and Safety Code (commencing with Section 50470) Statutes of 2017 (SB 2, Atkins), which created the Building Homes and Jobs Trust Fund and the Permanent Local Housing Allocation (“PLHA”) Program (“Program”), this Standard Agreement along with all its exhibits (the “Agreement”) is entered under the authority of and in furtherance of the Program. Pursuant to Health and Safety Code, Section 50470 (b), the California Department of Housing and Community Development (referred to herein as “HCD” or “Department”) has issued a Notice of Funding Availability (the “NOFA”), dated February 26, 2020, to govern administration of the fund and carry out the Program.

2. Purpose

In accordance with the authority cited above, an application was made to the State (the “Application”) for assistance from the Program for the purpose of making funding available to eligible local governments in California for housing related projects and programs that assist in addressing the unmet housing needs of their local communities. By entering into this Agreement and thereby accepting the award of the PLHA grant funds (the “Grant”), the Contractor (sometimes referred to herein as the “Applicant”) agrees to comply with the terms and conditions of the NOFA, this Agreement, the representations contained in the Application, and the requirements of the authorities cited above.

3. Definitions

Capitalized terms not otherwise defined herein shall have the meaning of the definitions set forth in Health and Safety Code Section 50470 and Section 101 of the Guidelines.

4. Scope of Work

- A. The scope of work (“Work”) for this Agreement shall consist of one or more of the following eligible uses:
 - 1) The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, rental housing that is affordable to extremely low-, very low-, low-, or moderate-income households, including necessary Operating subsidies.

EXHIBIT A

- 2) The predevelopment, development, acquisition, rehabilitation, and preservation of Affordable rental and ownership housing, including Accessory dwelling units (ADUs), that meets the needs of a growing workforce earning up to 120 percent of AMI, or 150 percent of AMI in high-cost areas. ADUs shall be available for a term of no less than thirty days.
- 3) Matching portions of funds placed into local or regional housing trust funds.
- 4) Matching portions of funds available through the Low- and Moderate-Income Housing Asset Fund pursuant to subdivision (d) of HSC Section 34176.
- 5) Capitalized Reserves for Services connected to the preservation and creation of new Permanent supportive housing.
- 6) Assisting persons who are experiencing or at risk of homelessness, including, but not limited to, providing rapid rehousing, rental assistance, supportive/case management services that allow people to obtain and retain housing, operating and capital costs for navigation centers and emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.
 - a) This Activity may include subawards to Administrative Entities as defined in HSC Section 50490(a)(1-3) that were awarded California Emergency Solutions and Housing (CESH) program or Homeless Emergency Aid Program (HEAP) funds for rental assistance to continue assistance to these households.
 - b) Applicants must provide rapid rehousing, rental assistance, navigation centers, emergency shelter, and transitional housing activities in a manner consistent with the Housing First practices described in 25 CCR, Section 8409, subdivision (b)(1)-(6) and in compliance with WIC Section 8255(b)(8). An Applicant allocated funds for the new construction, rehabilitation, and preservation of Permanent supportive housing shall incorporate the core components of Housing First, as provided in WIC Section 8255, subdivision (b).
- 7) Accessibility modifications in Lower-income Owner-occupied housing.

EXHIBIT A

- 8) Efforts to acquire and rehabilitate foreclosed or vacant homes and apartments.
 - 9) Homeownership opportunities, including, but not limited to, down payment assistance.
 - 10) Fiscal incentives made by a county to a city within the county to incentivize approval of one or more Affordable housing Projects, or matching funds invested by a county in an Affordable housing development Project in a city within the county, provided that the city has made an equal or greater investment in the project. The county fiscal incentives shall be in the form of a grant or low-interest loan to an Affordable housing Project. Matching funds investments by both the county and the city also shall be a grant or low interest deferred loan to the Affordable housing Project.
- B. A Local government that receives an allocation shall use no more than five percent of the allocation for costs related to the administration of the Activity(ies) for which the allocation was made. Staff and overhead costs directly related to carrying out the eligible activities described in Section 301 are “activity costs” and not subject to the cap on “administrative costs.” A Local government may share any funds available for administrative costs with entities that are administering its allocation.
- C. Two or more local governments that receive PLHA allocations may expend those moneys on an eligible jointly funded project as provided in Section 50470 (b)(2)(B)(ii)(IV). An eligible jointly funded project must be an eligible Activity pursuant to Section 301(a) and be located within the boundaries of one of the Local governments.
- D. Entitlement Local governments may use the flow of PLHA funds to incentivize private lender loans and to guarantee payments for some or all public agency bond financings for activities consistent with the uses identified in Section 301 “Eligible Activities”. This loan guarantee Activity must be identified and fully explained in the Applicant’s “Plan”.

EXHIBIT A

5. Department Contract Coordinator

The Department's Contract Coordinator for this Agreement is the Division of Financial Assistance, Grant Management Section PLHA Manager or their designee. Unless otherwise informed, any notice, report, or other communication required by this Agreement shall be mailed by first class to the Department Contract Coordinator at the following address:

California Department of Housing and Community Development
Attention: Permanent Local Housing Allocation (PLHA)
Grant Management Section, Suite 400
2020 West El Camino Avenue, CA 95833
P. O. Box 952050
Sacramento, CA 94252-2050

6. Contractor Contract Coordinator

The Contractor's contract coordinator for this Agreement is the Authorized Representative listed below. Unless otherwise informed, any notice, report, or other communication required by this Agreement may be mailed by first class mail, or sent through a commercial courier to the Authorized Representative at the following address:

Authorized Representative Name:	Adrian Monte Reyes
Authorized Representative Title:	City Mayor of Porterville
Agency Name:	City of Porterville
Address:	291 North Main Street Porterville, CA 93257
Phone No.:	(559) 782-7466
Email Address:	montereyes@portervilleca.gov

7. Effective Date, Term of Agreement, and Deadlines

- A. This Agreement is effective upon approval by the Department, which is the date executed by all parties (such date, the "Effective Date").
- B. This Agreement shall terminate on June 30, 2030.

EXHIBIT A

- C. Except for predevelopment expenses for construction projects funded by PLHA and costs to develop and prepare the Plan and the PLHA application, no costs incurred more than one year prior to commitment by the Local government may be paid from PLHA funds. Reimbursement of expenses to prepare the Plan and the PLHA application are subject to the cap on administrative fees.
- D. Any Grant funds which have not been expended by the expenditure deadline shall be disencumbered and revert to the Department. The expenditure deadline is fifty-eight months from the date of the budget appropriation for each year of funds included in this Agreement.

EXHIBIT E

PROGRAM-SPECIFIC PROVISIONS AND SPECIAL CONDITIONS

1. Program-Specific Provisions

The following are project-specific terms and conditions (referred to as enumerated provision(s) for ease of reference in prior exhibits) and shall inform the references made to project-specific information not contained in those prior exhibits.

Budget Detail:

Contractor has been awarded the following grant activity amounts for 2019: **\$342,754**

Contractor has been awarded the following grant activity amounts for 2020: **\$532,745**

Estimated five-year allocation may not exceed: **\$2,056,524**

Payees:

A. The authorized Payee(s) is/are as specified below:

Name: City of Porterville

Amount of 2019 and 2020: \$875,499

Plan:

Provide a description of how allocated funds will be used for the proposed activity.

A. Priority 1: Navigation Center

- 1) Operating costs for a Navigation Center: PLHA funds would be used for operation costs associated with a new or existing Navigation Center. The Navigation Center would serve as a central location for people who are experiencing homelessness to connect to services to help them obtain housing or overcome barriers in obtaining housing.

EXHIBIT E

B. Priority 2: Emergency Shelter

- 1) Operating costs for an Emergency Shelter: PLHA funds would be used for operating costs needed to run an emergency shelter. This will assist in ensuring that low barrier beds for people who have been identified by the local Continuum of Care on Homelessness, the Kings/Tulare Homeless Alliance (KTHA) continue to be available. KTHA currently uses a vulnerability index to prioritize housing for people experiencing homelessness. Additionally, using a coordinated entry system, KTHA, is able to make referrals from one database, in order to have a streamlined application and referral system between agencies who serve people experiencing homelessness.
- 2) The City would consider Operating costs for a bridge housing beds, leading to permanent housing: The City plans on working with eligible non-profits who provide bridge housing programs to help cover some gaps in operational financing, allowing them to continue providing housing to program participants that are currently working on permanent housing solutions.

C. Priority 3: Permanent Housing

- 1) The City would consider Operating costs for Permanent Supportive Housing (PSH) Programs: The City plans on working with eligible nonprofits and/or affordable housing developers who provide services to existing PSH programs to help cover some gaps in operational financing/or provide required match for funding, allowing them to continue providing housing to program participants that are currently receiving PSH housing vouchers. This would include increasing the percentage of PLHA funds in years 4 and 5 to include operating expenses for Multi-family housing with units dedicated to people experiencing homelessness. This will assist in ensuring that PSH units created for people experiencing homelessness, have the necessary case management to provide PSH units with a connection to supportive services.

EXHIBIT E

Funding Allocation Year	2019	2019	2019
Type of Activity	Emergency Shelters	Navigation Centers	Permanent
Percentage of Funds Allocated for each Activity	60%	25%	10%
Area Median Income Level Served	30%	30%	30%
Administrative Cost	5%		

Funding Allocation Year	2020	2020	2020
Type of Activity	Emergency Shelters	Navigation Centers	Permanent
Percentage of Funds Allocated for each Activity	60%	25%	10%
Area Median Income Level Served	30%	30%	30%
Administrative Cost	5%		

EXHIBIT E

Funding Allocation Year	2021	2021	2021
Type of Activity	Emergency Shelters	Navigation Centers	Permanent
Percentage of Funds Allocated for each Activity	50%	25%	20%
Area Median Income Level Served	30%	30%	30%
Administrative Cost	5%		

Funding Allocation Year	2022	2022	2022
Type of Activity	Emergency Shelters	Navigation Centers	Permanent
Percentage of Funds Allocated for each Activity	50%	25%	20%
Area Median Income Level Served	30%	30%	30%
Administrative Cost	5%		

Funding Allocation Year	2023	2023
Type of Activity	Navigation Centers	Permanent
Percentage of Funds Allocated for each Activity	75%	20%
Area Median Income Level Served	30%	30%
Administrative Cost	5%	

2. **Special Conditions**

The following Special Conditions are applicable to this Standard Agreement:

None.



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Friends of the Porterville Public Library License Agreement

SOURCE: Parks and Leisure Services

COMMENT: The Friends of the Porterville Public Library is a non-profit organization that has helped raise money to support special projects for the Porterville Library and literacy programs since 1971. The Friends of the Porterville Public Library accept donations of used books, movies and music, which they in turn sell at book sales. The Friends of the Porterville Public Library have held property license agreements with the City over the years at various locations. The most recent agreement was at the former Spencer House at 301 N. Hockett Street. Due to its poor condition and the City's plan to convert the site into a public parking lot, the City requested the Friends of the Porterville Public Library to vacate the Spencer House in October 2020, prior to the house being demolished.

The Friends of the Porterville Public Library have requested to temporarily be housed at 298 N. Main Street in order to store their materials and conduct sales. The term of the draft property license agreement is month-to-month commencing on October 19, 2022. The Friends of the Porterville Public Library are aware that this agreement is intended to be temporary and the City may at any time become aware of an interested party willing to lease the space to open a restaurant. The license may be terminated by the City in its sole discretion upon sixty (60) days written notice to the Friends of the Porterville Public Library. The Friends of the Porterville Public Library will maintain insurance to City specifications, naming the City as an additional insured.

At its meeting on September 28, 2022, the Internal City Audit Committee reviewed the proposed license agreement and recommends approval to the City Council.

RECOMMENDATION: That the City Council authorize the property license agreement between the City of Porterville and the Friends of the Porterville Public Library for use of the City facility located at 298 N. Main Street on a month-to-month term in order to store and conduct book sales to benefit the Porterville Library.

ATTACHMENTS: 1. Draft Property License Agreement

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager

PROPERTY LICENSE AGREEMENT BETWEEN
THE CITY OF PORTERVILLE AND
THE FRIENDS OF THE PORTERVILLE PUBLIC LIBRARY

THIS AGREEMENT, made and entered into the ____th day of October, 2022, by and between the CITY OF PORTERVILLE, a municipal corporation, hereinafter referred to as "LICENSOR", and the FRIENDS OF THE PORTERVILLE PUBLIC LIBRARY, a non-profit corporation, hereinafter referred to as the "LICENSEE".

RECITALS

- A. WHEREAS, the Licensor is the owner of the real property 298 North Main Street in the City of Porterville, and
- B. WHEREAS, the Licensee is a duly constituted corporation and
- C. WHEREAS, the Licensee's primary purpose and function is to service the City of Porterville's Public Library and its patrons for the betterment of the local community.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

- 1. **Use.** That the Licensor, for and in consideration of the premises, covenants, agreements, and stipulations herein contained on the part and behalf of the Licensee to be paid, kept and performed, at the time and in the form and manner herein specified, with the time being a license for the period of time, term, and on the conditions herein set forth, grants to Licensee the exclusive right and privilege to engage, use and employ the real property for the purpose of carrying on and conducting a community service for the benefit of the Public Library and its patrons.
- 2. **Term.** This License renewal shall be on a month-to-month basis commencing on October 19, 2022.
- 3. **Consideration.** As total consideration for this License, Licensee shall pay to Licensor an annual sum of \$1.00 payable on October 19.
- 4. **Conditions Applicable to License.** This Licensee is subject to all existing covenants, conditions, reservations, contracts, leases, licenses, easements, encumbrances, restrictions and rights of ways with respect to the Premises, whether or not of record.
- 5. **No Transfer or Assignment.** This License is personal to Licensee. Any attempt to transfer or assign this License shall terminate it.

6. **Permits and Regulations.** Licensee shall be responsible for securing any required approvals, permits and authorizations from any federal, state or local agencies and shall comply with all applicable laws and regulations.
7. **No Interference.** Licensee shall not interfere with the normal operation and activities of Licensor and Licensee shall conduct its activities on the Premises with no inconvenience to Licensor, its agents, employees and invitees.
8. **Maintenance.** Licensee agrees to maintain and keep in good and clean order and repair and replace the same, as necessary, the premises, and to keep the building exteriors clean and properly cared for and maintained at all times, to the reasonable satisfaction of the City.

The City shall be responsible for major building and property repairs including repairs to the roof and plumbing. Licensee shall be responsible for minor building repairs.

9. **Modifications.** Licensee shall be allowed to modify the building and facilities, with written consent from the City, which may be withheld for any reason.
10. **Rights and Obligations.** The Licensee shall, without cost, charge or expense to the Licensor, pay all electric power, water, gas, telephone and refuse collection fees and charges, and the same shall not be allowed to become a charge or lien on said real property.
11. **Default.** In the event the Licensee fails to comply with any of the material terms of this Agreement, in addition to any and all other remedies available under the law, this License may be revoked by the City, upon the Licensee's receipt of written notice of the violation to the parties and its failure to cure within ten (10) days. More time may be granted for the cure of any violations if agreed to in writing by the parties.
12. **Alteration in Writing.** This License supersedes any and all prior understandings and agreements, whether written or oral, between the parties with respect to the subject matter of this License. No alteration or variation of this License shall be valid unless made in writing and signed by Licensor and Licensee.
13. **Indemnification.** To the fullest extent permitted by law, Licensee shall indemnify, defend, and hold harmless Licensor, its officers, agents and employees, from and against any claims, damages, costs, expenses, or liabilities (collectively "Claims") arising out of or in any way connected with this License including, without limitation, Claims for loss or damage to any property, or for death or injury to any person or persons but only in proportion to and to the extent that such Claims arise from the negligent or intentional acts or omissions of Licensee, its officers, agents, partners, invitees or employees.

14. **Insurance.** Licensee agrees that he or she will procure and maintain in force throughout the term of this Agreement at insurance policies insuring Licensee and the City against public liability and property damage in the following minimum amounts, to wit:

1. Comprehensive form of general liability insurance, personal injury liability and property damage, and naming the City of Porterville, its officers, employees, agents and assigns, as additional insured, in at the following amounts:

a. Bodily insurance, including death to one or more persons, each occurrence: \$1,000,000.00 per occurrence. Prior to commencement of the term of this Agreement, Licensee shall provide Licensor with and original Certificate of Insurance, together with a signed endorsement naming the Licensor as Additional Insured and acknowledging that thirty (30) days written notice of cancellation or material change shall be given Licensor.

All insurance shall be carried with insurance companies having a Best rating of not less than A:VII, and which are admitted and authorized to do business in the State of California by the Insurance commissioner of California. A renewal policy shall be procured not less than ten (10) days prior to the expiration of any such policy. The policies of insurance as above provided, or certificates of the insurers evidencing insurance carried, shall be deposited with the City Clerk of the City immediately upon the execution of this Agreement. Should the required insurance coverage, for any reason whatsoever, be canceled, the insurer is required to provide the City with thirty (30) days notice of such cancellation.

15. **Termination.** This License may be terminated by the Licensor in its sole discretion upon sixty (60) days written notice to Licensee by Licensor.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the _____ of _____, 2022.

FRIENDS OF THE LIBRARY

Authorized Representative

CITY OF PORTERVILLE

Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

APPROVED AS TO FORM

Julia M. Lew, City Attorney



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Set a Public Hearing for the Adoption of the California Building Codes

SOURCE: Engineering and Project Management

COMMENT: The various building codes in use by most jurisdictions in California are updated periodically to reflect the latest materials and construction techniques available to the construction industry.

The last published building codes, specifically the California Building Codes, were updated in 2019. The State of California has since adopted the 2021 International Codes as the 2022 State Codes for Building, Plumbing, Mechanical, Electrical, and Energy.

In addition to these Codes, the State of California has also mandated the adoption of the 2022 Green Building Codes, the 2022 Fire Code, the 2022 Residential Code, the 2022 Administrative Code, and the 2022 Reference Standards Code. The 2022 Codes become State mandated as of January 1, 2023. The adoption process of the 2022 Fire Code will be handled separately by the Fire Department.

Each California Code will be adopted by Ordinance, and shall repeal the State Code previously in effect.

RECOMMENDATION: That the City Council set the Public Hearing for November 1, 2022, to receive input and give first reading to draft Ordinances for the adoption of the 2022 Editions of the California Building, Plumbing, Mechanical, Electrical, Green Building Standards, Residential, Administrative, Reference Standards, and Energy Codes.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Set a Public Hearing for the Adoption of the California Fire Code

SOURCE: Fire

COMMENT: The Fire Code in use by most jurisdictions in California is updated periodically to reflect the latest materials and construction techniques available to the construction industry.

The last published Fire Code, specifically the California Fire Code, was updated in 2019. The State of California has since adopted the 2021 International Codes as the 2022 State Codes for Building, Fire Plumbing, Mechanical, Electrical, and Energy.

In addition to these codes, the State of California has also mandated the adoption of the 2022 Fire Code. The 2022 Codes shall become State mandated as of January 1, 2023.

Each California Code will be adopted by Ordinance, and shall repeal the State Code previously in effect.

RECOMMENDATION: That the City Council set the Public Hearing for November 1, 2022, to receive input and give first reading to draft Ordinances for the adoption of the 2022 Edition of the California Fire Code.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Bryan Cogburn, Deputy Fire Chief

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Set a Public Hearing for updates to the Porterville Municipal Code

SOURCE: Fire

COMMENT: The review of the Fire Code for adoption happens every three years. During this time, a review of the Porterville Municipal Code is undertaken to recommend updates to areas where changes in law, policy, or procedures may result in changes. The draft Ordinance presented for consideration would result in amendments as follows:

Including language in Chapter 2 defining the Code Enforcement Officer, as described in Section 829.5 of the California Penal Code, including working with outside agencies and clarifying their duties; the addition of recognized nuisance conditions under Chapter 12; and adding authority to include the Fire Chief in Chapter 17 as it relates to the appeals process for abatement of abandoned vehicles. Historically, abatement has been performed solely by the Police Department. With the addition of the Code Enforcement Division, the duties are now split with the Police Department handling the roadways and Code Enforcement dealing with other public and private properties.

Each section of the Porterville Municipal Code will be adopted by Ordinance, and shall repeal the Code previously in effect.

RECOMMENDATION: That the City Council set the Public Hearing for November 1, 2022, to receive input and give first reading to draft Ordinances for the adoption of the changes to the Porterville Municipal Code.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Bryan Cogburn, Deputy Fire Chief

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Approval of Community Civic Event - Tule River Economic Development Corporation - Trunk or Treat Car Show - October 29, 2022

SOURCE: Finance

COMMENT: The Tule River Economic Development Corporation (TREDDC) is requesting approval to hold the "Trunk or Treat Car Show" on Saturday, October 29, 2022, from 9:00 AM to 4:00 PM. The event will be held at the City parking lot adjacent to Landing 13 at 152 N. Hocket Street. The event will feature a car show while car club members give out treats to children in costumes. There will be music provided by a DJ. Food and drinks may be purchased inside the restaurant but no alcoholic beverages will be allowed outside.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the Ordinance regulations and reviewed by all City Departments involved. The requirements are listed on the attached copy of the Application and Agreement, Exhibit A and Exhibit B. Event organizers are required to adhere to all local, State and Federal guidelines and limitations pertaining to COVID-19, if any, at the time of the event.

RECOMMENDATION: That the City Council approve the Community Civic Event application from the Tule River Economic Development Corporation to hold the Trunk or Treat Car Show event on October 29, 2022, subject to the restrictions and requirements contained in the Application and Agreement, Exhibit A and Exhibit B.

ATTACHMENTS:

1. CCE Application and Agreement, Map, Exhibit A, Exhibit B, Outside Amplifier Permit, and Certificate of Liability Insurance

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, 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? not yet E-mail address? Jonathan@tuleriver.com Website? tuleriveredc.com

Application date: 09/13/2022 Event date: 10/29/2022

Event time: 9:00 AM - 4:00 PM

Name of Event: Trunk Or Treat Car Show

Sponsoring organization: Tule River Economic Development Corporation Phone # 559-781-4271

Address: 31071 CA-190, Porterville, CA 93257

Authorized representative: Dennis Ickes Phone # 559-781-4271 ext 2015

Address: 31071 CA-190, Porterville, CA 93257

Event chairperson: Jonathan Cubero Phone # 559-544-4625

2364 W Garden Ave, Porterville, CA 93257

Location of event Landing 13 152 N. Hockett Street, Porterville, CA 93257

Outside event in parking lot. (Location map must be attached)

Type of event: Car show for public viewing while car club members give out candy to costumed children.

Music provided by DJ inside and outside. Food and drinks purchased inside restaurant. No alcohol allowed outside.

Non-profit organization status: 501 (C) 3

(IRS Determination)

City services requested (fees associated with these services will be billed separately):

Barricades (quantity): 0 Street sweeping Yes No X

Police protection Yes No X Refuse pickup Yes No X

Other:

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)

DI 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.**

DI Authorized Representative Initials

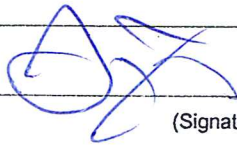
Health permit: Organization/Applicant **will obtain or ensure** that all participants obtain a 'Temporary Food Facilities' permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental Health 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.

DI 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.

DI 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.

Tule River Economic Development Corporation		09/13/2022
(Name of Organization)	(Signature)	(Date)

VENDOR/PARTICIPANT LIST 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

Sponsoring organization: Tule River Economic Development Corporation

Location: [Landing 13, 152 N. Hocket St., Porterville CA 93257](#) Event date: [10/29/2022](#) Event time: [9:00 AM - 4:00 PM](#)

All vendors are required to complete the business license permit form. List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. **NO PERMIT WILL BE ISSUED WITHOUT THIS INFORMATION.** Vendors with no valid City of Porterville business license are required to pay \$1 per day to the City, with the exceptions of non-profit organizations per *City of Porterville Municipal Code 15-20(E) Community Civic Events (16). This form should be completed at the time of application, but must be submitted **NO LESS THAN ONE WEEK PRIOR TO THE EVENT.**

[illegible]

***Municipal Code 15-20(E) Community Civic Events (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.

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: Trunk Or Treat Car Show

Sponsoring organization: Tule River Economic Development Corporation

Event date: 10/29/2022 Hours: 9:00 AM - 4:00 PM

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

Closed

<u>Street Name</u>	<u>From</u>	<u>To</u>	<u>Activity</u>
<u>Sidewalks</u>	<u>From</u>	<u>To</u>	<u>Activity</u>
<u>Parking lots and spaces</u>	<u>Location</u>	<u>Activity</u>	
All 60 parking spaces	Parking lot of Hockett and Mill Street	Cars parked for viewing	

Glory Graphics Studio
Clothing store

D.L. Frame Shop
Temporarily closed

W Mill Ave

TRUNK OR TREAT
CAR SHOW

N Hockett St

N Division St

N Hockett St

N Division St

DJ MUSIC

A11
ice

Landing 13
Order DoorDash

35

32

34

38

Amigo's Fan

W Oak Ave

Stu

Requirements for Community Civic Event
Tule River Economic Development Corporation
Trunk or Treat Car Show
October 29, 2022

City Engineer: <i>D. Cervantez</i>	No comments.
Community Development Director: <i>J. Ridenour</i>	No comments.
Public Works Director: <i>M. Knight</i>	No comments.
Fire Marshal: <i>C. Dignam</i>	No comments.
Parks and Leisure Services Director: <i>D. Moore</i>	No comments.
Police Lieutenant: <i>R. Moore</i>	Please see Exhibit B.
Deputy City Manager: <i>P. Hildreth</i>	Provide a certificate of insurance citing the event and event date, as well as naming the City of Porterville as an additional insured. The certificate must also include the endorsement page.
Field Services Superintendent: <i>B. Spry</i>	No comments.
Field Services Superintendent – Streets: <i>J. Baeza</i>	No comments.

Requirements for Community Civic Event

Sponsor: Tule River Economic Development Corporation
Event: Trunk or Treat Car Show
Event Chairman: Jonathan Cubero
Location: Landing 13, Porterville Ca
Date of Event: October 29, 2022 (9:00 a.m.)

RISK MANAGEMENT: Conditions of Approval

That the Tule River Economic Development Corporation provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than \$1,000,000 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.

- A. 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.

**CITY OF PORTERVILLE/POLICE DEPARTMENT
Community Civic Event Application**

**Trunk or Treat Car Show
October 29, 2022 / 9:00 AM—4:00 PM**

**Location: Landing 13 and adjacent parking lot
152 N. Hockett Street, downtown Porterville**

Recommendations/Requirements:

- Any and all street closures in the city, if needed, require City Council approval.
- If event organizers anticipate the need to have vehicles removed from the associated streets, alleys, or parking lots, the areas in question must be properly posted, in accordance with the California Vehicle Code, well in advance of the event. Event organizers **shall** contact the on-duty Watch Commander of the Porterville Police Department no less than 30 days prior to the event if vehicle removal is to be authorized. The Watch Commander can be contacted at 559-782-7410.
- Participant vehicles shall not be parked on any part of any sidewalk, or otherwise block traffic or pedestrian travel.
- Parking lot shall be properly closed to thru traffic, and such shall be posted accordingly to prevent the dangers of involving pedestrian and vehicular traffic.
- An Outside Amplifier Permit has been requested and granted. However, event organizers shall not allow music to be played so loud as to unreasonably disturb the peace and good order of any residents or business establishments in the surrounding area.
- At conclusion of event, event organizers shall ensure streets, alleys, and parking lot are promptly cleared of any vehicles, equipment, booths or anything that could present a hazard to pedestrians or vehicles traveling through this area.

Ron Moore, Lieutenant
Porterville Police Department

Exhibit B

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: Jonathan Cubero
2364 W Garden Ave Porterville, CA 93257
- 2 Address where amplification equipment is to be used: 152 N. Hockett St., Porterville, CA 93257 & parking lot of Hockett & Mill St.
- 3 Names and addresses of all persons who will use or operate the amplification equipment: Ramon Hernandez (DJ Swift)
944 N Silver Maple St
- 4 Type of event for which amplification equipment will be used: Car Show and Trunk Or Treat
- 5 Dates and hours of operation of amplification equipment: Outdoors in the parking lot of Hockett and Mill from 11:00 AM to 4:00 PM
Remainder of festivities for the rest of the evening will be indoors at Landing13, located at 152 N. Hockett St
- 6 A general description of the sound amplifying equipment to be used: DJ music equipment and speakers

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 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)

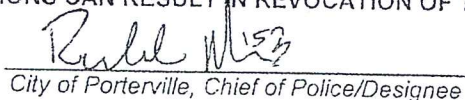
Penal Code Section 415 (2) Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine. (2) Any person who maliciously and willfully disturbs another person 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 of Applicant

09/13/2022
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

9.16.2022
Date



TULERIV-01

GBETANCOURT

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

9/30/2022

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 Cumbre Insurance Services, LLC 3110 E. Guasti Road Suite 500 Ontario, CA 91761	CONTACT NAME: Griselda Betancourt
	PHONE (A/C, No, Ext): (909) 484-2456 FAX (A/C, No):
	E-MAIL ADDRESS: betancourtg@cumbreins.com
	INSURER(S) AFFORDING COVERAGE
	INSURER A: Hudson Insurance Company
	INSURER B:
	INSURER C:
	INSURER D:
	INSURER E:
	INSURER F:

INSURED

Tule River Tribal Council ; Eagle Mountain Casino
340 N. Reservation Rd.
Porterville, CA 93257

COVERAGES

CERTIFICATE NUMBER:

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC ☒ OTHER: Sexual Misconduct Incl.			NAA00069-22	10/1/2022	10/1/2023	EACH OCCURRENCE \$ 10,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 10,000,000 MED EXP (Any one person) \$ 0 PERSONAL & ADV INJURY \$ 0 GENERAL AGGREGATE \$ 10,000,000 PRODUCTS - COMP/OP AGG \$ 10,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			NAA00069-22	10/1/2022	10/1/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 10,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	NAA00069-22	10/1/2022	10/1/2023	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

A - 10/1/2022-10/1/2023 Tribal Officials Liability: \$10,000,000 each Claim and in the Aggregate
A - 10/1/2022-10/1/2023 Employment Practices Liability: \$10,000,000 each Claim and in the Aggregate

REF: Trunk or Treat Car Show. City of Porterville is named as additional insured as respects to the operations of the named insured

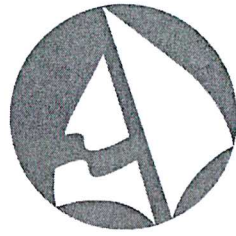
CERTIFICATE HOLDER

CANCELLATION

City of Porterville
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



HUDSON
INSURANCE GROUP®

SOVEREIGN NATION ALL LINES AGGREGATE INSURANCE POLICY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Named Assured:	Policy Number:	Effective Date of change:	Endorsement #:
Tule River Tribal Council	NAA00069-22	10-29-2022	1

ADDITIONAL ASSURED

This endorsement modifies insurance provided under the following:

INSURING AGREEMENT A. – GENERAL LIABILITY

This endorsement identifies person(s) or organization(s) who are "Assureds" under Coverage Part I., Insuring Agreement A. This endorsement does not alter coverage provided in Coverage Part I.

SCHEDULE

Name of Person(s) or Organization(s):

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

RE: Truck of Treat Car Show event held on October 29, 2022

Each person or organization shown in the Schedule is an "Assured" for Liability coverage, but only to the extent that person or organization qualifies as an "Assured" under General Provisions, Section A.1.:

- A. **ASSURED:** It is agreed that the unqualified word **Assured**, wherever used in this Policy, includes not only the Named Assured as stated in the Declarations but also:
1. any official, trustee, employee or volunteer of the Named Assured while acting within the scope of his duties as such, and any person, organization, trustee or estate to whom the Named Assured is obligated by virtue of a legally binding contract or agreement to provide insurance such as is afforded by this Policy, but only in respect of operations performed by or on behalf of the Named Assured;

Authorized Representative

All other Terms and Conditions remain the same.

(Ed. 3/14)
3/26/2014



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Approval for Community Civic Event - Parenting Network - Dia de los Muertos - November 2, 2022

SOURCE: Finance

COMMENT: The Parenting Network is requesting approval to hold their event, "Dia de los Muertos", on Wednesday, November 2, 2022 at Centennial Park, from 2:00 PM to 3:00 PM. The event is a celebration of life and of loved ones lost. Information booths hosting games and providing resources will be set up inside the park.

This request is submitted in accordance with the Community Civic Events Ordinance No. 1526, as amended. The application has been routed according to the Ordinance regulations and reviewed by all City Departments involved. All requirements and restrictions are listed on the attached Application and Agreement, Exhibit A, Exhibit B, and Exhibit C. Event organizers are required to adhere to all Federal, State and local guidelines and limitations pertaining to COVID-19, if any, at the time of event.

RECOMMENDATION: That the City Council approve the Community Civic Event application from the Parenting Network to hold "Dia de los Muertos" event on November 2, 2022, subject to the restrictions and requirements contained in the Application and Agreement, Exhibit A, Exhibit B, and Exhibit C.

ATTACHMENTS:

1. CCE Application and Agreement, Map, Exhibit A, Exhibit B, Exhibit C, Outside Amplifier Permit, and Certificate of Liability Insurance

Appropriated/Funded:

Review By:

Department Director:
Maria Bemis, Finance Director

Final Approver: John Lollis, 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: 10/4/2022 Event date: November 2, 2022
Event time: 2:00pm - 3:00pm
Name of Event: Dia de Los Muertos
Sponsoring organization: Parenting Network Phone # 559 793-2527
Address: 770 N. Main St. Porterville CA 93257
Authorized representative: Paul Prado Phone # 559-793-2527
Address: 770 N. Main St. Porterville CA 93257
Event chairperson: Rosana T Alcantar / Eddie Chale Phone # (559) 793-2527
Location of event Centennial Park

(Location map must be attached)

Type of event: Celebration of life and loved ones lost.

Non-profit organization status: 501c3 # 77-0188710

(IRS Determination)

City services requested (fees associated with these services will be billed separately):

Barricades (quantity): _____ Street sweeping Yes _____ No X
Police protection Yes _____ No X Refuse pickup Yes _____ No X
Other: _____

Parks facility application required: Yes X No _____ Attached X
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)

[Signature]

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.**

[Signature]

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.

[Signature]

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.

[Signature]

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.

Parenting Network

(Name of Organization)

[Signature]

(Signature)

9/29/22

(Date)

CITY OF PORTERVILLE

VENDOR/PARTICIPANT LIST 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: Día de los Muertos

Sponsoring organization: Parenting Network - Porterville

Location: Centennial Park

Event date: 11-2-2022 Event time: 2:00pm - 3:00pm

All vendors are required to complete the business license permit form. List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. **NO PERMIT WILL BE ISSUED WITHOUT THIS INFORMATION.** Vendors with no valid City of Porterville business license are required to pay \$1 per day to the City, with the exceptions of non-profit organizations per *City of Porterville Municipal Code 15-20(E) Community Civic Events (16). This form should be completed at the time of application, but must be submitted **NO LESS THAN ONE WEEK PRIOR TO THE EVENT.**

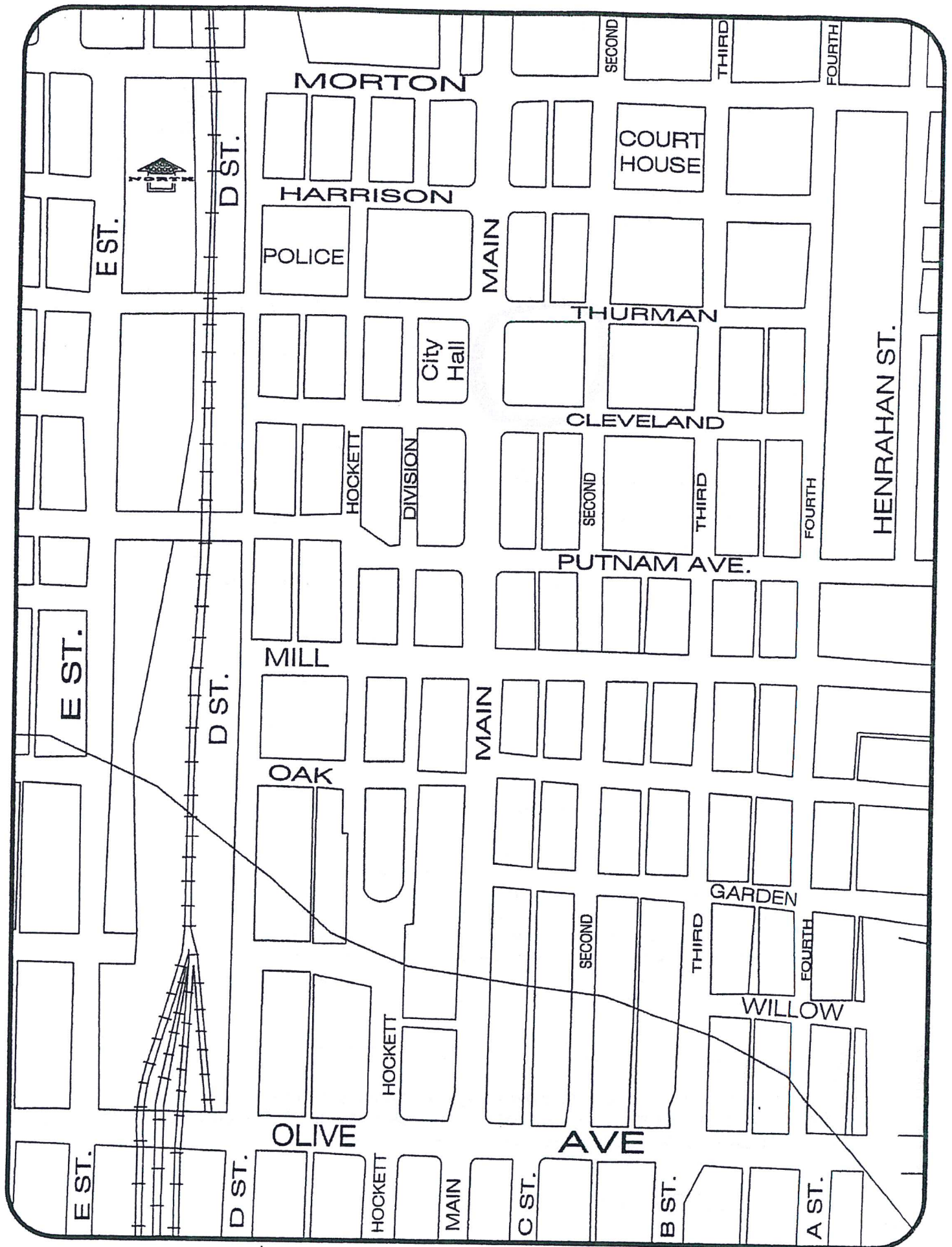
<u>Vendor name</u>	<u>Address/Telephone</u>	<u>Business License required?</u>	<u>Type of Activity</u>
HHSA	1055 W. Henderson Ave #2 559.788.1200		Games/recources
Warmline	177 W Henderson Ave #1 559.784.0312		Games/recources
Imagine Community Arts Center	372 N. 3rd St 559.615.1373		Games/recources
FHCN-Resource Center	323 W. Putnam Ave 877.960.3426		Games/recources
Kaweah Health	623 W. Willow Ave 559.733.0642		Games/recources

***Municipal Code 15-20(E) Community Civic Events (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.

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

Event date: November 2, 2022 Hours: 2:00pm - 3:00pm



E ST.

D ST.

MORTON

HARRISON

POLICE

MAIN

COURT
HOUSE

THURMAN

City
Hall

CLEVELAND

HOCKETT

DIVISION

SECOND

THIRD

FOURTH

PUTNAM AVE.

E ST.

D ST.

MILL

MAIN

OAK

HOCKETT

SECOND

THIRD

FOURTH

GARDEN

WILLOW

OLIVE

AVE

E ST.

D ST.

HOCKETT

MAIN

C ST.

B ST.

A ST.

HENRAHAN ST.

Requirements for Community Civic Event

Dia de Los Muertos

Parenting Network

November 2, 2022

City Engineer: <i>D. Cervantez</i>	No comments.
Community Development Director: <i>J. Ridenour</i>	No comments.
Public Works Director: <i>M. Knight</i>	No comments.
Fire Marshal: <i>C. Dignam</i>	Vendor booths shall comply with the attached information for spacing, ect. Please see Exhibit C.
Parks and Leisure Services Director: <i>D. Moore</i>	Vehicles to remain off the grass.
Police Lieutenant: <i>R. Moore</i>	Please see Exhibit B.
Deputy City Manager: <i>P. Hildreth</i>	The provided insurance certificate with endorsement looks good. Risk Management will also require that the organizer must adhere to any COVID-19 related mandates in place during the time of the event.
Field Services Superintendent: <i>B. Spry</i>	No comments.
Field Services Superintendent – Streets: <i>J. Baeza</i>	No comments.

Requirements for Community Civic Event

Sponsor: Parenting Network
Event: Dia de Los Muertos
Event Chairman: Eddie Chaidez
Location: Centennial Park, Porterville Ca
Date of Event: November 2, 2022 (2:00 p.m.)

RISK MANAGEMENT: Conditions of Approval

That Parenting Network provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than \$1,000,000 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.

- A. 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.

CITY OF PORTERVILLE/POLICE DEPARTMENT
Community Civic Event Application

Dia de los Muertos
Centennial Park
November 2, 2022 / 2:00PM – 3:00PM

Proposed Conditions/Requirements:

- Should food vendors be present, they should provide inspection certificates from the Tulare County Health Department to members of the organizing committee, to ensure food product safety.
- An Outside Amplifier Permit has been approved, however, event organizers shall not allow music or other amplification be played so loud as to unreasonably disturb the peace and good order of any residents or business establishments in the surrounding area.
- At conclusion of event, event organizers shall ensure streets and sidewalks are promptly cleared of any vehicles, equipment, booths or anything that could present a hazard to pedestrians or vehicles traveling through this area.

Ron Moore, Lieutenant
Porterville Police Department



PORTERVILLE FIRE DEPARTMENT

FIRE PREVENTION DIVISION

OUTDOOR FOOD BOOTH REQUIREMENTS

Authority cited: 2019 California Fire Code (CFC)

These standards apply to individual tents, temporary structures, or membrane structures less than 200 square feet in area, and canopies less than 400 square feet in area used as outdoor carnival and fair booths.

A permit is required before any tent or membrane structure larger than 400 square feet can be erected. (California Fire Code 3103.2)

Tents and membrane structures having an area in excess of 400 square feet shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the building official and fire code official.

Exceptions:

1. Tents used exclusively for recreational camping purposes.
2. Tents open on all sides which comply with all the following:
 - a. Individual tents having a maximum size of 700 square feet.
 - b. Aggregate area of multiple tents placed side by side without 12 feet clearance, not exceeding 700 square feet total.
 - c. A minimum clearance of 12 feet to all structures and other tents.

Definitions

Cooking Booth – Booth where food is prepared by a heating or cooking process such as, but not limited to, grilling, frying, barbecuing, flambe', deep fat frying, baking, warming, or boiling. **Deep fat frying** – Any cooking operation or process whereby the product floats or is submerged in hot oil during the cooking process.

Vendor Booth – Any booth other than a cooking booth.

Cooking Booth Construction and Location

- All fabrics or membranes covering cooking booths shall be California State Fire Marshal certified flame retardant and be labeled as such.
- Decorative materials shall be inherently fire resistive or shall be treated with a fire-retardant spray.
- Flooring materials used within cooking booths and cooking equipment shall be non-combustible or California State Fire Marshal certified fire-retardant. (*Exception 3/8" plywood or similar material.*)
- Each cooking booth shall have at least one exit-way, a minimum 3' wide and 6'8" high. Booth frames shall not obstruct exit paths.
- Cooking booths shall have a minimum clearance of 10' on at least two sides with clearance of at least 10' from any vendor booth.
- Minimum 12' separation required between cooking booths with an aggregate size of 400 sq.ft. with sides, or 700 sq.ft. without sides.

Cooking Equipment

- All interior cooking equipment shall be of an approved type, and open-flame cooking shall be located a minimum of 18" from booth back/side drop materials.
- Compressed gas (butane, propane, or natural) equipment shall conform to the following:
 - Shut off valves shall be provided at each fuel source;
 - Cooking appliances shall have an ON-OFF valve located far enough away from the appliance to be safely shut off in case of fire;
 - Manufactured cooking appliances shall be equipped with a Thermocouple Valve to shut off fuel if flame is extinguished;
 - The booth operator shall test all connections for leaks with soap and water solution;
 - Fuel tanks shall be protected from damage and secured in an upright position;
 - Hoses shall be of a type approved for use with the equipment and fuel type;
 - Tanks not in use shall be turned off;
 - Extra fuel tanks shall not be stored in booths;
 - Unused fuel cylinders shall be stored in a secured position.



PORTERVILLE FIRE DEPARTMENT

FIRE PREVENTION DIVISION

Wood, Charcoal (Solid Fuels) Cooking

- Use only an electric starter or commercially sold lighter fluid.
- Charcoal cooking and storage of lighter fluid is prohibited inside booths.
- Charcoal cooking shall be located a minimum of ten **10'** away from booths and in areas away from public access.
- Charcoal cooking shall be located at least ten **10'** away from combustible structures and parked vehicles.
- Coals shall be disposed of in metal containers with lids approved by the Fire Marshal.

Deep Fat Frying, Flambé, and Wok

- Deep fat frying, flambé, and wok shall be located **no closer than 18"** from any combustible material.
- Cooking areas shall not be accessible to the public.
- Deep fat frying equipment shall be equipped with a temperature regulating device or other method of regulating temperatures approved by the Fire Marshal.
- Separation shall be maintained with a minimum of **3'** clearance between deep fat frying and flambé or open flame cooking.

Vendor Booth Construction and Location

- Each vendor booth shall have at least one exit-way, a minimum of **3'** wide by **6'8"** high. Booth frames shall not obstruct exit paths.
- Vendor booths shall have a minimum clearance of **20'** on at least one side, with clearance of at least **10'** from any cooking booth.

Electrical Power

- Generators shall be placed only in locations approved for festival use.
- Generators shall not be refueled during event hours. Extra fuel shall not be stored during event hours.
- Smoking and open flames shall be prohibited within **25'** of refueling operations.
- Extension cords shall be of a grounded type and approved for exterior use.

Fire Extinguishers

- Each cooking booth shall be equipped with a fire extinguisher with a minimum rating of **2A: 10BC**. Booths with deep fat frying or flambé cooking shall be equipped with an extinguisher rated for **class "K" fires**.
- Cooking booths shall be equipped with visible and accessible fire extinguishers mounted adjacent to the exit.
- For vendor booths, the maximum travel distance to a fire extinguisher with a minimum rating of **2A: 10BC** shall not exceed **75'**.
- Each generator shall be provided with a fire extinguisher with a minimum **40BC** rating. The extinguisher shall be located near the generator and accessible at all times.
- All fire extinguishers shall be serviced and tagged annually by a State-licensed contractor.

Miscellaneous

- The Porterville Fire Department shall be provided with a site plan showing emergency access.
- All booths are subject to inspection by the Fire Department and any discrepancies will require immediate action.
- All cooking areas shall be cleaned regularly to prevent the build-up of grease.
- There shall be a competent adult in cooking booths at all times to ensure safety.
- Seating shall be a minimum of **15'** from booths with open flame devices or cooking appliances.
- The Fire Department shall be provided with a telephone number of the responsible party to contact in case of emergency on a 24 hour basis.

Fire Safety Tips

- Know where fire extinguishers are and how to use them.
- Do not leave cooking unattended.
- Do not wear loose-fitting clothing while cooking.
- Remove trash accumulation regularly.
- Keep combustible materials away from heat sources.
- **In case of an emergency dial 9-1-1.**

The attached "Food Booth Vendor Agreement" must be on site at all times and presented upon request of any Porterville Fire Department Personnel.



PORTERVILLE FIRE DEPARTMENT

FIRE PREVENTION DIVISION

Cooking Booth Vendor Agreement

Booth/Space # _____ Business Name _____
On Site Contact Name _____ Contact Phone # _____

Cooking Booth Construction and Location

1. Tents, canopies, and decorative material shall be inherently flame-resistive and proof of certification shall be on site at all times.
2. Cooking booth floors may be concrete, asphalt, or plywood over grass and dirt.
3. An emergency access of 36" shall be maintained between the back of each cooking booth and any fencing at all times. **NO EXCEPTIONS.**

Cooking Equipment

1. Cooking with charcoal, wood, or other solid fuel shall be located a minimum of 10' away from booths, canopies, combustible material or any public access.
2. Deep fat frying shall be located a minimum of 3' away from booths, canopies, open flame cooking, combustible material or any public access.
3. Any open flame cooking shall be located a minimum of 18" away from any vertical surface, combustible material or any public access.
4. Extra fuel tanks shall **NOT** be stored in booths or within 5' of cooking equipment.
5. All cooking, gas powered, or electrically energized equipment shall meet manufacturer specifications and shall be free of excess cooking oils or any other combustible materials.

Miscellaneous

1. A visible and accessible, 2A:10BC fire extinguisher with a current (within the last 12 months) State Fire Marshall tag must be provided within 20' of travel in all cooking areas.
2. A visible and accessible Class K portable fire extinguisher with a current (within the last 12 months) State Fire Marshall tag must be provided in all cooking areas with deep fat frying.
3. All cooking areas shall be cleaned regularly to prevent build-up of combustible substances.
4. Extension cords shall be of a grounded type, approved for exterior use, and in good working order.
5. Smoking is not allowed at any time within food booths or within 25' of any fuel source.
6. Specialized cooking equipment is subject to approval by the Fire Marshal.

Additional Requirements:

The Porterville Fire Department has established these requirements in accordance with the California Fire Code. Your cooperation is required to maintain a high level of fire safety throughout the event. All booths are subject to fire department inspection prior to and at any time during the event. Any discrepancies to the above requirements or any conditions considered a threat to fire and life safety by the Fire Inspector may result in the immediate cessation of cooking.

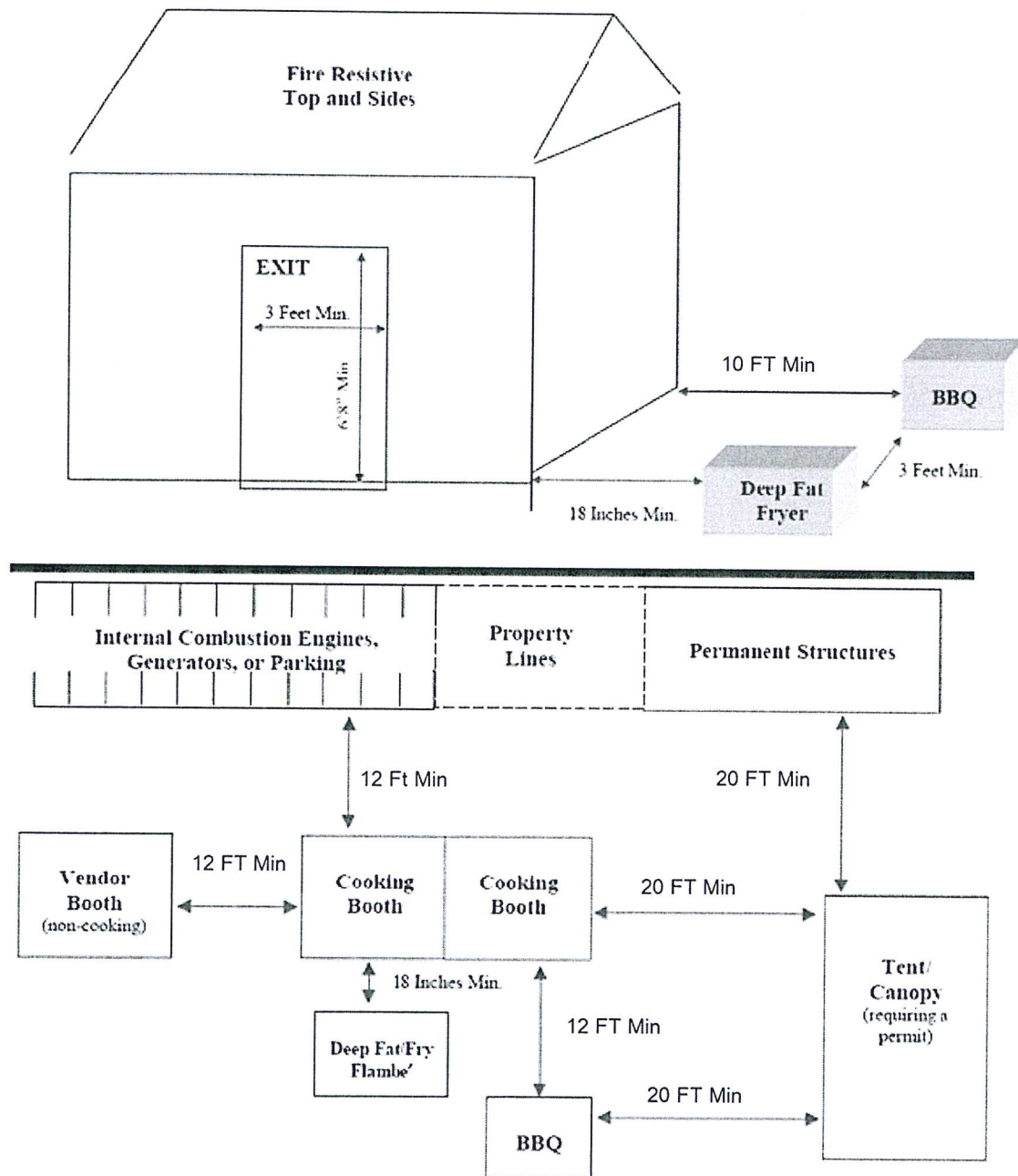
By signing below, I acknowledge that I have read and agree to comply with all requirements of this contract.

Signature _____ Date _____



PORTERVILLE FIRE DEPARTMENT

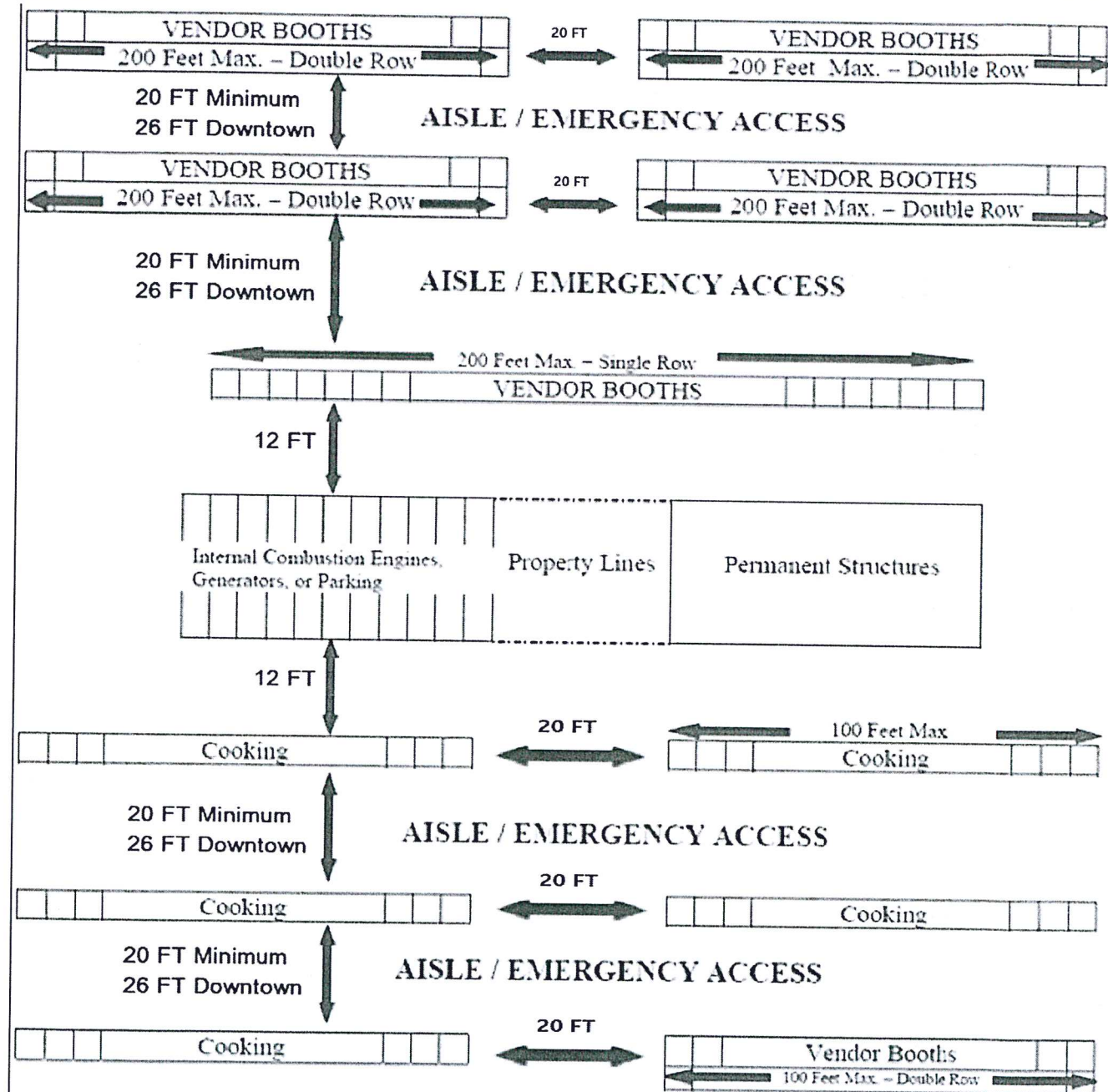
FIRE PREVENTION DIVISION





PORTERVILLE FIRE DEPARTMENT

FIRE PREVENTION DIVISION



*Note: Cooking booths are limited to single rows only. Back-to-back rows are not permitted. Maximum overall length of individual rows is 100 feet with aggregate spacing throughout.

**Note: Aggregate area of multiple tents placed side by side without 12 feet clearance shall not exceed 400 square feet with sides, or 700 square feet without sides. A minimum clearance of 12 feet to all structures and other tents is required.

***Note: Maximum overall row length distances listed, or shown above, shall meet spacing requirements for aggregate size restrictions

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: Porterville Parenting Network
770 N. Main St., Porterville CA 93257
- 2 Address where amplification equipment is to be used: 296 N. Main St., Porterville CA 93257
- 3 Names and addresses of all persons who will use or operate the amplification equipment: Paul Prado
770 N. Main St Porterville CA 93257
- 4 Type of event for which amplification equipment will be used: Community Resource Event Microphone / speaker for Music
- 5 Dates and hours of operation of amplification equipment: November 2, 2022 2:00pm - 3:00pm
- 6 A general description of the sound amplifying equipment to be used: Microphone / Speaker for Music

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 of Applicant

9/29/22
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

10.5.2022
Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/04/2022

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 SEARCY INSURANCE CENTER, INC 15152 OAK RANCH DRIVE VISALIA, CA 93292		CONTACT NAME: JOHNNY SEARCY PHONE (A/C, No, Ext): 800-736-3904 FAX (A/C, No): 559-334-3442 E-MAIL ADDRESS: SEARCY.INSURANCE@GMAIL.COM		
INSURED PARENTING NETWORK, INC. 330 NORTH JOHNSON ST VISALIA, CA 93291		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A: PHILADELPHIA INDEMNITY INS. CO.		18058
		INSURER B:		
		INSURER C:		
		INSURER D:		
		INSURER E:		
INSURER F:				

COVERAGES

CERTIFICATE NUMBER:

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:	X		PHPK2193025	10/16/2022	10/16/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
	AUTOMOBILE LIABILITY ANY AUTO ☐ OWNED ☐ SCHEDULED ☐ AUTOS ONLY ☐ AUTOS ☐ HIRED ☐ NON-OWNED ☐ AUTOS ONLY ☐ AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$						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				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)

CITY OF PORTERVILLE IS NAMED AS ADDITIONAL INSURED PER ATTACHED ADDITIONAL INSURED ENDORSEMENT

CERTIFICATE HOLDER

CANCELLATION

CITY OF PORTERVILLE
291 N. MAIN ST
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

POLICY NUMBER:
PHPK2193025

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

City of Porterville

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability arising out of your operations or premises owned by or rented to you.



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Approval for Community Civic Event - Veterans Homecoming Committee - Veterans Day Parade - November 11, 2022

SOURCE: Finance

COMMENT: The Veterans Day Homecoming Committee is requesting approval to hold the annual Veterans Day Parade on Friday, November 11, 2022, from 10:00 AM to 12:00 PM, continuing the patriotic tradition of honoring veterans and showing gratitude for their service. The request includes the closure of Main Street from Doris Avenue to Orange Avenue and the side streets along Main Street as indicated on the attached map, from 5:00 AM to 12:00 PM.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the Ordinance regulations and reviewed by all City Departments involved. The requirements are listed on the attached copy of the Application and Agreement, Exhibit A and Exhibit B. Event organizers are required to adhere to all local, State and Federal guidelines and limitations pertaining to COVID-19, if any, at the time of the event.

RECOMMENDATION: That the City Council approve the Community Civic Event application from the Veterans Homecoming Committee to hold the Veterans Day Parade on November 11, 2022, subject to the requirements and restrictions contained in the Application and Agreement, Exhibit A and Exhibit B.

ATTACHMENTS:

1. CCE Application and Agreement, Map, Exhibit A, Exhibit B, Outside Amplifier Permit, and Certificate of Liability Insurance

Appropriated/Funded:

Review By:

Department Director:
Maria Bemis, Finance Director

Final Approver: John Lollis, 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: Sept 10, 2022 Event date: Nov 11, 2022

Event time: 1000-1200

Name of Event: VETERANS DAY PARADE

Sponsoring organization: Vets. Homecoming Committee Phone # 559-359-7922

Address: 1900 W. Dine Ave, Porterville CA 93257

Authorized representative: Bob Archuleta Phone # 559-359-7922

Address: P.O. Box 828, Porterville, CA 93258

Event chairperson: Robert Lassotovich Phone # _____

Location of event Main St, Porterville, CA

(Location map must be attached)

Type of event: Parade

Non-profit organization status: Veterans Homecoming Committee
(IRS Determination) BL # 7536

City services requested (fees associated with these services will be billed separately):

Barricades (quantity): 80 Street sweeping Yes ☒ No ☐

Police protection Yes ☒ No ☐ Refuse pickup Yes ☒ No ☐

Other: _____

Parks facility application required: Yes ☐ No ☒ Attached ☐

Assembly permit required: Yes ☐ No ☒ 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/gov/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 sponsoring organization/applicant's insurance coverage shall apply as primary to, and on a non-contributory basis with, any other available coverage of the City. 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 with the application. *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 two million dollars (\$2,000,000.00) per occurrence of bodily injury and property damage, combined single limit. (Ordinance 15-20(e) 18)*

BA Authorized Representative Initial

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.

BA 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.

BA 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.

BA Authorized Representative Initials

Toilet rental service: Applicant shall have care, custody and control of the equipment and shall bear responsibility and liability for all loss and damage to the equipment and for its contents while at the City's location. Applicant shall not overload, move or alter the equipment and shall use the equipment for its intended purpose. Applicant shall be responsible for any damages to City's property resulting from company's provision of services hereunder. Applicant shall confirm with the service company the number of portable toilets, standard and handicap, and wash sinks needed for the number of expected attendees.

BA 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. Approval of the Community Civic Events Permit by the Porterville City Council pertains only to authorized activities conducted at designated locations within the incorporated area of the City of Porterville, and such approval shall not be construed or interpreted to authorize sponsor utilization of public right-of-ways outside of the jurisdiction of the City of Porterville.

VETS Homecoming Committee

(Name of Organization)

BA

(Signature)

10 Sept 2022

(Date)

VENDOR/PARTICIPANT LIST 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

Location: Main St, Porterville, CA Event date: Nov 11, 2023 Event time: 1000-1200

[illegible]

3 of 4

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: VETERANS DAY PARADE

Sponsoring organization: VETERAN HOMECOMING COMMITTEE

Event date: Nov 11, 2022 Hours: 0500 - 1200

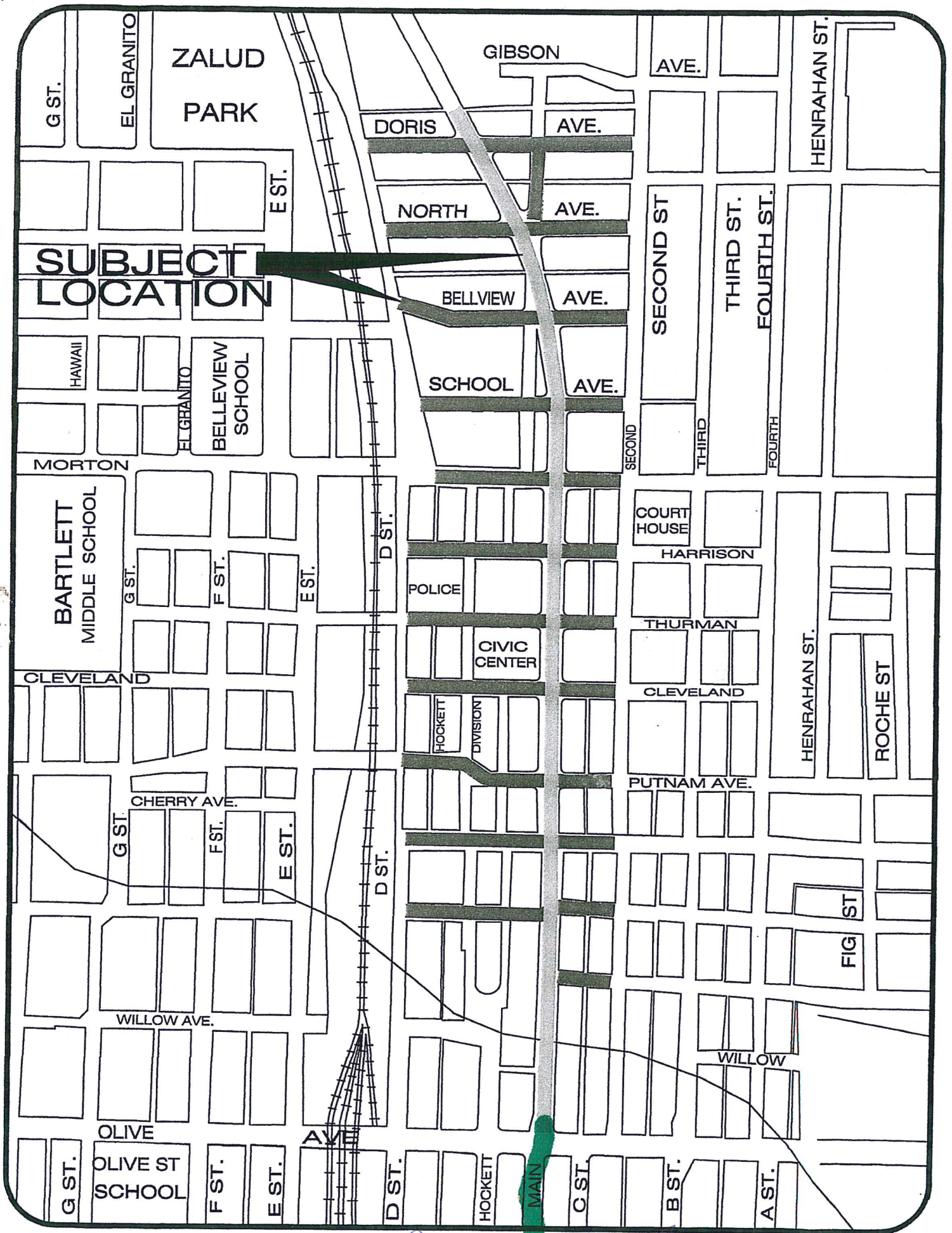
ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

Closed

<u>Street Name</u>	<u>From which Street</u>	<u>To which Street</u>	<u>Activity</u>
<u>Main St.</u>	<u>Doris Ave</u>	<u>Orange Ave</u>	<u>Parade</u>

<u>Sidewalks</u>	<u>From which sidewalk</u>	<u>To which sidewalk</u>	<u>Activity</u>

<u>Parking lots and spaces</u>	<u>Location</u>	<u>Activity</u>



Orange

Ave

Requirements for Community Civic Event
Veterans Homecoming Committee
Veterans Parade
November 11, 2022

City Engineer: <i>D. Cervantez</i>	No comments.
Community Development Director: <i>J. Ridenour</i>	No comments.
Public Works Director: <i>M. Knight</i>	No comments.
Fire Marshal: <i>C. Dignam</i>	W. Cleveland Ave should not be closed from Division to D St. in front of Fire Station 71 to allow for ingress and egress of Fire Station apparatus.
Parks and Leisure Services Director: <i>D. Moore</i>	North half of Oak at the corner of Oak/Main to remain free of vendors for Veterans Day Runners to get through. Street vendors to remain out of the way of Veterans Day Race participants. Public to remain out of Main St planters.
Police Lieutenant: <i>R. Moore</i>	Please see Exhibit B.
Deputy City Manager: <i>P. Hildreth</i>	The insurance coverage amounts are fine. Also, the organizer needs to comply with any and all COVID-19 related mandates that may be in place at the time of the event.
Field Services Superintendent: <i>B. Spry</i>	Refuse will take care of the delivery and pick up of trash cans.
Field Services Superintendent – Streets: <i>J. Baeza</i>	Street Department will take care of the street closures.

Requirements for Community Civic Event

Sponsor: Veterans Homecoming Committee
Event: Veterans Parade
Event Chairman: Robert Lassotovitch
Location: Main St, Porterville Ca
Date of Event: November 11, 2022 (10:00 a.m.)

RISK MANAGEMENT: Conditions of Approval

That the Veterans Homecoming Committee provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than \$1,000,000 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.

- A. 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.

CITY OF PORTERVILLE/POLICE DEPARTMENT
Community Civic Event Application

Veterans' Day Parade
November 11, 2022 / 9:00AM – 12:00PM

Proposed Conditions/Requirements:

- City Council approval is required for all street closures.
- Ensure adequate barricades/barriers are used to warn motorists of non-access and prevent vehicle access to those designated areas.
- Parade Committee should meet with street vendors to coordinate rules regarding their activities, such as:
 - Staying off the parade route and crossing in front of floats or groups
 - Shall not sell silly string, snap caps or party poppers
 - Ensure each vendor has properly obtained a City business license
- Food vendors should be situated where they minimally block the sidewalk.
- Food vendors should provide inspection certificates from the Tulare County Health Department to ensure safe food products.
- Throwing candy from vehicles, floats, or any parade entry is prohibited. This results in children scampering to catch or find candy in a crowded environment, and causes others to run out into the street. This practice creates significant and unnecessary risk for parade goers. All registered parade entrants should be informed of this prohibition and efforts taken to cease this practice.
- An Outside Amplifier Permit has been requested and granted. However, event organizers shall not allow music or other amplifications to be played so loud as to unreasonably disturb the peace and good order of the business establishments or neighborhoods in the area.
- Event organizers shall coordinate all policing/traffic/parking/posting concerns with Lieutenant Mark Azevedo and Sergeant Erik Martinez well in advance of the event. They can be contacted at 559-782-7410/559-782-7400.

Lieutenant Ron Moore
Porterville Police Department

Exhibit B

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: Bob Atchley
P.O. Box 828, Porterville, CA 93258
- 2 Address where amplification equipment is to be used: Main St, Porterville, Ca.
- 3 Names and addresses of all persons who will use or operate the amplification equipment: Parade
- 4 Type of event for which amplification equipment will be used: Parade - Brent Gill
- 5 Dates and hours of operation of amplification equipment: Nov. 11, 2022 9:00 - 12:00
- 6 A general description of the sound amplifying equipment to be used: Public Address System

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 of the occupants of nearby residences.

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

10 Sept 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.

[Signature]
City of Porterville, Chief of Police/Designee

9-29-2022
Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/06/2022

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 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 Lockton Affinity, LLC P. O. Box 879610 Kansas City, MO 64187-9610	CONTACT NAME: Lockton Affinity, LLC PHONE (A/C, No, Ext): 800-669-9944 FAX (A/C, No): 913-652-7599 E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: AIX Spec. Ins. Co. NAIC # 12833 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED American Legion Post #20, Veterans Homecoming Committee, American Legion Riders Chapter 20 P.O. Box 828 Porterville, CA 93258	

COVERAGES

CERTIFICATE NUMBER:

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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☒ LOC OTHER:	X		LFZ-BP-0032521-8	08/20/2022	08/20/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 1,000 PERSONAL & ADV INJURY \$ Included GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/POP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$ OCCUR CLAIMS-MADE						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				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Liquor Liability			LFZ-BP-0032521-8	08/20/2022	08/20/2023	Occurrence \$500,000 Aggregate \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
City of Porterville is Additional Insured per the terms, conditions, and exclusions of the referenced general liability policy
Location Address: 1900 W Olive Ave, Porterville, CA 93257

CERTIFICATE HOLDER

CANCELLATION

City of Porterville
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

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POLICY NUMBER: LFZ-BP-0032521-8

BUSINESSOWNERS
BP 12 01 08 10

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESSOWNERS POLICY CHANGES

THIS ENDORSEMENT FORMS A PART OF THE POLICY NUMBERED BELOW.

Endorsement No: 2

POLICY NUMBER LFZ-BP-0032521-8	POLICY CHANGES EFFECTIVE 09/22/2022	COMPANY AIX Specialty Insurance Company			
NAMED INSURED American Legion Post #20, Veterans Homecoming As Per Named Insured Extension P.O. Box 828 Porterville, CA 93258		AUTHORIZED REPRESENTATIVE Lockton Affinity, LLC PO BOX 410679 Kansas City, MO 64141-067			
CHANGES					
The following form is amended: BP 04 48 07-13 Additional Insured - Designated Person or Organization All other terms and conditions remain unchanged.					
POLICY AMOUNT AND PREMIUM ADJUSTMENT					
Limits Of Insurance					
Premiums					
Coverage Description	Previous Limit Of Insurance	New Limit Of Insurance	Previous Premium	New Premium	Additional/Return Premium
Changes to Policy Amount and Premium Adjustment as shown above.					

OPTIONAL COVERAGES Changes to Optional Coverages as shown above.			
The following optional coverages are added under this policy when designated by an "X" in the box(es) shown below.			
		Limits Of Insurance	Additional Premium
	Outdoor Signs		
	Burglary and Robbery (Named Peril Endorsement only)	_____ Inside the Premises	
	or		
	Money and Securities	_____ Outside the Premises	
	Employee Dishonesty	Each occurrence	
	Equipment Breakdown		

TOTAL PREMIUM ADJUSTMENTS	
PREMIUM DUE AT POLICY CHANGE EFFECTIVE DATE	
ADDITIONAL	RETURN
REMOVAL PERMIT	If Covered Property is removed to a new location that is described on this Policy Change, you may extend this insurance to include that Covered Property at each location during the removal. Coverage at each location will apply in the proportion that the value at each location bears to the value of all Covered Property being removed. This permit applies up to 10 days after the effective date of this Policy Change: after that, this insurance does not apply at the previous location.

Authorized Representative Signature

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):
City of Porterville 291 Main Street Porterfield, CA 93257
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Liability is amended as follows:

A. The following is added to Paragraph C. Who Is An Insured:

3. Any person(s) or organization(s) shown in the Schedule is also an additional insured, 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 in the performance of your ongoing operations or in connection with your premises owned by or rented to you.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. 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 Paragraph D. Liability And Medical Expenses 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.



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Community Civic Event - Rotary Club of Porterville - Porterville Chamber of Commerce - Children's Christmas Parade - December 1, 2022

SOURCE: Finance

COMMENT: The Rotary Club of Porterville and Porterville Chamber of Commerce are requesting approval to hold the annual Children's Christmas Parade along Main Street on Thursday, December 1, 2022, from 7:00 PM to 9:00 PM.

The event organizers are requesting the following streets and sidewalks be closed from 5:00 PM to 9:00 PM (as indicated on the attached map):

Main Street - from Danner Avenue to Olive Avenue

Morton, Harrison, Thurman, Cleveland, Putnam, Mill, and Oak Avenues - from Hockett Street to Second Street

Garden Avenue - from Main Street to Second Street

School, Belleview, North, and Doris Avenues - from Sunnyside Street to Second Street

Second Street - from Olive Avenue to Oak Street

The request also includes the closure of the parking spaces on Main Street in front of the Chamber of Commerce from 6:00 AM to 9:00 PM, and in front of City Hall from 3:00 PM to 9:00 PM.

This request is made under the Community Civic Events 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. Event organizers are required to adhere to all local, State and Federal guidelines and limitations pertaining to COVID-19, if any, at the time of the event.

RECOMMENDATION: That the City Council approve the Community Civic Event application submitted by the Rotary Club of Porterville and the Porterville Chamber of Commerce to hold the Children's Christmas parade on December 1, 2022 subject to the restrictions and requirements contained in the Application and Agreement, Exhibit A and Exhibit B.

ATTACHMENTS: 1. CCE Application and Agreement, Map, Exhibit A, Exhibit
Item No. 17.

B, Outside Amplifier Permit, and Certificate of Liability
Insurance

Appropriated/Funded:

Review By:

Department Director:
Maria Bemis, Finance Director

Final Approver: John Lollis, City Manager

291 N. Main Street, Porterville, CA 93257

(Incomplete applications can delay permit process)



Event time: 7:00 pm - 9:00 pm

Address: 93 N. Main St. Ste. A, Porterville, CA 93257

Address: 93 N. Main St. Ste. A, Porterville, CA 93257

(Location map must be attached)

(IRS Determination)

Other: _____

Assembly permit required:	Yes	No	x	Attached
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1 of 4

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)*

KM

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.**

KM

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.

KM

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.

KM

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.

Porterville Chamber of Commerce		09/08/2022
(Name of Organization)	(Signature)	(Date)

VENDOR/PARTICIPANT LIST 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

Sponsoring organization: Rotary Club of Porterville, Porterville Chamber of Commerce, City of Porterville

Location: Main St. and side streets downtown **Event date:** December 1, 2022 **Event time:** 7:00pm - 9:00pm

[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: Children's Christmas Parade

Sponsoring organization: Rotary Club of Porterville, Porterville Chamber of Commerce, City of Porterville

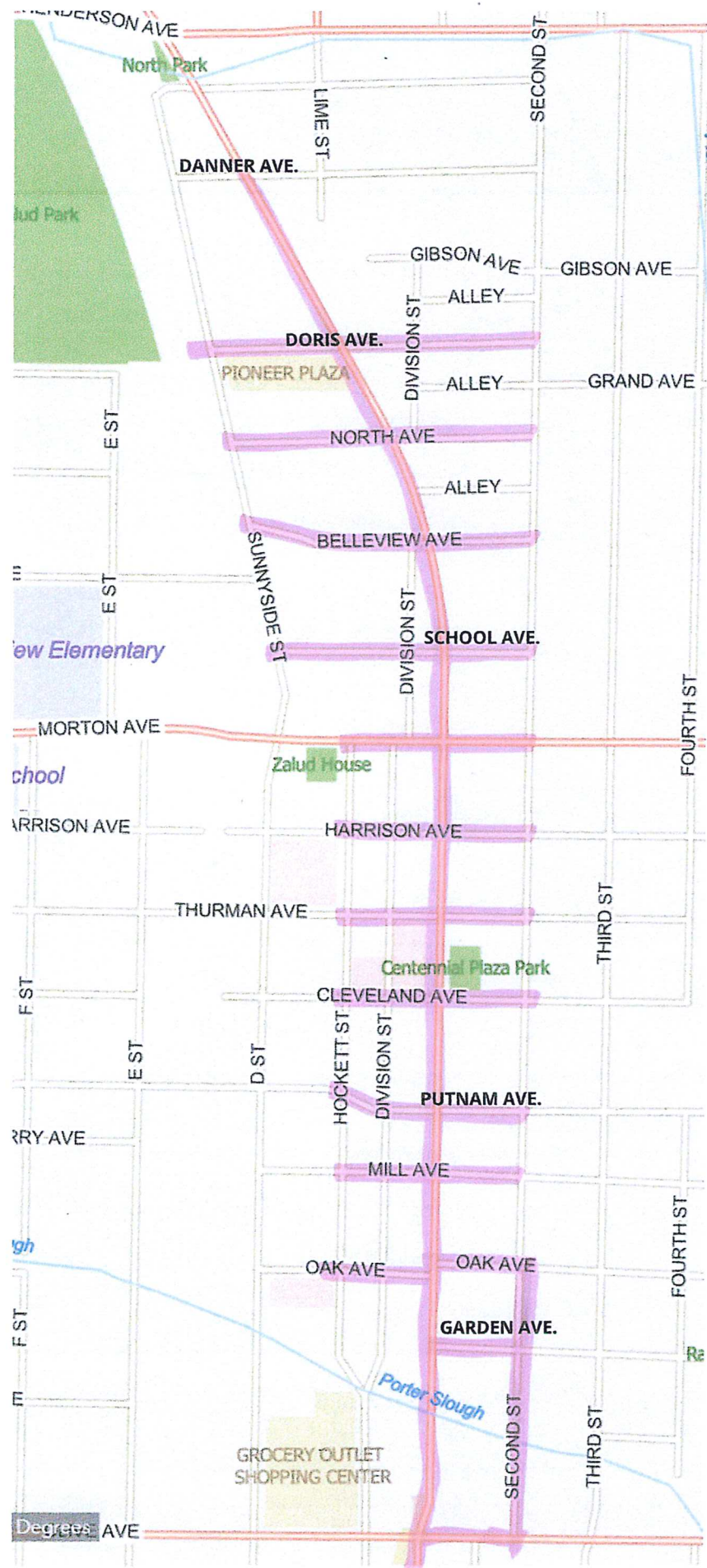
Event date: December 1, 2022 Hours: 7:00pm - 9:00pm

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

5:00pm - 9:00pm for street & sidewalk closures
6:00am - 9:00pm closure of parking spaces in front of Chamber
3:00pm - 9:00pm closure of parking spaces in front of City Hall

Closed

<u>Street Name</u>	<u>From</u>	<u>To</u>	<u>Activity</u>
Main St.	Danner Ave.	Olive	Parade route & assembly
Morton, Harrison, Thurman, Cleveland, Putnam, Mill & Oak	Hockett St.	Second St.	Adjacent to parade route
Garden Ave.	Main St.	Second St.	Adjacent to parade route
School, Bellevue, North, & Doris	Sunnyside St.	Second St.	Parade Assembly
Second St.	Olive	Oak St.	Parade Disbursement
(Street closures from 5:00pm to 9:00pm)			
<u>Sidewalks</u>	<u>From</u>	<u>To</u>	<u>Activity</u>
Main St.	Danner Ave.	Olive Ave.	View Parade & assembly area
(Sidewalk closures from 5:00pm to 9:00pm)			
<u>Parking lots and spaces</u>	<u>Location</u>		<u>Activity</u>
Main St. (7 spaces)	Porterville Chamber, 93 N. Main St. Ste. A	(6:00am-9:00pm closure)	Judge's stand
City Hall (5 northern spaces)	City Hall, 291 N. Main St.	(3:00pm to 9:00pm closure)	Announcer's stand



Requirements for Community Civic Event
Rotary Club of Porterville/ Chamber of Commerce
Children's Christmas Parade
December 1, 2022

City Engineer: <i>D. Cervantez</i>	No comments.
Community Development Director: <i>J. Ridenour</i>	No comments.
Public Works Director: <i>M. Knight</i>	No comments.
Fire Marshal: <i>C. Dignam</i>	No comments.
Parks and Leisure Services Director: <i>D. Moore</i>	No comments.
Police Lieutenant: <i>R. Moore</i>	Please see Exhibit B.
Deputy City Manager: <i>P. Hildreth</i>	The insurance documents look fine. Risk Management will require adherence to any and all federal, state and/or local COVID-19 restrictions in place, if any, at the time of the event. Thank you!
Field Services Superintendent: <i>B. Spry</i>	Refuse will deliver cans that morning.
Field Services Superintendent – Streets: <i>J. Baeza</i>	Street Department will close and pick up closure for parade route.

Requirements for Community Civic Event

Sponsor: Rotary Club of Porterville/ Chamber of Commerce
Event: Children's Christmas Parade
Event Chairman: Greg Meister
Location: Main St. from Danner to Olive, Porterville Ca
Date of Event: December 1, 2022 (7:00 p.m.)

RISK MANAGEMENT: Conditions of Approval

That the Rotary Club of Porterville 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.

- A. 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.

CITY OF PORTERVILLE/POLICE DEPARTMENT

Community Civic Event Application

**Children's Christmas Parade
December 1, 2022 / 5:00PM – 9:00PM**

Proposed Conditions/Requirements:

- City Council approval is required for all street closures.
- Ensure adequate barricades/barriers are used to warn motorists of non-access and prevent vehicle access to those designated areas.
- Parade Committee should meet with street vendors to coordinate rules regarding their activities, such as:
 - Staying off the parade route and crossing in front of floats or groups
 - Shall not sell silly string, snap caps or party poppers
 - Ensure each vendor has properly obtained a City business license
- Food vendors should be situated where they minimally block the sidewalk.
- Food vendors should provide inspection certificates from the Tulare County Health Department to ensure safe food products.
- Throwing candy from vehicles, floats, or any parade entry is prohibited. This results in children scampering to catch or find candy in a crowded environment, and causes others to run out into the street. This practice creates significant and unnecessary risk for parade goers. All registered parade entrants should be informed of this prohibition and efforts taken to cease this practice.
- An Outside Amplifier Permit will undoubtedly be requested and granted. However, event organizers shall not allow music or other amplifications to be played so loud as to unreasonably disturb the peace and good order of the business establishments or neighborhoods in the area.
- Event organizers shall coordinate all policing/traffic/parking/posting concerns with Lieutenant Mark Azevedo and Sergeant Erik Martinez well in advance of the event. They can be contacted at 559-782-7410/559-782-7400.

Lieutenant Ron Moore
Porterville Police Department

Exhibit B

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: Porterville Chamber of Commerce, 93 N. Main St., Ste. A, Porterville, CA 93257
- 2 Address where amplification equipment is to be used: Main St.
- 3 Names and addresses of all persons who will use or operate the amplification equipment: Equipment will be on individual entries in the parade - names on file at the Chamber
- 4 Type of event for which amplification equipment will be used: Children's Christmas Parade
- 5 Dates and hours of operation of amplification equipment: December 1, 2022 7:00pm - 9:00pm
- 6 A general description of the sound amplifying equipment to be used: Various types

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)

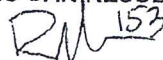
Penal Code Section 415 (2) Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person 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 of Applicant

09/08/2022
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

9.16.2022
Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
09/02/2022

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
INSURED All Active US Rotary Clubs & Districts The Rotary Club of Porterville ATTN: Risk Management Dept. 1560 Sherman Ave. Evanston, IL 60201-3698	E-MAIL ADDRESS: rotary@ajg.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Westchester Surplus Lines Insurance Company	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
INSURER F:		
NAIC # 10172		

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 INSD	SUBR 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		G73578917 001	7/1/2022	7/1/2023	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			G73578917 001	7/1/2022	7/1/2023	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

The City of Porterville and Successor Agency to the Porterville Redevelopment Agency
291 N. Main St.
Porterville, CA 93257
The Rotary Club of Porterville / District 5230
RE: Porterville Children's Christmas Parade / December 1st, 2022

CANCELLATION

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 #

This endorsement, effective 12:01 AM 07/01/2022

Forms a part of policy no.: G73578917001

Issued to: US ROTARY CLUBS & DISTRICTS

C/O ROTARY INTERNATIONAL

By: WESTCHESTER SURPLUS LINES INSURANCE COMPANY

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

(Based on CG2026 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, its Officers, Employees, Agents and Volunteers
291 North Main Street
Porterville, CA 93257

RE: Rotary Club of Porterville - Children's Christmas Parade December 1, 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.

Authorized Representative



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Amendment to Employee Pay and Benefit Plan - Porterville Peace Officers Association

SOURCE: Administrative Services

COMMENT: Within the scope of the Meyers-Milias-Brown Act, City representatives have concluded labor negotiations with the Porterville Peace Officers Association ("PPOA"). City representatives and PPOA have reached an agreement, and a written Memorandum of Understanding ("MOU") has been executed restating current benefits as well as amendments pertaining to wages, benefits and working conditions.

City Council acceptance and approval of an executed MOU is most commonly demonstrated by Council authorization to change or amend, when applicable, those documents that are necessary to implement the points of agreement contained in the MOU.

RECOMMENDATION: That the City Council:

1. Approve the draft Resolution amending the Employee Pay and Benefit Plan pertaining to Porterville Peace Officer Association employees; and
2. Direct staff to amend other documents as may be necessary to implement the negotiated changes in salary and benefits.

ATTACHMENTS: 1. Draft Resolution

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, Deputy City Manager

Final Approver: John Lollis, City Manager

RESOLUTION NO. ____-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE AMENDING THE EMPLOYEE PAY AND BENEFIT PLAN
PERTAINING TO PORTERVILLE PEACE OFFICERS ASSOCIATION EMPLOYEES

WHEREAS, the City Council has determined and reiterated that an Employee Pay and Benefit Plan, Classification Plan, Personnel System Rules and Regulations, Health Plan and Retirement Plan are essential for the proper administration of the City's affairs, including employee recruitment and retention, and for proper supervision of City Employees; and

WHEREAS, the City Council recognizes the necessity of amending and/or changing the contents of such plans and regulations from time to time, and of executing instruments to implement and to keep the provisions thereof current, and to maintain the relevancy of the same; and

WHEREAS, there has been concurrence on a Memorandum of Understanding with the Porterville Peace Officers Association ("PPOA") for the period from July 1, 2022, until June 30, 2025, covering provisions to amend the Employee Pay and Benefit Plan, as they relate to employees holding positions represented by such recognized employee organization.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan for employees holding positions represented by the aforementioned recognized employee organization, is hereby amended as follows:

- I. Term:
The term of the Memorandum of Understanding shall be three (3) years, from July 1, 2022 through June 30, 2025.
- II. Salary:
Effective July 1, 2022, PPOA employees shall receive a five percent (5%) salary increase.

Effective July 1, 2023, PPOA employees shall receive a two percent (2%) salary increase.

Effective July 1, 2024, PPOA employees shall receive a two percent (2%) salary increase.

III. Employee Service Awards:

Effective June 1, 2022, the Employee Service Awards section of the City of Porterville Employee Pay & Benefit Plan (Section III (P)), shall be amended as follows:

In an effort to retain and reward existing employees for their loyal continuous service, and to effectively attract and recruit new employees to the City of Porterville, all regular full-time employees, including provisional employees, and part-time employees who work 1560 hours or more annually, shall be eligible to receive Employee Service Awards for continuous years of service to the City of Porterville, as follows:

<u>Years of Continuous Service</u>	<u>Award Amount</u>
5	\$5,000
10	\$5,000
15	\$5,000
20	\$5,000
25	\$5,000
30	\$5,000
35	\$5,000
40	\$5,000

Payments shall be made to employee during the quarter during which the employee's anniversary date falls, in five year increments as identified above. Employee must work the full five year increment to be eligible for said pay.

Only continuous, uninterrupted service with the City of Porterville is eligible for award. Should an employee leave the service of the City of Porterville and then subsequently return, the employee's years of service shall reset to zero.

Service as a probationary employee and/or provisional employee is eligible. Part-time employees who work twelve (12) months per year, for a minimum of 1560 hours annually in consecutive years for continuous years of service are eligible.

Employees with at least five (5) continuous years and up to forty (40) continuous years of service with the City of Porterville as of the date that this Memorandum of Understanding is fully executed and officially accepted, will be acknowledged and eligible to receive their Employee Service Award effective the pay-period after the MOU is fully executed and officially accepted, or as soon thereafter as possible.

Subsequent to the initial payments made pursuant to this amended Employee Service Award benefit, payments shall be made on a quarterly basis as defined herein.

- IV. Holidays:
Effective immediately, Sections III(F) and III(H)4 of the Employees Pay & Benefit Plan shall be amended to add Martin Luther King Day as a recognized municipal holiday for which city offices shall be closed.
- V. Take-Home City Vehicles:
Effective the first pay period following ratification and adoption of the Successor MOU by the City Council, PPOA employees assigned to K-9 and SWAT duty shall be eligible for a take-home vehicle, provided said employee resides within 40 miles of the Porterville Police Department located at 350 North D Street, Porterville.
- VI. Operational Details:
Effective the first pay period following ratification and adoption of the Successor MOU by the City Council, shift selection for both intervals shall be changed to take place in December each year instead of January.
- VII. Call Back/Call Out:
Effective the first pay period following ratification and adoption of the Successor MOU by the City Council, if an employee is called back or called out to work, the employee shall be paid for a minimum of four (4) hours at the rate of one and one-half (1 ½) times the employee's regular rate of pay, in accordance with overtime pay provisions.
- VIII. Shift Differential:
Effective the first pay period following ratification and adoption of the Successor MOU by the City Council, shift differential pay of five percent (5%) of base salary shall be paid to PPOA employees formally assigned to night shift, including those assigned to NCSU shift of 6:00 P.M. to 6:00 A.M.
- IX. Additional Pay and/or Specialty Pay:
Effective the first pay period following ratification and adoption of the MOU by the City Council, due to the additional education associated with this assignment, PPOA employees assigned to the UAV/Drone Unit shall receive specialty pay of five percent (5%) of base salary. PPOA Employees assigned to this unit are subject to call out.

In the event a PPOA employee is assigned to more than one specialty assignment, stacking of percentages for specialty pay is permitted, with a twelve percent (12%) cap, except for concurrent assignments to SWAT/HNT and MAIT. The twelve percent (12%) cap does not apply to K-9.

To the extent permissible by California law and Labor Code Section 4850, payment of Specialty Pay for Detective and/or MAIT shall be suspended in the event the employee is off duty for any reason, including for a work-related or non-work-related injury, for a period of time of sixty (60) days or longer. At such time as the employee returns to work, the applicable Specialty Pay shall be reinstated effective as of the date of return to active duty. In the event the PPOA employee is off duty due to a work-related injury, this section will only apply proactively to new claims as of October 1, 2022.

- X. Uniform Allowance:
Effective the first pay period following ratification and adoption of the Successor MOU, the Department's Uniform and Safety Equipment Allowance shall be increased to \$1,200 annually to be paid in 24 equal installments.
- XI. 2025/2026 Negotiations:
Labor negotiations for the 2025/2026 Fiscal Year shall begin no later than March 1, 2025.
- XII. Statement of Continuing Benefits and Working Conditions:
All other terms and conditions previously negotiated and subsequently approved and implemented by appropriate authority shall, unless herein expressly modified or eliminated, remain in full force and effect until such time as they are subsequently modified or eliminated through the meet and confer process and mutually agreed upon by the City and PPOA.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

PASSED, APPROVED AND ADOPTED this ____ day of October, 2022.

Martha A. Flores, Mayor

ATTEST:
John Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk



CITY COUNCIL AGENDA – OCTOBER 18, 2022

SUBJECT: Reaffirm Conditions of State Assembly Bill 361 to Continue Remote Attendance at Public Meetings

SOURCE: City Manager's Office

COMMENT:

During the prior eighteen (18) months, the City 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. Pursuant to adopted State law effective September 30, 2021, 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 the Governor's State of Emergency, and must review and renew such Resolution every thirty (30) days thereafter. AB 361 will sunset on January 1, 2024. The Council last adopted its Resolution consistent with AB 361 at its meeting on October 4, 2022.

RECOMMENDATION: That the City Council consider adoption of the draft Resolution to continue allowing the option to participate in the City's public meetings remotely through the use of the teleconferencing provisions of AB 361.

ATTACHMENTS: 1. Draft Resolution

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager

RESOLUTION ____-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
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, 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, as a consequence of the 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. 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 3. 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 4. Effective Date of Resolutions. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of November 17, 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 18th day of October, 2022.

Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

By: _____

Patrice Hildreth, Chief Deputy City Clerk



CITY COUNCIL AGENDA – OCTOBER 18, 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 October 4, 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 twenty-five percent (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 twenty-five (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 thirty-two percent (32%) to twenty-six percent (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 fifty-five (55) gallons per-person per-day in 2022, reducing to 52.5 gallons per-person per-day in 2025, and finally to fifty (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 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.

On March 28, 2022, Governor Newsom issued Executive Order N-7-22, that requires the state's largest water providers (including the City of Porterville) to put in place "Level 2" of water shortage contingency plans, which the City is currently in "Level 4." On June 10, 2022, the State Water Resources Control Board adopted emergency regulations to prohibit the watering of nonfunctional or purely decorative grass in commercial, industrial or institutional properties with potable water.

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 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 five hundred (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. On May 7, 2022, Tulare County OES notified the City that due to deteriorating conditions across the county involving small water systems dependent upon the Friant-Kern Canal that may result in the complete lack of water or "Do Not Drink" orders, the State and County may have to invoke the provision of water from the well.

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 its meeting on 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, twenty-three (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 eight hundred (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 forty-one (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 30, 2019, 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 forty-five (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 thirty-one (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 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. Governor Newsom Executive Order N-7-22: March 28, 2022
7. State Water Resources Control Board: Emergency Regulation - Water Conservation; June 10, 2022
8. 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

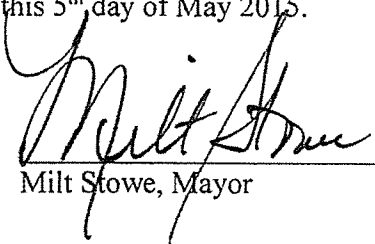
WHEREAS: the long-term ramifications of the current drought will have a significant impact on the city of Porterville and potentially pose a danger to the health and welfare of its residents; and

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

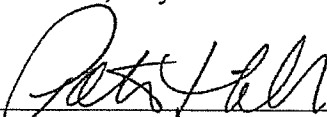
BE IT FURTHER RESOLVED: that the City Council of the City of Porterville requests the Governor and California Department of Water Resources make available California Disaster Assistance Act funding for the State of Local Emergency proclaimed on May 5, 2015, and seek all available forms of Federal assistance, 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

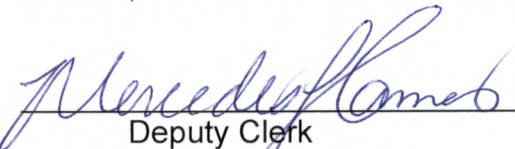
ABSTAIN: NONE

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

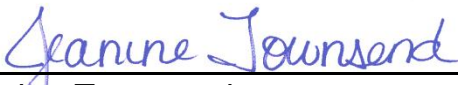
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on January 4, 2022.

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.

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-7-22

WHEREAS on April 12, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, I proclaimed states of emergency that continue today and exist across all the counties of California, due to extreme and expanding drought conditions; and

WHEREAS climate change continues to intensify the impacts of droughts on our communities, environment, and economy, and California is in a third consecutive year of dry conditions, resulting in continuing drought in all parts of the State; and

WHEREAS the 21st century to date has been characterized by record warmth and predominantly dry conditions, and the 2021 meteorological summer in California and the rest of the western United States was the hottest on record; and

WHEREAS since my October 19, 2021 Proclamation, early rains in October and December 2021 gave way to the driest January and February in recorded history for the watersheds that provide much of California's water supply; and

WHEREAS the ongoing drought will have significant, immediate impacts on communities with vulnerable water supplies, farms that rely on irrigation to grow food and fiber, and fish and wildlife that rely on stream flows and cool water; and

WHEREAS the two largest reservoirs of the Central Valley Project, which supplies water to farms and communities in the Central Valley and the Santa Clara Valley and provides critical cold-water habitat for salmon and other anadromous fish, have water storage levels that are approximately 1.1 million acre-feet below last year's low levels on this date; and

WHEREAS the record-breaking dry period in January and February and the absence of significant rains in March have required the Department of Water Resources to reduce anticipated deliveries from the State Water Project to 5 percent of requested supplies; and

WHEREAS delivery of water by bottle or truck is necessary to protect human safety and public health in those places where water supplies are disrupted; and

WHEREAS groundwater use accounts for 41 percent of the State's total water supply on an average annual basis but as much as 58 percent in a critically dry year, and approximately 85 percent of public water systems rely on groundwater as their primary supply; and

WHEREAS coordination between local entities that approve permits for new groundwater wells and local groundwater sustainability agencies is important to achieving sustainable levels of groundwater in critically overdrafted basins; and

WHEREAS the duration of the drought, especially following a multiyear drought that abated only five years ago, underscores the need for California to redouble near-, medium-, and long-term efforts to adapt its water management and delivery systems to a changing climate, shifting precipitation patterns, and water scarcity; and

WHEREAS the most consequential, immediate action Californians can take to extend available supplies is to voluntarily reduce their water use by 15 percent from their 2020 levels by implementing the commonsense measures identified in operative paragraph 1 of Executive Order N-10-21 (July 8, 2021); 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, and under 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.

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 sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in my April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021 Proclamations remain in full force and effect, except as modified by those Proclamations and herein. State agencies shall continue to implement all directions from those Proclamations and accelerate implementation where feasible.
2. To help the State achieve its conservation goals and ensure sufficient water for essential indoor and outdoor use, I call on all Californians to strive to limit summertime water use and to use water more efficiently indoors and out. The statewide Save Our Water conservation campaign at [SaveOurWater.com](https://www.SaveOurWater.com) provides simple ways for Californians to reduce water use in their everyday lives. Furthermore, I encourage Californians to understand and track the amount of water they use and measure their progress toward their conservation goals.
3. By May 25, 2022, the State Water Resources Control Board (Water Board) shall consider adopting emergency regulations that include all of the following:
 - a. A requirement that each urban water supplier, as defined in section 10617 of the Water Code, shall submit to the Department of Water Resources a preliminary annual water supply and demand assessment consistent with section 10632.1 of the Water Code no later than June 1, 2022, and submit a final annual water

supply and demand assessment to the Department of Water Resources no later than the deadline set by section 10632.1 of the Water Code;

- b. A requirement that each urban water supplier that has submitted a water shortage contingency plan to the Department of Water Resources implement, at a minimum, the shortage response actions adopted under section 10632 of the Water Code for a shortage level of up to twenty percent (Level 2), by a date to be set by the Water Board; and
- c. A requirement that each urban water supplier that has not submitted a water shortage contingency plan to the Department of Water Resources implement, at a minimum, shortage response actions established by the Water Board, which shall take into consideration model actions that the Department of Water Resources shall develop for urban water supplier water shortage contingency planning for Level 2, by a date to be set by the Water Board.

To further conserve water and improve drought resiliency if the drought lasts beyond this year, I encourage urban water suppliers to conserve more than required by the emergency regulations described in this paragraph and to voluntarily activate more stringent local requirements based on a shortage level of up to thirty percent (Level 3).

- 4. To promote water conservation, the Department of Water Resources shall consult with leaders in the commercial, industrial, and institutional sectors to develop strategies for improving water conservation, including direct technical assistance, financial assistance, and other approaches. By May 25, 2022, the Water Board shall consider adopting emergency regulations defining “non-functional turf” (that is, a definition of turf that is ornamental and not otherwise used for human recreation purposes such as school fields, sports fields, and parks) and banning irrigation of non-functional turf in the commercial, industrial, and institutional sectors except as it may be required to ensure the health of trees and other perennial non-turf plantings.
- 5. In order to maximize the efficient use of water and to preserve water supplies critical to human health and safety and the environment, Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division are hereby suspended, with respect to the directives in paragraphs 3 and 4 of this Order and any other projects and activities for the purpose of water conservation to the extent necessary to address the impacts of the drought, and any permits necessary to carry out such projects or activities. Entities that desire to conduct activities under this suspension, other than the directives in paragraphs 3 and 4 of this Order, shall first request that the Secretary of the Natural Resources Agency make a determination that the proposed activities are eligible to be conducted under this suspension. The Secretary shall use sound discretion in applying this Executive Order to ensure that the suspension serves the purpose of accelerating conservation projects that are necessary to address impacts of the drought, while at the same time

protecting public health and the environment. The entities implementing these directives or conducting activities under this suspension shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.

6. To support voluntary approaches to improve fish habitat that would require change petitions under Water Code section 1707 and either Water Code sections 1425 through 1432 or Water Code sections 1725 through 1732, and where the primary purpose is to improve conditions for fish, the Water Board shall expeditiously consider petitions that add a fish and wildlife beneficial use or point of diversion and place of storage to improve conditions for anadromous fish. California Code of Regulations, title 23, section 1064, subdivisions (a)(1)(A)(i)-(ii) are suspended with respect to any petition that is subject to this paragraph.
7. To facilitate the hauling of water for domestic use by local communities and domestic water users threatened with the loss of water supply or degraded water quality resulting from drought, any ordinance, regulation, prohibition, policy, or requirement of any kind adopted by a public agency that prohibits the hauling of water out of the water's basin of origin or a public agency's jurisdiction is hereby suspended. The suspension authorized pursuant to this paragraph shall be limited to the hauling of water by truck or bottle to be used for human consumption, cooking, or sanitation in communities or residences threatened with the loss of affordable safe drinking water. Nothing in this paragraph limits any public health or safety requirement to ensure the safety of hauled water.
8. The Water Board shall expand inspections to determine whether illegal diversions or wasteful or unreasonable use of water are occurring and bring enforcement actions against illegal diverters and those engaging in the wasteful and unreasonable use of water. When access is not granted by a property owner, the Water Board may obtain an inspection warrant pursuant to the procedures set forth in Title 13 (commencing with section 1822.50) of Part 3 of the Code of Civil Procedure for the purposes of conducting an inspection pursuant to this directive.
9. To protect health, safety, and the environment during this drought emergency, a county, city, or other public agency shall not:
 - a. Approve a permit for a new groundwater well or for alteration of an existing well in a basin subject to the Sustainable Groundwater Management Act and classified as medium- or high-priority without first obtaining written verification from a Groundwater Sustainability Agency managing the basin or area of the basin where the well is proposed to be located that groundwater extraction by the proposed well would not be inconsistent with any sustainable groundwater management program established in any applicable Groundwater Sustainability Plan adopted by that Groundwater Sustainability

Agency and would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan; or

- b. Issue a permit for a new groundwater well or for alteration of an existing well without first determining that extraction of groundwater from the proposed well is (1) not likely to interfere with the production and functioning of existing nearby wells, and (2) not likely to cause subsidence that would adversely impact or damage nearby infrastructure.

This paragraph shall not apply to permits for wells that will provide less than two acre-feet per year of groundwater for individual domestic users, or that will exclusively provide groundwater to public water supply systems as defined in section 116275 of the Health and Safety Code.

10. To address household or small community drinking water shortages dependent upon groundwater wells that have failed due to drought conditions, the Department of Water Resources shall work with other state agencies to investigate expedited regulatory pathways to modify, repair, or reconstruct failed household or small community or public supply wells, while recognizing the need to ensure the sustainability of such wells as provided for in paragraph 9.
11. State agencies shall collaborate with tribes and federal, regional, and local agencies on actions related to promoting groundwater recharge and increasing storage.
12. To help advance groundwater recharge projects, and to demonstrate the feasibility of projects that can use available high water flows to recharge local groundwater while minimizing flood risks, the Water Board and Regional Water Quality Control Boards shall prioritize water right permits, water quality certifications, waste discharge requirements, and conditional waivers of waste discharge requirements to accelerate approvals for projects that enhance the ability of a local or state agency to capture high precipitation events for local storage or recharge, consistent with water right priorities and protections for fish and wildlife. For the purposes of carrying out this paragraph, Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division, and Chapter 3 (commencing with section 85225) of Part 3 of Division 35 of the Water Code and regulations adopted pursuant thereto are hereby suspended to the extent necessary to address the impacts of the drought. This suspension applies to (a) any actions taken by state agencies, (b) any actions taken by local agencies where the state agency with primary responsibility for the implementation of the directives concurs that local action is required, and (c) permits necessary to carry out actions under (a) or (b). The entities implementing these directives shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.
13. With respect to recharge projects under either Flood-Managed Aquifer Recharge or the Department of Water Resources Sustainable

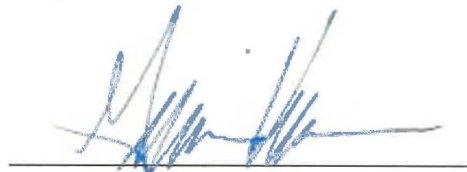
Groundwater Management Grant Program occurring on open and working lands to replenish and store water in groundwater basins that will help mitigate groundwater conditions impacted by drought, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Department of Water Resources concurs that local action is required, and (c) permits necessary to carry out actions under (a) or (b), Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division are hereby suspended to the extent necessary to address the impacts of the drought. The entities implementing these directives shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.

14. To increase resilience of state water supplies during prolonged drought conditions, the Department of Water Resources shall prepare for the potential creation and implementation of a multi-year transfer program pilot project for the purpose of acquiring water from willing partners and storing and conveying water to areas of need.
15. By April 15, 2022, state agencies shall submit to the Department of Finance for my consideration proposals to mitigate the worsening effects of severe drought, including emergency assistance to communities and households and others facing water shortages as a result of the drought, facilitation of groundwater recharge and wastewater recycling, improvements in water use efficiency, protection of fish and wildlife, mitigation of drought-related economic or water-supply disruption, and other potential investments to support short- and long-term drought response.

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 28th day of March 2022.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, PH.D.
Secretary of State

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

Regulatory Action:

Title 23, California Code of Regulations

Adopt sections: 996

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

Government Code Sections 11346.1 and
11349.6

OAL Matter Number: 2022-0606-03

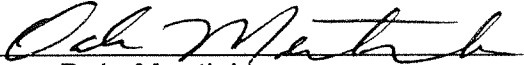
OAL Matter Type: Emergency (E)

This emergency action by the State Water Resources Control Board adopts a new regulation which requires urban water suppliers to submit preliminary supply and demand assessments to the Department of Water Resources and to implement Level 2 demand reduction actions (actions intended to result in a 10 to 20 percent savings). The regulation bans the irrigation of non-functional turf with potable water in commercial, industrial, and institutional sectors and establishes that such irrigation is an infraction punishable by a fine of up to five hundred dollars for each day in which the violation occurs pursuant to Water Code section 1058.5(d).

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code. Pursuant to Water Code section 1058.5(b), the Finding of Emergency in this matter was exempt from Office of Administrative Law Review.

This emergency regulatory action is effective on 6/10/2022 and, pursuant to Water Code section 1058.5(c), will expire on 6/10/2023. The Certificate of Compliance for this action is due no later than 6/9/2023.

Date: June 10, 2022


Dale Mentink
Assistant Chief Counsel

For: Kenneth J. Pogue
Director

Original: Eileen Sobeck, Executive
Director

Copy: Garrett Lenahan

EMERGENCY

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2022	EMERGENCY NUMBER -0606-03E
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For use by Office of Administrative Law (OAL) only

OFFICE OF ADMIN. LAW
2022 JUN 6 PM 3:18ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUN 10 2022

2:06 PM

AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY ☐ ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Water Demand Reduction Emergency Regulation		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 996 AMEND REPEAL	
TITLE(S) 23			

3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346)	☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	☐ Emergency Readopt (Gov. Code, §11346.1(h))	☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	☐ File & Print	☐ Print Only
☒ Emergency (Gov. Code, §11346.1(b))	☒ Other (Specify) <u>Water Code Section 1058.5</u>		
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	☒ Effective on filing with Secretary of State	☐ \$100 Changes Without Regulatory Effect	☐ Effective other (Specify)
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☐ Department of Finance (Form STD. 399) (SAM §6660)	☐ Fair Political Practices Commission	☐ State Fire Marshal	
☐ Other (Specify)			

7. CONTACT PERSON Garrett Lenahan	TELEPHONE NUMBER (916) 341-5179	FAX NUMBER (Optional)	E-MAIL ADDRESS (Optional)
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Eric Oppenheimer	DATE 6/6/2022
TYPED NAME AND TITLE OF SIGNATORY Eric Oppenheimer, Chief Deputy Director, State Water Resources Control Board	

For use by Office of Administrative Law (OAL) only

AUTHORIZED FOR FILING AND PRINTING

JUN 10 2022

Office of Administrative Law

ADOPTED EMERGENCY REGULATION TEXT

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

§ 996. Urban Drought Response Actions

(a) As used in this section:

(1) "Commercial, industrial and institutional" refers to commercial water users, industrial water users, and institutional water users as respectively defined in Water Code, section 10608.12, subdivisions (e), (i), and (j), and includes homeowners' associations, common interest developments, community service organizations, and other similar entities but does not include the residences of these entities' members or separate interests.

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

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

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

(5) "Non-functional turf" means turf that is solely ornamental and not regularly used for human recreational purposes or for civic or community events. Non-functional turf does not include sports fields and turf that is regularly used for human recreational purposes or for civic or community events.

(6) "Plant factor" has the same meaning as in section 491.

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

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

(9) "Urban water supplier" has the same meaning as Water Code section 10617.

(10) "Water shortage contingency plan" means the plan required by Water Code section 10632.

(b) Each urban water supplier shall submit to the Department of Water Resources a preliminary annual water supply and demand assessment consistent with section 10632.1

of the Water Code no later than June 1, 2022 or the effective date of this section, whichever comes later, and submit a final annual water supply and demand assessment to the Department of Water Resources no later than the deadline set by section 10632.1 of the Water Code.

(c) (1) Each urban water supplier that has submitted a water shortage contingency plan to the Department of Water Resources shall implement by June 10, 2022, at a minimum, all demand reduction actions identified in the supplier's water shortage contingency plan adopted under Water Code 10632 for a shortage level of ten (10) to twenty (20) percent (Level 2).

(2) Notwithstanding subdivision (c)(1), urban water suppliers shall not be required to implement new residential connection moratoria pursuant to this section.

(3) Notwithstanding subdivision (c)(1), an urban water supplier may implement the actions identified in subdivision (d) in lieu of implementing the demand reduction actions identified in the supplier's water shortage contingency plan adopted under Water Code section 10632 for a shortage level of ten (10) to twenty (20) percent (Level 2), provided the supplier meets all of the following:

(i) The supplier's annual water supply and demand assessment submitted to the Department of Water Resources demonstrates an ability to maintain reliable supply until September 30, 2023.

(ii) The supplier does not rely on, for any part of its supply, the Colorado River, State Water Project, or Central Valley Project, and no more than ten (10) percent of its supply comes from critically overdrafted groundwater basins as designated by the Department of Water Resources.

(iii) The supplier's average number of gallons of water used per person per day by residential customers for the year 2020 is below 55 gallons, as reported to the Board in the Electronic Annual Report.

(d) Each urban water supplier that has not submitted a water shortage contingency plan to the Department of Water Resources shall, by June 10, 2022, and continuing until the supplier has implemented all demand reduction actions identified in the supplier's water shortage contingency plan adopted under Water Code 10632 for a shortage level of ten (10) to twenty (20) percent (Level 2), implement at a minimum the following actions:

(1) Initiate a public information and outreach campaign for water conservation and promptly and effectively reach the supplier's customers, using efforts such as email, paper mail, bill inserts, customer app notifications, news articles, websites, community events, radio and television, billboards, and social media.

(2) Implement and enforce a rule or ordinance limiting landscape irrigation with potable water to no more than two (2) days per week and prohibiting landscape irrigation with potable water between the hours of 10:00 a.m. and 6:00 p.m.

(3) Implement and enforce a rule or ordinance banning, at a minimum, the water uses prohibited by section 995. Adoption of a rule or ordinance is not required if the supplier has authority to enforce, as infractions, the prohibitions in section 995 and takes enforcement against violations.

(e) (1) To prevent the unreasonable use of water and to promote water conservation, the use of potable water is prohibited for the irrigation of non-functional turf at commercial, industrial, and institutional sites.

(2) Notwithstanding subdivision (e)(1), the use of water is not prohibited by this section to the extent necessary to ensure the health of trees and other perennial non-turf plantings or to the extent necessary to address an immediate health and safety need.

(3) Notwithstanding subdivision (e)(1), an urban water supplier may approve a request for continued irrigation of non-functional turf where the user certifies that the turf is a low water use plant with a plant factor of 0.3 or less, and demonstrates the actual use is less than 40% of reference evapotranspiration.

(f) The taking of any action prohibited in subdivision (e) 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.

(g) 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, and 4185, Civil Code; Section 8627.7, Government Code; Sections 102, 104, 105, 275, 350, 377, 491, 1058.5, 1122, 10608.12, 10617, 10632, and 10632.1, 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")



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

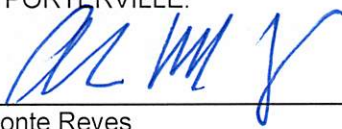
Each party may change its contact upon written notice to the other party. While Party Contacts are contacts for day-to-day communications regarding Project work, the Recipient must provide official communications and notices to the Division's Deputy Director.

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.

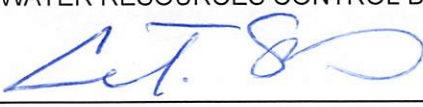
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

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 – OCTOBER 18, 2022

SUBJECT: Cannabis Business Operating Permit For Retail Dispensary - Applicant Interviews

SOURCE: City Manager's Office

COMMENT:

At its meeting on October 4, 2022, the City Council authorized the scheduling of a Special Meeting for Monday, October 24, 2022, beginning at 6:00 P.M. to conduct the interviews of the qualified applicants to the Request for Proposals for wholly-local Cannabis Business Operating Permit for Retail Dispensary.

The Council also directed staff to coordinate with its Ad Hoc Committee (comprised of Council Members Tate and Weyhrauch) in recommending the interview process. At its meeting on October 7, 2022, the Committee provided the following recommendations for the Council's consideration:

The order of interviews should be chosen via a random method (e.g. lottery).

The number of interview participants is limited to not more than three people per application, and if participating virtually, the background(s) of the interviewees shall be plain, with no promotional, branding, or advertisement for the company in the backdrop.

The names of the applicants moving forward to the interview process, in alphabetical order, are as follows:

Bloom Farms
Main Street Apothecary
Uncle Green

Part 1 of the Interview

Applicants would be expected to conduct a fifteen (15) minute uninterrupted narrated presentation. Presentations may include PowerPoint or similar formatted visual aid, which would be required to be emailed to designated City staff by no later than 4:00 P.M. on Thursday, October 20, 2022. The visual aids and/or handouts are limited to a total of three pages, including: a one-page executive summary, and two pages of illustrations of the interior and exterior of the proposed business. It is requested that the applicants focus on the following elements:

- Introduce the proposed business and explain the local ownership structure; describe the primary qualities of their business brand.
- Identify all *local* and *non-local* representatives and managers
- Describe the qualities that set their business apart from the rest
- Describe the professional qualifications of all applicants, representatives, and managers
- Provide a three-year Pro-forma (projection) illustrating all projected start-up and general operating costs, estimated gross revenues and anticipated taxes to be generated.
- Describe their approach to operating a safe and successful cannabis business in the city of Porterville
- Describe their understanding of the City's community benefits objectives
- Outline their proposed community benefits offering/ideas

Part 2 of the interview

Fifteen (15) minutes would then be allotted to each applicant for the following questions from the Council, which would be provided to the applicants ahead of time. Applicants will have approximately three minutes to respond to each question.

1. Describe the applicants' local business experience outside the cannabis industry and local employee count, as well as experience with audited payroll.
2. Describe the applicants' and local representatives' experience inside the cannabis industry: what is your experience in the cannabis industry; who will be your cannabis supplier; and how do you (and will you) stay current and in compliance with all cannabis business legal requirements and avoid the corruption issues that have arisen in other jurisdictions?

3. Describe your prior experience with community benefits programs; and detail any proposed volunteer services, in-kind donations and/or charitable donations.

4. If you commence business in the City, where do you see your business in two years and in five years in terms of economic development?

Scoring of the interview

The City Council previously determined that the Council has a maximum of fifty (50) points to award per applicant, and that each Council Member has up to ten (10) points they may award for each presentation.

The Council may consider a proposed point scale based on the following (or may formulate an alternative basis for award/deduction of points):

1 to 4 Points: Applicant failed to adequately respond to Council's questions

5 to 7 Points: Applicant's response to Council's questions met expectations

8 to 10 Points: Applicant's response to Council's questions was exceptional and far exceed expectations

The timing of award of these points has also been discussed by the Committee, with the Committee recommending that each Council Member provide their individual scores to the City Attorney via email at the conclusion of the interviews and no later than a half hour after the end of the meeting.

RECOMMENDATION: That the City Council consider the applicant interview process recommended by the Council's Cannabis Ad Hoc Committee.

ATTACHMENTS: 1. Request for Proposals

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager



REQUEST FOR PROPOSALS

CANNABIS BUSINESS OPERATING PERMIT

FOR

RETAIL DISPENSARY

PREPARED BY:
COMMUNITY DEVELOPMENT DEPARTMENT
January 2022

APPROVED BY:

Jason Ridenour
Community Development Director

I. BACKGROUND

On May 21, 2019, City Council adopted by ordinance, local regulations allowing commercial cannabis activities in Porterville, and identifying zoning districts. As part of the commercial cannabis regulatory framework, implementing regulations were approved by Ordinance 1853. On February 2, 2021, the City Council gave first reading to Ordinances 1879 and 1880, and second reading on February 16, 2021, to increase the number of adult-use dispensary permits from two to three, allowing one additional cannabis adult-use dispensary business while maintaining a medical-only permit, in an effort to support a “wholly-locally owned” dispensary.

The City of Porterville (hereinafter referred to as “CITY”) is issuing this Request for Proposals (“RFP”) process for a “wholly local” retail dispensary business.

II. SUMMARY OF CANNABIS REQUEST FOR PROPOSALS

A retail dispensary permit is required for all activities for which State law requires a “Type 10,” or similar license, for the sale of Cannabis or Cannabis Products at a location open to the public.

Based on Porterville Municipal Code Chapter 15, Article VII, §15-87, the City may issue up to two (2) adult-use dispensary permits plus an additional permit per every 25,000 residents. This RFP is for a “wholly-locally owned” adult use cannabis dispensary in the city of Porterville. Local ownership (“wholly-locally owned”) is defined as an owner who currently resides and/or owns a business within Porterville’s Urban Area Boundary (UAB) as defined in the 2030 General Plan, for at least three years. If the applicant is an entity other than an individual, each and every member of the entity must meet the definition of local. The RFP may result in selected applicant securing eligibility to apply for a retail dispensary Cannabis Business Operator’s Permit (“CBOP”).

In order to apply for and be eligible to receive a CBOP, the applicant must have control over a physical location within the approved downtown districts or the Airport Industrial zone. **Receiving an award to apply for a CBOP does not constitute an entitlement approval. All applicants whose proposals are accepted must thereafter enter into a Development Agreement, obtain a CBOP State license, apply for and obtain a City Cannabis permit and any other applicable regulatory approvals. The Development Agreement template is attached.**

The RFP process will be in four parts as described herein. Applicants responding to the RFP are required to:

- Provide required background materials
- Submit a complete application package along with the Phase I required fee. Staff will review the application for completeness, and provide an opportunity for applicants to issue written questions.
- If it is determined the applicant meets the minimum requirements of Phase I review and has paid the Phase II required fee, the completed proposal will proceed forward to

Phase II.

- Selected applicant will enter into a Development Agreement between the City and the Business Owner and any other Responsible Parties

Instructions to applicants, RFP, and application forms may be inspected at City Hall, 291 N. Main Street, Porterville, California. Applications and related forms may be inspected and electronically downloaded with no cost, at the Public Purchase website, <https://www.publicpurchase.com>. No copies of said documents will be provided by the City. All addenda and correspondence during the application process will be handled electronically through the Public Purchase website.

III. OVERVIEW OF THE APPLICATION PROCESS AND FEE STRUCTURE

Background

Each applicant, prior to beginning the application process, must be able to show proof of ability to complete the Type 10 State requirements for background investigations (as defined by SB 94 §26057). There are two ways to ensure compliance:

1. Submit to the City background materials for the applicant and any “owner” as defined by SB 94 §26001 (a). Each applicant will also be required to submit to a DOJ/FBI criminal fingerprint check utilizing a Live Scan form provided by the City. Upon receiving the form, applicants must schedule and complete the Live Scan with the Porterville Police Department located at 350 N. D Street, Porterville, CA 93257. Applicants are responsible for all fees associated with the Live Scan.

The Chief of Police (or his/her designee) will review each applicant’s Live Scan returns for disqualifying information. All Live Scan results will be forwarded to the Community Development Department to be attached to the Phase I application process, if no disqualifying information is found.

2. Alternatively, an applicant that has an existing Type 10 State issued license, and can provide evidence of successfully completing the background investigation required by the state, may provide this documentation to the City. This evidence may be subject to review by the Chief of Police (or his/her designee).

Phase I – Application Review

All applicants that successfully show completion of the criminal background investigation may submit a completed application, including (Attachment 1) and include the information outlined in this RFP. Submitted proposals must include the \$750 fee. This phase provides the opportunity to submit written questions prior to an official submittal of the proposal for Phase II. The purpose of this phase is for staff to assist in any questions requiring clarification, to confirm the appropriate zoning, evaluate the site plan and floor plan, and attest to completeness of the application. Staff’s review will be limited to objective items inasmuch as the application includes all applicable documents listed in subsection H.

Phase II – Proposal Phase

Those applications deemed to meet the definition of “wholly locally owned” and complete, will advance to the second phase of the application process. Submitted proposals must include a \$7,500 Phase II application fee. The applications will be reviewed and ranked according to the scoring rubric provided subsequently in Section VII of this RFP.

Concerning the competitive portion of this RFP process, applicants with evaluation scores of 75% (37.5 points) or better may proceed to an oral interview with the Porterville City Council (see below). Following the oral interviews, the top-rated applicants, subject to the number of available permits at the time, may receive notice informing them of the right to apply for a state license CBOP. Such applicants must apply for a CBOP within 120 days of receipt of the notice. Once the number of available permits has been reached, the remaining qualified applicants may be placed on a waiting list in order of ranked evaluation scores that will be valid for two years from the date of the notice. If an applicant that has the right to apply for a CBOP fails to secure all of the required entitlements within the proposed schedule or within one year from the date of the conditional award letter, whichever is sooner, the next applicant on the waiting list may have the opportunity to apply for a CBOP. The City Manager may extend this one-year time deadline for good cause.

Phase III – Development Agreement

The successful applicants shall be required to negotiate and enter into a Development Agreement with the City. The Development Agreement will provide the successful applicant with certain vested rights to develop the property and use it for the purposes of a cannabis dispensary for a period of years regardless of intervening changes in land use regulations, in consideration of the imposition of conditions and the payment of certain fees.

IV. ADDITIONAL TERMS AND CONDITIONS

1. Nondiscrimination

The City will not discriminate against any interested individual, firm or applicant on the grounds of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation.

2. City’s Right to Modify the RFP

The City reserves the right at its sole discretion to modify this RFP (including but not limited to the requirements and/or the selection criteria) should the City deem that it is in its best interests to do so. Any changes to the proposal requirements will be made by written addendum posted on the City’s website. The failure of an applicant to read any addenda shall have no effect on the validity of such modification.

3. City’s Right to Suspend or Cancel the RFP

The City reserves the right at its sole discretion to suspend or cancel this RFP in part or in its

entirety should the City deem that it is in the City’s best interests to do so.

4. City’s Right to Reject All Proposals

The City Council reserves the right, at its sole discretion, to reject all proposals, and/or not to award the right to apply for a CBOP to any applicant should the City deem that it is in its best interests to do so.

5. City’s Right to Extend RFP Deadlines

The City reserves the right to extend any of the deadlines listed in this RFP by written addenda should the City deem that it is in its best interests to do so.

6. Confidential Information. Sections of the RFP have been identified as confidential information (“Confidential”) and have been identified as such. The information shall be confidential, and shall not be subject to public inspection or disclosure except as may be required by federal, state or local law. Disclosure of information pursuant to this Section shall not be deemed a waiver of confidentiality by the applicant or any individual named in the application. The City shall not be responsible and shall incur no liability for the inadvertent or negligent disclosure of such information.

7. Cost of Proposals

All costs incurred during proposal preparation or in any way associated with the applicant’s preparations, submission, presentation or oral interview shall be the sole responsibility of the applicant.

8. Liability for Proposal Errors

Applicants are solely responsible for all errors and omissions contained in their proposals.

9. Permits and Licenses

Applicants, at their sole expense and at the appropriate time, shall obtain and maintain all appropriate permits, certificates and licenses including, but not limited to, a City business license, land use permit and CBOP which will be required in connection with their proposal.

10. Fees and Taxes

Cannabis businesses are responsible for paying all applicable fees and taxes, as well as any fees negotiated within the Development Agreement.

11. Commencement of Operation

All the requisite approvals to begin commencement of operations, including without limitation, obtaining a land use permit, business license, and operator’s permit, must be obtained within the applicant’s proposed schedule, or one (1) year from the date of the notice of the right to apply for a CBOP, whichever is sooner. The City Manager may extend this one-year time deadline for good cause.

12. Revocation of Approvals

The applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the permit as provided in Section 601.10 of the Porterville Development Ordinance. Pursuant to Section 601.10(d) the City Council may revoke the permit if it makes any of the following findings:

- That approval was obtained by means of fraud or misrepresentation of a material fact;
- That the use in question has ceased to exist or has been suspended for one year or more;
- That there is or has been a violation of or failure to observe the terms or conditions of the permit or variance, or the use has been conducted in violation of the provisions of this ordinance, law or regulation; or
- That the use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health and welfare or so as to be a nuisance.

13. Authority to Sell, Transfer or Assign License

The City requires that the individuals or entities that receive an award pursuant to the RFP shall be the individuals/entities owning and operating the businesses, and the City Council reserves the right to approve or deny any request to sell, transfer ownership or assign the CBOP license.

V. PROPOSED SCHEDULE

All applicants responding to the RFP must timely submit the following (Late submittals will be returned to the applicant unopened). Applicants failing to submit the foregoing items will be eliminated from the RFP process. The City reserves the right to alter the following schedule as necessary:

RFP Issued	Monday, January 3, 2022
Written Questions from Applicants due	Friday, January 14, 2022
Answers to Written Questions Issued	Monday, January 24, 2022
Submit Final Application and documentation, and \$750 review fee due	Friday, February 4, 2022 by 4:00 PM
Staff review of applications and letters issued for completeness and/or correctory notices	Friday, February 18, 2022

Proposal, Complete/Corrected Application and \$7,500 fee due	Friday, February 25, 2022 by 4:00 PM
Third Party Independent Review	Monday, March 28, 2022
Interviews with City Council	Wednesday, April 20, 2022
Announcement of Selected Applicants	TBD

VI. PROPOSAL REQUIREMENTS

Submitted proposals must include a \$750 Phase I review fee and those subsequently wanting to enter the Phase II application pay the \$7,500 fee. The following information in the ensuing order is required to be deemed a complete submittal. All information submitted to the City must be current. Applicants have a continuing duty to confirm that any requested information submitted previously as part of the submittals remains accurate, and notify the City immediately of any inaccuracies. Proposals, inclusive of all attachments, shall not exceed 250 pages.

1. **Provide Evidence of Secured Location for the Cannabis Business.** Evidence of a secured location for a cannabis business includes, but is not limited to: a real estate letter of intent (RELOI) to lease or purchase property from a party authorized to lease or sell such property; a purchase agreement, a lease, an option to purchase, an option to lease or purchase property; or evidence of the applicant’s ownership of the property. These terms are defined more specifically below:

Letters of interest of any kind are not acceptable. RELOIs, leases or options to lease or purchase must clearly and specifically state that the RELOI, lease, or option to lease or purchase is for the type of cannabis business listed in the proposal. **The RELOI, lease, or option to lease must reflect that the applicant will have control of the property for a minimum of five (5) years.** A month-to-month lease or rental agreement is not acceptable.

Real Estate Letter of Intent: A signed written term sheet, letter of intent, or exclusive negotiating agreement between two or more parties, including the applicant, to sell, lease, or sublease property, outlining the terms by which the applicant will have control of the property for two or more years. These terms may be further negotiated but must provide the basis for a proposed written agreement.

Purchase Agreement: A signed written agreement that a person will purchase a specific property and the owner cannot sell to anyone else unless the terms of the agreement are not fulfilled.

Lease: A signed written agreement that gives a lessee certain rights to use and occupy specific property for at least two years.

Real Estate Purchase or Lease Option: A signed written agreement for the purchase or lease of specific real property by which the purchaser or lessee has the exclusive right to purchase or lease the property for at least two years.

Proof of Ownership: A written document, such as a deed, that shows that title to the real property is vested in the applicant.

2. **Provide a Statement Confirming that the Cannabis Business Location is Outside of Buffer Zone for a School.** State that the location secured for the cannabis business operations is outside of the buffer zone required by the State for schools. Furnish evidence supporting the foregoing statement. Any proposal located within the buffer zone for schools will automatically be disqualified.
3. **Provide a Business Plan Summary and Statement of Qualifications. Confidential.** Describe the day-to-day operations of the dispensary, including a description of the cannabis-related products and/or services being sold, as well as any additional accessory services or related facilities. Provide a detailed list of all cannabis operations proposed to occur on the premises and their processes including, but not limited to, standard operation procedures, number of employees, training program, inventory and quality control procedures, lists of both recreational and medicinal products anticipated to be available, waste management plan, transportation and distribution of product processes, delivery processes, testing, quality control practices and procedures, visitor and vendor protocols, and the track and trace procedures and policies. Include a plan to hire local individuals.

The business plan should also include the statement of qualifications of the Cannabis Business Owner’s relative to the proposal, including experience running businesses similar to the one proposed, including cannabis and/or non-cannabis businesses. CV/resumes may be attached as an exhibit to this Section of the proposal.

“Cannabis Business Owner” means “Owner,” as defined in State law, including by regulation, in addition to any of the following:

- a. Each person with an aggregate ownership interest of 20 percent or more in a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee, unless the interest is solely a security interest, lien, or encumbrance. When an entity (not a natural person) has an aggregate ownership interest of 20 percent or more, then the chief executive officer and/or members of the board of directors of each entity shall be considered owners.
- b. The chief executive officer of a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee.
- c. A member of the board of directors of a nonprofit of a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee.
- d. The trustee(s) and all persons that have control of the trust and/or a person, as

defined herein, who applies for a Permit or is a Cannabis Business Permittee that is held in trust.

- e. Any person, as defined herein, who assumes responsibility for the Permit.
- f. Each person who participates in the direction, control, or management of person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee. Such an individual includes any of the following:
 - i. A general partner of a partnership.
 - ii. A non-member manager or managing member of a limited liability company.
 - iii. An officer or director of a corporation.

The business plan should include a local hire program demonstrating how they would hire locally. A local hire plan could address:

- a. A minimum percentage of the business’ employment base hired locally.
 - b. A recruitment plan for new hires, including outreach methods.
 - c. The hourly wage of the lowest-paid employee.
 - d. Estimated number of full and part-time positions in years one through five.
 - e. Available job pathways.
 - f. Describe any plans to train employees and promote lower-level employees.
- 4. **Proposal Implementation. Confidential.** Provide verifiable, detailed descriptions and other background information for any Cannabis Business Owner. Describe other resources, including financial resources, dedicated to implement this application.
 - 5. **Understanding and Approach.** Provide a statement demonstrating the applicant’s understanding and approach to running the proposed cannabis business and how that approach will integrate the business into the community in which it is located.
 - 6. **Security Practices. Confidential.** Applicants shall describe their approach to operational security including but not limited to:
 - General security policies.
 - Employee-specific policies and training.
 - Discussion of transactional security, visitor security, third-party contractor security, and delivery security.

Applicants should address ingress and egress access, perimeter security, product security (at all hours), internal security measures for limited access areas, types of security systems (alarms, cameras, etc.), and security personnel to be employed. This

discussion must also include a description of how cannabis will be tracked and monitored to prevent diversion, such as by verifying the status of recommending physicians, if selling medicinal cannabis, and retaining copies of all written recommendations from recommending physicians when applicable. Applicants are encouraged to provide a sample written policy that has been developed.

Security plans shall not be made public, unless required by court action. Security plan details that could aid persons who wish to commit security violations shall be considered confidential and shall not be released to the public unless ordered by a court of law.

7. **Local ownership:** Local ownership (“wholly-locally owned”) is defined as an owner who currently resides and/or owns a business within Porterville’s Urban Area Boundary (UAB) as defined in the 2030 General Plan, for at least three years. If the applicant is an entity other than an individual, each and every member of the entity must meet the definition of local. The local owners must provide verifiable information regarding the number of years each owner has lived in, and/or owned a business in, Porterville’s Urban Area Boundary (UAB) as defined in the 2030 General Plan. Names are confidential, the composition of how the ownership meets the criterion is not. Provide verifiable information such as business license information, property tax bills, business name(s) and address(s), and the number of years each owner has lived in and/ or owned a business(s) in Porterville’s UAB.
8. **Proposed schedule.** Provide a schedule for opening the cannabis business. The schedule should include dates for the following:
 - a. Design review, if applicable
 - b. Signage approval, if applicable
 - c. Issuance of State license(s)
 - d. Land Use permit
 - e. Issuance of CBOP
 - f. Issuance of Building permit
 - g. Issuance of other regulatory permits (e.g., discharge permit, etc.)
 - h. Completion of construction
 - i. Opening and commencement of operations
9. **Community benefit:** Describe the applicant’s proposed involvement in the City of Porterville, specific to downtown beautification projects, and plans to mitigate any nuisance and/or negative impacts. For further information, see Development Agreement template, attached.
10. **Indemnification.** The applicant must agree to indemnify the City as set forth in the attached Indemnification Agreement

VII. EVALUATION PROCESS

Applications (Proposals) must fully address the proposal requirements in V above and the

evaluation criteria and scoring rubric in VIII below, as well as provide complete submittals, references and data to verify qualifications. Proposals without sufficient data to provide a complete evaluation will be considered non-responsive.

All proposals will be reviewed for compliance with requirements including documented capability to operate a cannabis business in a satisfactory manner. Proposals will be evaluated in accordance with the criteria set forth below.

City shall employ a third party independent review to score written proposals.

The City Council reserves the right to invite those with a passing score to participate in an interview process to be defined at a future date. The interview includes the scoring of 50 potential points.

The City may make a conditional award to the applicant or applicants offering the most advantageous proposal after consideration of the evaluation criteria set forth below. The City will not be obligated to accept any given proposal, but will make the conditional award in the best interests of the City after all proposals have been evaluated.

VIII. EVALUATION CRITERIA Minimum Requirements

Phase I fee of \$750 was paid and the CBOP complete application was submitted on or before the February 4, 2022, 4:00pm deadline	Pass/Fail
RFP fee of \$7,500 was paid and the response to the RFP was submitted on or before the February 25, 2020, 4:00pm deadline	Pass/Fail
Evidence of a secured location for the cannabis business	Pass/Fail
Evidence that the location is outside of cannabis buffer zones for schools	Pass/Fail

Evaluation Criteria

The table below is a scoring rubric to evaluate proposals received in response to the RFP. The responses will be scored on a zero to 50-point scale, excluding the interview. The applicant must receive a minimum of 75% (37.5 points) of the total possible points to proceed to the interview process. Interviews will be scored on a zero to 50-point scale. The maximum points available, including the interview, is 100 points.

1. Local Ownership (defined by Porterville UAB)	(Pass/Fail)	
2. Business Operations Plan and Statement of Qualifications		15
Has applicant described how the commercial cannabis business day-to-day operations of the facility will function, including standard operating procedures?	5	
Has the applicant provided a full description of the proposed business, including proposed staffing levels, products, product types, testing protocols, licensing requirements, etc., demonstrating how it will operate its business?	5	

Has the applicant provided resumes/CVs and other relevant materials, for and about primary and significant persons that will be responsible for implementing key portions of the proposed business?	5	
3. Verifiable detailed description of persons and type of resources, including financial resources, committed to implement the proposal		15
Has the applicant submitted a financial statement, balance sheet, and tax returns that attest to its financial health and ability to finance and operate the proposed business?	5	
Has the applicant committed to initial investment amounts and shown how it will reinvest in the business over time?	5	
Does the applicant show that it is investing in equipment, technology and facilities that are appropriate for the nature of the business?	5	
4. Summary of Security Practices		15
Has the applicant provided a full description of security policies including ingress and egress access, perimeter security, product security at all hours, product tracking, security systems and verification of the status of recommending physicians?	5	
Has the applicant described employee-specific policies and training?	5	
Has the applicant adequately described transactional security, visitor security, third-party contractor security and delivery security?	5	
5. Proposed schedule		5
Does the schedule clearly provide realistic milestones for the following items? a. Design review, if applicable b. Signage approval, if applicable c. Issuance of State license(s) d. Issuance of CBOP/Land Use permit e. Issuance of Building permit f. Issuance of other regulatory permits g. Completion of construction h. Opening and commencement of operations	3	
Does the schedule provide a detailed, comprehensive timeline for starting operations of the business?	2	
Total		50

IX. SUBMITTAL INSTRUCTIONS

The proposal shall be signed by an individual(s) authorized to execute legal documents on behalf of the applicant. Failure to provide all required submittals may result in a proposal being found non-responsive and given no consideration.

Two (2) hard copies of the proposal and one electronic PDF version of the proposal on a flash drive shall be provided in a sealed envelope with a return address, including business name, no later than Friday, February 4, 2022 by 4:00pm for Phase I and Friday, February 25, 2022

by 4:00pm for Phase II to the following address:

Community Development Department
Porterville City Hall
291 N. Main Street
Porterville, CA 93257
Attention: Community Development Director

Late proposals will not be considered and will be returned to the applicant unopened. The City assumes no responsibility for delays caused by delivery service. Postmarking by the due date will not substitute for actual timely receipt.

Any proposal received prior to the submittal date may be modified or withdrawn by written request from the applicant to the City up to the submittal deadline. Proposals, inclusive of all attachments, shall not exceed 250 pages.

X. QUESTIONS

For information concerning RFP procedures and regulations (i.e., submission deadline, required forms, etc.), interested parties shall request clarification electronically through the Public Purchase website.

Attachments

1. Commercial Cannabis Business Permit Application – Storefront Dispensary
2. Porterville Live Scan Application
3. Indemnification Agreement
4. Development Agreement Template
5. Cannabis Ordinances

CITY OF PORTERVILLE

Community Development Department
291 North Main Street, Porterville CA 93257
(559)782-7460

Commercial Cannabis Business Permit Application – Storefront Dispensary

A. Business Information

Business Name: _____

Property Address: _____

Assessor Parcel Number: _____ Zoning Designation: _____

B. Business Type (Check all that apply)

☐ Retailer Storefront (Adult-use)	☐ Retailer Storefront (Medical)	☐ Retailer Storefront (Adult-use and Medical)
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*GR – Gross Receipts

C. Definitions

Applicant - The entity petitioning for the Cannabis Business Operator Permit.

Principal(s) - The individual members of the applicant team.

Primary Principal - An individual who has a 10% or greater ownership stake of the applicant business, which includes partners, officers, directors, and stockholders of every corporation, limited liability company, or general limited partnership that owns at least 10% of the stock, capital, profits, voting rights, or membership interest of the commercial cannabis business or that is one of the partners in the commercial cannabis business; the managers of the commercial cannabis business.

Operator - An applicant that has been licensed and conducts or conducted active cannabis operations.

Majority - A greater number; more than half. An equal number does not constitute a majority.

D. Applicant Information

Name of Primary Responsible Party Completing the Application: _____

Title: _____ DOB: _____

Social Security No: _____

If applicant is a not for profit, corporation, partnership or other business entity, please identify:

Name of Business Entity: _____

Type of Ownership: _____

Federal Tax Id: _____ Start Date: _____

Mailing Address: _____

Primary Phone No: _____ Alt. Phone No: _____

Email Address: _____

Preferred method of contact (check one) ☐ Mail ☐ Phone ☐ Email

E. Additional Responsible Party Information

Name: _____

Title:

DOB:

Social Security No:

Mailing Address:

Primary Phone No:

Alt. Phone No:

Email Address:

Preferred method of contact (check one)

☐ Mail

☐ Phone

☐ Email

Please attach additional sheets if there are more than 2 Responsible Parties.

F. Information on Property Owner or Landlord

Name:

Mailing Address:

Primary Phone No:

Alt. Phone No:

Email Address:

Preferred method of contact (check one)

☐ Mail

☐ Phone

☐ Email

If the applicant is not the legal owner of the property, the application must be accompanied by a notarized Owner's Statement of Consent to operate a commercial cannabis business on the property.

G. Related License Information

The applicant and/or responsible parties has been associated with a commercial cannabis business permit in the past 10 years.

☐ Yes

☐ No (If yes, please provide the following information)

Name:

City or County:

Start Date:

End Date:

Business Name:

Business Type:

Please attach additional sheets if necessary.

H. Required Submissions (Please check the box for each attachment)

Please attach all applicable documents listed below as part of your application as they pertain to your business type. For any items that do not apply to your business type, please provide a brief explanation as to why they do not apply.

☐ **Business Operations Plan**

- **Business Plan:** A plan describing how the commercial cannabis business will operate in accordance with City code, state law, and other applicable regulations. The business plan must include plans for handling cash and transporting cannabis and cannabis products to and from the site. The plan must include a description of the day-to-day operations of the facility including but not limited to standard operating procedures, number of employees, training program, inventory and quality control measures, lists of both recreational and medicinal products anticipated to be available (if applicable), waste management plan, delivery processes, testing, quality control practices and procedures, visitor and vendor protocols (logs, non-disclosures, etc.), and track

and trace procedures and policies.

- **Community Relations Plan:** A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.
- **State Licenses:** Copies of the state licenses relating to the commercial cannabis business licenses, the applicant holds (when available).
- **Insurance:** The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
- **Budget:** A copy of the applicant's most recent annual budget for operations (If available)
- **Financial Capacity/Proof of Capitalization:** Proof demonstrating sufficient capital is in place to pay startup costs and at least three months of operating costs. Proof of capitalization shall be in the form of financial information such as bank statements and balances, available loans and/or other sources of funding the enterprise, and/or documentation of cash or other liquid assets; and a Letter of Credit.
- **Products and Services:** A list/description of the general products and services the business will provide.
- **Management Team:** An organization chart with the name and role of each known member of the management team, including roles that are known but unfilled, resumes for each member of the management team, a discussion of the experience of the management team, and information concerning any special business or professional qualifications or licenses of the management team that would add to the number or quality of services that the facility would provide, especially in areas related to medicinal cannabis, such as scientific or health care fields

☐ **Education Plan:** A plan describing the type of cannabis education and prevention efforts that will be provided by the business to the community.

☐ **Security Plan:** The security plan must be prepared by a qualified professional. A detailed security plan must outline the measures that will be taken to ensure the safety of persons and property on the business site, including general security policies, employee-specific policies and training, discussion of transactional security, visitor security, third-party security, and delivery security. Applicants should address ingress and egress access, perimeter security, lobby and storage area security, product security (at all hours), internal security measures for limited access areas, type of security systems (alarms, cameras, etc.), and security personnel to be employed. Displayed items must be secured behind a counter, and only accessible in the presence of an employee. Video surveillance must be provided at all times in a manner and design approved by the Porterville Police Department, and stored for a period of at least 90 days, and accessible by the Department. Facilities shall have a burglar alarm, to include panic buttons located at the front lobby and retail areas. Alarm services must be provided/monitored by a third party alarm company, with notification to the Porterville Police Department. GPS data for delivery vehicles must be preserved for not less than 90 days and made available to the Porterville Police Department upon request. The discussion must also include a description of how cannabis will be tracked and monitored to prevent diversion, such as by verifying the status of recommending physicians and retaining copies of all written recommendations from recommending physicians when applicable. Applicants are encouraged to provide a sample written policy that has been developed. Security plans shall not be made public, unless required by court action. Security plan details that could aid persons who wish to commit security violations shall be considered to be confidential and shall not be released to the public unless ordered by a court of law.

☐ **Lighting Plan:** A detailed lighting plan showing existing and proposed exterior and interior lights that will provide adequate security lighting for the business site. The lighting plan shall be subject to review, adjustment and approval of all City Departments.

☐ **Site and Floor Plans:** A dimensioned site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas and boundaries. Also provide dimensioned floor plans for each level of each building that makes up the business site, including the entrances, exits, and walls. The plans shall also include the following information about the site: current zoning, parking requirements, consistency with development standards for the zone and any applicable design guidelines, the new development planned for the site, and any other site development information. Entrances shall be unobstructed by tall landscaping or architectural features, and shall be visible from the public right of way and parking areas. The floor plan must provide for a front lobby that is completely separate and secured from the dispensary, for a separate secured storage room (which is illuminated and ventilated, and constructed of materials not easily compromised such as steel or concrete), and all requirements as required by State law. All facilities shall have a secured room within which all non-display cannabis merchandise is stored. The applicant must provide proof of ability to lease or purchase the property (Property Owner Affidavit). The plans provided must be to scale. The Retail Operation may be a component of a larger development proposal which can be described in this application.

- ☐ **Odor Control Plan:** A detailed plan describing how the applicant will prevent all odors generated from the storage of cannabis from escaping from the buildings on the business site, such that the odor cannot be detected by a reasonable person of normal sensitivity outside the buildings.
- ☐ **Product Safety and Labeling:** The applicant shall provide how the facility will ensure enhanced consumer safety by testing or confirming that testing has been certified for biological and chemical contaminants. The applicant must also submit a discussion regarding the product labeling standard to be employed and how they will be in compliance with state and local laws, regulations, and policies. The applicant must also provide information on product labeling sufficient to ensure that cannabis and edible products containing cannabis clearly identify the percentage level of delta-9 (trans) tetrahydrocannabinol, cannabidiol, and cannabinol, and have adequate warnings.
- ☐ **Community Benefits:** The applicant shall demonstrate to the satisfaction of the City of its intent to local hiring and community support. The applicant must provide a discussion of how it intends to provide the City and its residents with community benefits and mitigate any nuisance and/or negative impacts that the facility's existence may create. Applicants must provide the City a description of how it plans to develop and implement a Community Benefits Program. Examples of benefits could include, but are not limited to, supporting or funding community programs, employment and job training programs, contributing to local substance abuse programs, funding foreclosure prevention programs, or other activities that benefit the local neighborhood as well as the City of Porterville. Such benefits and funding shall be set forth in a Development Agreement with the City.
- ☐ **Hiring and Employment Practices:** The applicant must submit a description of their labor and employment practices. These policies and practices could include, but are not necessarily limited to a discussion of hiring plan, training and continuing education opportunities (introductory and ongoing) that will be provided, the provision of equal benefits and/or the execution of a declaration of non-discrimination, and, for an applicant with 20 or more employees, a statement that the applicant will enter into or demonstrate that it has already entered into and will abide by, a labor peace agreement.

I. City Authorization

- ☐ I, the applicant, provide authorization and consent for the City Manager or his/her designee to seek verification of the information contained on this application.

J. Indemnification

- ☐ I, the applicant, agree to the fullest extent permitted by law, any actions taken by a public officer or employee under the City of Porterville regulations for Commercial Cannabis Businesses, shall not become a personal liability of any public officer or employee of the City. To the maximum extent permitted by law, the permittee shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Porterville, the Porterville City Council, and its respective officials, officers, employees, representatives, agents and volunteers from any liability, damages, actions, claims, demands, litigations, loss (direct or indirect), causes of action, proceedings, or judgments (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) against the City to attach, set aside, void or annul, any cannabis-related approvals and actions and strictly comply with the conditions under which such permit is granted, in any. The City may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.

K. Nonrefundable Filing Fee

- ☐ I, the applicant, understand and accept that the nonrefundable filing fee must be submitted with the completed Commercial Cannabis Business Permit Application and will be retained by the City regardless of the out-come of the application review.

L. Background – Request for Live Scan Services

- ☐ I, the applicant, understand that a completed and processed Request for Live Scan Service, State of California Form BCIA 8016, as determined by the City of Porterville, by a duly authorized business must be provided for the applicant and all interested parties. All applicable fees and charges are the responsibility of the applicants and interested parties.

M. Disqualification

- Application was received late
- Application is incomplete or inaccurate
- Facility does not meet City business licensing standards
- More than one application is received for the same cannabis business type on one property (stacking of applications)

N. Applicant's Certification

I agree to abide by and conform to the conditions of the permit and all provisions of the Porterville Municipal Code pertaining to the establishment and operation of the commercial cannabis business. I acknowledge that the approval of the Commercial Cannabis Business Permit shall, in no way, permit any activity contrary to the Porterville Municipal Code, or any activity which is in violation of any applicable law.

The information provided is genuine and not a sham, collusive, or made in the interest or on behalf of any party not therein named, and that the applicant has not directly or indirectly induced or solicited any other applicant to put in a sham proposal, or any other applicant to refrain from presenting information and that the prospective provider has not in any manner sought by collusion to secure an advantage.

The applicant has not paid or agreed to pay any fee of commission, or any other thing of value contingent upon the award of a permit or of any exclusive operating area, to any employee, official, or existing contracting consultant of the City of Porterville.

All costs of preparation or proposals including travel for any interviews scheduled shall be borne by the applicants.

All proposals become the property of the City of Porterville. The City reserves the right to reject any and all submittals; to request clarification of information submitted; to request additional information from competitors; and to waive any irregularity in the submission and review process. None of the materials submitted will be returned to the bidder.

Information or materials submitted in response to this application will be stored of file with the City of Porterville, and may be subject to the requirements of the California Public Records Act, or subject to public disclosure as ordered by a court of law. Proposed security plans shall be considered confidential.

The City reserves the right to request additional information not included in this application from any or all applicants.

The City reserves the right to contact references not provided in the submittals.

The City reserves the right to incorporate its standard agreement language into any contract resulting from this application.

The applicant understands that if selected to receive a permit by the City, applicant will be, in accord with City regulations, required to enter into a Development Agreement with the City containing additional terms and conditions for the development and operation of the business. Due to the unique nature of the subject business, a Development Agreement will be crafted to establish the terms and parameters within which the business may develop. If the applicant and City enter into a Development Agreement, the applicant will have five (5) years to operate a dispensary subject to the Agreement terms and conditions, the local regulations in effect at the time the Development Agreement was executed, and all applicable State law in effect at the time and as may be amended.

I certify under penalty of perjury under the laws of the State of California, that I have personal knowledge of the information contained in this application, that I am authorized to execute this application and all portions thereof, and that the information contained herein is true and correct.

Signature: _____

Date: _____

The information contained on this document is subject to disclosure under the Public Records Act.

Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit. All commercial cannabis permits must be approved by the City Council. The City may attach conditions to the permit. A commercial cannabis permit may be

denied if any of the following findings are made:

- (i) The application does not meet all requirements of the commercial cannabis ordinance; or*
- (ii) Approval would very likely result in harm to public safety, health, or welfare; or*
- (iii) Potential negative impacts of the use cannot be mitigated with conditions or through the ordinance requirements.*

Applicants will be notified regarding application completeness

COMMERCIAL CANNABIS BUSINESS OPERATORS PERMIT APPLICATION

PROPERTY OWNER'S STATEMENT OF CONSENT

If the applicant is not the owner of record of the subject site, the following Statement of Consent must be completed by the owner or the owner's authorized representative, granting the applicant permission to apply for a cannabis business operator permit.

I, the undersigned legal owner of record, hereby grant permission to:

Applicant: _____ Phone: _____

Mailing Address: _____

To operate a commercial cannabis business on the property described below. I agree to abide by and conform to the conditions of the permit and all provisions of the Porterville Municipal Code pertaining to the establishment and operation of the commercial cannabis business. I acknowledge that the approval of the Commercial Cannabis Business Permit shall, in no way, permit any activity contrary to the Porterville Municipal Code, or any activity which is in violation of any applicable law. I further understand that I am responsible for, and also subject to, enforcement actions regarding any violations and/or nuisance activity which may occur at this property if leasing the property to the applicant.

The subject property is located at: _____

Assessor's Parcel Number: _____

Printed Name of Owner of Record: _____

Address of Owner of Record: _____

Phone: _____ Email address: _____

Signature of Owner of Record: _____ Date: _____

Attach:

☐

Proof of possession of the premises and approval of use (deed, lease, lease assignment, agreement showing willingness to sell property if applicant obtains permit)

Notary Use Only:

State of California
County of Tulare

On this, the _____ day of _____, 20____, before me a notary public, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purpose therein contained.

I witness hereof, I hereunto set my hand and official seal.

Notary Public



REQUEST FOR LIVE SCAN SERVICE

Applicant Submission

CA0540500

ORI (Code assigned by DOJ)

LICENSING

Authorized Applicant Type

Marijuana Dispensary Applicant

Type of License/Certification/Permit OR Working Title (Maximum 30 characters - if assigned by DOJ, use exact title assigned)

Contributing Agency Information:

PORTERVILLE POLICE DEPARTMENT

Agency Authorized to Receive Criminal Record Information

03311

Mail Code (five-digit code assigned by DOJ)

350 N. D STREET

Street Address or P.O. Box

Contact Name (mandatory for all school submissions)

PORTERVILLE

City

CA

State

93257

ZIP Code

(559) 782-7400

Contact Telephone Number

Applicant Information:

Last Name

First Name

Middle Initial

Suffix

Other Name

(AKA or Alias) Last

First

Suffix

Date of Birth

Sex

☐

Male

☐

Female

Driver's License Number

Height

Weight

Eye Color

Hair Color

Billing

Number 120212

(Agency Billing Number)

Place of Birth (State or Country)

Social Security Number

Misc.

Number

(Other Identification Number)

Home

Address Street Address or P.O. Box

City

State

ZIP Code

Your Number:

OCA Number (Agency Identifying Number)

Level of Service: ☒ DOJ ☒ FBI

(If the Level of Service indicates FBI, the fingerprints will be used to check the criminal history record information of the FBI)

If re-submission, list original ATI number:

(Must provide proof of rejection)

Original ATI Number

Employer (Additional response for agencies specified by statute):

Employer Name

Mail Code (five digit code assigned by DOJ)

Street Address or P.O. Box

City

State

ZIP Code

Telephone Number (optional)

Live Scan Transaction Completed By:

Name of Operator

Date

Transmitting Agency

LSID

ATI Number

Amount Collected/Billed



REQUEST FOR LIVE SCAN SERVICE

Privacy Notice

As Required by Civil Code § 1798.17

Collection and Use of Personal Information. The California Justice Information Services (CJIS) Division in the Department of Justice (DOJ) collects the information requested on this form as authorized by Business and Professions Code sections 4600-4621, 7574-7574.16, 26050-26059, 11340-11346, and 22440-22449; Penal Code sections 11100-11112, and 11077.1; Health and Safety Code sections 1522, 1416.20-1416.50, 1569.10-1569.24, 1596.80-1596.879, 1725-1742, and 18050-18055; Family Code sections 8700-87200, 8800-8823, and 8900-8925; Financial Code sections 1300-1301, 22100-22112, 17200-17215, and 28122-28124; Education Code sections 44330-44355; Welfare and Institutions Code sections 9710-9719.5, 14043-14045, 4684-4689.8, and 16500-16523.1; and other various state statutes and regulations. The CJIS Division uses this information to process requests of authorized entities that want to obtain information as to the existence and content of a record of state or federal convictions to help determine suitability for employment, or volunteer work with children, elderly, or disabled; or for adoption or purposes of a license, certification, or permit. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The DOJ's general privacy policy is available at <http://oag.ca.gov/privacy-policy>.

Providing Personal Information. All the personal information requested in the form must be provided. Failure to provide all the necessary information will result in delays and/or the rejection of your request.

Access to Your Information. You may review the records maintained by the CJIS Division in the DOJ that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information. In order to process applications pertaining to Live Scan service to help determine the suitability of a person applying for a license, employment, or a volunteer position working with children, the elderly, or the disabled, we may need to share the information you give us with authorized applicant agencies.

The information you provide may also be disclosed in the following circumstances:

- With other persons or agencies where necessary to perform their legal duties, and their use of your information is compatible and complies with state law, such as for investigations or for licensing, certification, or regulatory purposes;
- To another government agency as required by state or federal law.

Contact Information. For questions about this notice or access to your records, you may contact the Associate Governmental Program Analyst at the DOJ's Keeper of Records at (916) 210-3310, by email at keeperofrecords@doj.ca.gov, or by mail at:

Department of Justice
Bureau of Criminal Information & Analysis
Keeper of Records
P.O. Box 903417
Sacramento, CA 94203-4170



CITY OF PORTERVILLE INDEMNIFICATION AGREEMENT

Pursuant to Porterville Municipal Code Chapter 21, Section 601.02(b)(4), and to the fullest extent permitted by law, the “Applicant” (owner of the subject property; or an agent representing the owner, duly authorized to do so in writing by the owner, including, but not limited to, a person with a duly executed written contract or exclusive option to purchase the subject property or a lessee in possession of the subject property) hereby agrees to defend, indemnify and hold harmless the City of Porterville, its officers, attorneys, agents, and employees:

1. From any claims, actions, proceedings or liability of any nature (collectively referred to as proceeding) brought against the City or its officers, attorneys, agents or employees, to attack, set aside, void, or annul:
 - a. Any action or decision by City Staff, City Council or any other City entity related to the subject property.
 - b. Any action taken to provide related environmental clearance or decisions under the California Environmental Quality Act (CEQA) by City Staff, City Council or any other City entity concerning the subject property.

The indemnification is intended to include but not be limited to damages, fees, and/or costs awarded against the City, if any, and cost of suit, attorney’s fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, the City, and/or the parties initiating or bringing such proceeding.

2. The Applicant hereby agrees to indemnify the City for all of the City’s costs, fees, and damages which the City incurs enforcing the indemnification provisions of this Agreement.
3. In the event of a proceeding, the City retains the right to approve counsel to defend the City, all significant decisions concerning the manner in which the defense is conducted, and any and all settlements, which approval shall not be reasonably withheld. The City has the right not to participate in the defense, except that the City agrees to cooperate with the applicant in the defense of the proceeding. If the City chooses its own counsel to defend the City, the fees and expenses of the counsel selected by the City shall be paid by the City. Notwithstanding the above, if the City Attorney’s office participates in the defense, all City Attorney fees and costs shall be paid by the Applicant.
4. The defense and indemnification of the City set forth herein shall remain in full force and effect throughout all stages of litigation including appeals of any lower court judgments rendered in the proceeding.

Print Name and Date

Signature (Owner or Legal Representative)