



**CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
JUNE 6, 2023, 5:30 PM**

The City of Porterville is allowing for and encouraging electronic participation at City Council Meetings. 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 – City Council Meeting of June 6, 2023

Please use the following link below to join the webinar:

<https://us06web.zoom.us/j/85228264141?pwd=UHBOY1M4QmdWL3ROcFhzdndMSVc0dz09>

Or via Telephone: **1-669-900-6833** Webinar ID: **852 2826 4141** Passcode: **867961**

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 54956.95 – Liability Claim: Claimant: Dennis Thomas Crowell. Agency claimed against: City of Porterville.
- 2 - Government Code Section 54956.95 – Liability Claim: Claimant: Andres Loza. Agency claimed against: City of Porterville.
- 3 - Government Code Section 54956.95 – Liability Claim: Claimant: Fred Landucci. Agency claimed against: City of Porterville.
- 4 - 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 plaintiffs.
- 5 - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Two (2) cases.
- 6 - Government Code Section 54957 -- Public Employee Performance Evaluation -- Title: City Manager.

7 - Government Code Section 54957 -- Public Employee Performance Evaluation -- Title:
City Attorney.

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

Pledge of Allegiance Led by Council Member Meister

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.

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 November 14, 2022, and May 16, 2023.**
Re: Considering approval of the City Council Meeting draft Minutes of November 14, 2022, and May 16, 2023.
2. **Authorization to Purchase Specialized Equipment - Centrifuge**
Re: Consider authorization to purchase Centrifuge for Waste Water Sampling from Fisher Scientific, at a cost not to exceed \$6,956.
3. **Authorization to Repair Refuse Truck Engine**
Re: Consider authorization for refuse truck repair by Cummins Sales and Service at a cost not to exceed \$34,330.
4. **Lease of Six Automated License Plate Readers from Flock Safety**
Re: Consider authorizing the Police Department to enter into a two-year lease agreement with Flock Safety to install six cameras for a total cost of \$39,900.
5. **Authorization to Distribute a Request for Qualifications for Sports Complex Baseball Field Design**
Re: Consideration to authorize staff to distribute a Request for Qualifications for the design of the Sports Complex Baseball field.
6. **Acceptance of Subdivision Improvements - The Villas at Sierra Meadows, Phase 2 (Smee Homes, Inc)**
Re: Consider acceptance of the public improvements, including those related to the Landscape & Lighting District of Villas at Sierra Meadows, Phase 2 subdivision for maintenance as complete.

7. **Approval of Amendment No. 4 to the Consultant Services Agreement with MuniServices, LLC**
Re: Consider approval of Amendment No. 4 to the Consultant Services Agreement with MuniServices, LLC, to add an annual adjustment of five percent (5%) to the fixed fee portion of compensation.
8. **Authorization to Negotiate a Consultant Agreement - Porterville Public Library Project**
Re: Consideration to authorize staff to negotiate a scope of services contract with Paul Halajian Architects; or Steinberg Hart if staff is unable to negotiate an acceptable contract with Paul Halajian Architects.
9. **Ratification of Emergency Expenditure - Walk-in Cooler - Airport Restaurant**
Re: Consideration of the Council to ratify the emergency purchase of a walk-in cooler for the Airport Restaurant in the amount of \$6,800.
10. **Authorization to Execute a Consultant Agreement with QK, Inc. - Parks Master Plan**
Re: Consider authorization to execute a Consultant Service Agreement for the Parks Master Plan with QK, Inc. in the amount of \$149,217; and authorize an appropriation of \$149,217 in federal American Rescue Plan Act (ARPA) funds to fund this project.
11. **Porterville College Landscape Phasing**
Re: Consider approval of the phasing of landscape improvements along the proposed College and Triunfo Avenue Project.
12. **Request for Approval of the Self-Performed Street Maintenance Program for Fiscal Year 2023-2024**
Re: Considering approval of the 2023-2024 Self-Performed Street Maintenance Program and authorizing the expenditure of \$2,000,000.
13. **Asphalt Grinding Program for Fiscal Year 2023-2024**
Re: Consider authorizing staff to secure annual grinding contractor services for the Fiscal Year 2023-2024 Street Maintenance and Overlay Program.
14. **Annual Hauling Services for Asphalt Maintenance Program**
Re: Authorization to secure annual hauling contractor services for the Fiscal Year 2023-2024 Capital Improvement Projects Overlay Program.
15. **Street Striping Program for Fiscal Year 2023-2024**
Re: Consideration of authorizing staff to secure annual striping contractor services for the Fiscal Year 2023-2024 to support the Self-Performed Street Maintenance and Overlay Program.
16. **Annual Emulsion Program for Fiscal Year 2023/2024**
Re: Consider authorizing staff to secure an emulsion distributor for the Fiscal Year 2023/2024 Self-Performed Street Maintenance Program.
17. **Department of Finance Population Update**
Re: Consider authorizing the Mayor to sign a request for State certification for the City of Porterville, May 1, 2023, at a population of 62,588.
18. **Status and Review of Local Drought Emergency**
Re: Considering approval of the continuance of the Declaration of Local Emergency.

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

PUBLIC HEARINGS

- 19. Public Hearing to Consider Amendments to Series 200 of the Porterville Development Ordinance**
Re: Consideration of a draft Ordinance amending Sections 204.01 and 204.02 of the Porterville Development Code regarding the Professions Office (PO) Zone District.
- 20. Consideration of an Ordinance Approving a Development Agreement between the City of Porterville and Cannabis Express, Inc.**
Re: Considering approval for first reading of a draft Ordinance regarding the development of a retail cannabis dispensary located at 200 North Main Street.
- 21. Consideration of Annexation 489 - East River Avenue and Plano Street**
Re: Consideration to find the proposed annexation project exempt from CEQA under CEQA Guidelines Section 15319; and adopt the draft Resolution, requesting that Tulare LAFCO initiate proceeding for annexation of three parcels (APNs 261-015-013, 261-015-015, 261-015-016) near the southeast corner of E. River Avenue and Plano Street.

SCHEDULED MATTERS

- 22. Bid Results - Villa Street Reconstruction Project**
Re: Consideration to reject all bids, and direct the Engineering and Project Management Director to re-advertise the project; or award the Villa Street Reconstruction Project to Dawson-Mauldin, LLC in the amount of \$10,087,972.40;
- 23. Consider Approval of Payment for Parts and Rental of Specialized Equipment to Repair the Flag Pole in the Grocery Outlet/Dollar Tree Center Shopping Mall**
Re: Consider approval of payment of \$2,562.75 to Elevated Energy and Construction for parts and rental of specialized equipment to repair the flag pole in the Grocery Outlet/Dollar Tree Center Shopping Mall from the City's "Special Purposes" Reserve Fund.
- 24. Consideration of Proposed Fiscal Year 2023-2024 Budget Process and Setting of Date for Public Hearing**
Re: Consider the proposed Fiscal Year 2023-2024 Budget process and set the date of Public Hearing for June 20, 2023.
- 25. Status and Review of Declaration of Local Flood Emergency**
Re: Review of the Declaration of Local Emergency made on March 13, 2023, concerning the significant weather event and impacts or likely impacts relative to increased flow of the Tule River; and consider approval of the agreement with TopKnotch Security, Inc. to provide nightly security at the Porterville Army National Guard Armory for \$18,000 per month.

AB 1234 REPORTS

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

1. Tulare County Taskforce on Homelessness - May 17, 2023
2. Council of Cities - May 17, 2023
3. Porterville Area Development Authority (PADA) - May 19, 2023

4. Tulare County Economic Development Corporation (TCEDC) Board - May 24, 2023
5. Tulare County Association of Governments (TCAG) Board Retreat - May 25, 2023
6. General Plan Ad Hoc Committee - May 30, 2023
7. Eastern Tule Groundwater Sustainability Agency (ETGSA) - June 1, 2023
8. Cannabis Ad Hoc Committee - June 2, 2023
9. TCAG Board - June 5, 2023

ORAL COMMUNICATIONS

OTHER MATTERS

CLOSED SESSION

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

ADJOURNMENT - to the meeting of June 20, 2023, at 5:30 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 – JUNE 6, 2023

SUBJECT: City Council Minutes of November 14, 2022, and May 16, 2023.

SOURCE: Administrative Services

COMMENT: Staff has prepared the draft minutes for November 14, 2022, and May 16, 2023.

RECOMMENDATION: That the Council approve the draft Minutes of November 14, 2022, and May 16, 2023.

ATTACHMENTS:

1. 2022-11-14 Draft Minutes
2. 2023-05-16 Draft Minutes

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, Deputy City Manager

Final Approver: Patrice Hildreth, Deputy City Manager

**SPECIAL CITY COUNCIL MEETING MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
NOVEMBER 14, 2022, 5:30 PM**

Call to Order at 5:30 p.m.

Roll Call: Councilmember Donald Weyhrauch, Councilmember Lawana Tate,
Councilmember Milt Stowe, Vice Mayor Kellie Carrillo, Mayor Martha A. Flores

ORAL COMMUNICATIONS

- Michael Reed, Attorney, spoke of Kyley Horton's history in the Porterville Police Department and the disciplinary action taken against her.
- Kyley Horton, Bakersfield, asked the Council to review the disciplinary appeal to its fullest extent.
- Henry Pacheco, Bakersfield, stated he has known Kyley Horton for a long time and does not believe she deserves to lose her job.
- Jack Horton, spoke in favor of his daughter Kyley Horton.
- Celeste Bernadino, Porterville, stated she met Kyley Horton through the Porterville Explorer Program and stated Horton is a good person.
- Desiree Corozco, Visalia, spoke in favor of Kyley Horton and stated the council should take their time in gathering the evidence to make a good decision.
- Deborah Stewart, stated Kyley Horton has always been responsible and spoke of her work history.
- Genesis Richardson, stated Kyley Horton is a great police officer.
- Amber Moreno, Tulare, spoke in favor of Kyley Horton.
- Sue Renfro, Attorney from Liebert Cassidy Whitmore representing the City in the matter of Kyley Horton, spoke of the administrative proceeding of former Police Officer Kyley Horton.

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

- 1 - Government Code Section 54956.9(d)(1) - Conference with Legal Counsel - Existing Administrative Proceeding – Employee Disciplinary Appeal.
- 2 - Government Code Section 54957 – Public Employee Discipline/Dismissal/Release - Consideration by City Council of any modification of City Manager/Hearing Officer decision to uphold termination of city employee, in accordance with City of Porterville Personnel Rules and Regulations, Rule XI, Section 3.f. Note, if requested as provided by law, any complaints or charges shall be heard in open session prior to the City Council convening in closed session.

**7:43 P.M. RECONVENE OPEN SESSION AND REPORT ON REPORTABLE ACTION
TAKEN IN CLOSED SESSION**

City Attorney Lew reported on action pertaining to A-1, as follows:

- A-2. On a MOTION made by Council Member Stowe, SECONDED by Vice Mayor Carrillo, the City Council unanimously declined to modify the City Manager/Hearing Officer's decision in the

Appeal, effectively upholding the decision to terminate the City Employee.

Documentation: M.O. 01-111422

Disposition: Appeal Denied.

ADJOURNMENT

The Council adjourned at 7:44 p.m. to the meeting of November 15, 2022, at 5:30 P.M.

Fernando Gabriel-Moraga, Deputy City Clerk

SEAL

Martha A. Flores, Mayor

**CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
MAY 16, 2023, 5:30 PM**

Call to Order at 5:30 p.m.

Roll Call: Council Member Greg Meister, Council Member Raymond Beltran,
Council Member Donald Weyhrauch, Vice Mayor Kellie Carrillo
Mayor Martha A. Flores

ORAL COMMUNICATIONS

None

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

1 - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis and Patrice Hildreth. Employee Organizations: Porterville City Employees Association and Management and Confidential Series.

2 - Government Code Section 54956.95 – Liability Claim: Claimant: Reginaldo Cornejo. Agency Claimed Against: City of Porterville.

3 - Government Code Section 54956.95 – Liability Claim: Claimant: Stephanie Navarrete. Agency Claimed Against: City of Porterville.

4 - 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.

5 - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Two (2) cases.

6 - Government Code Section 54957 - Threat to public services or facilities: Consultation with Jake Castellow, Porterville EOC Incident Commander.

**6:34 P.M. RECONVENE OPEN SESSION AND REPORT ON REPORTABLE ACTION
TAKEN IN CLOSED SESSION**

City Attorney Lew reported action, as follows:

A-2. On a MOTION made by Council Member Meister, and SECONDED by Vice Mayor Carrillo the City Council unanimously denied the claim filed by Reginaldo Cornejo.

Documentation: M.O. 01-051623

Disposition: Claim denied.

The Pledge of Allegiance was led by Vice Mayor Carrillo.

Invocation – a member of the public came forward and gave an invocation.

ORAL COMMUNICATIONS

- Yolanda Bocanegra, Terra Bella, announced the Flag Day Ceremony is on schedule and thanked the Council for their time and support.
- Ryan Leasure, Porterville Chamber of Commerce, provided updates on new business that have joined the chamber and new ambassadors; and invited the council to First Friday Coffee at the Tap House at the Eagle Mountain Casino.
- Josh Flowers, Strathmore, recited words from “The Tale of the Starfish”, and stated the Council did something similar for the homeless.
- Antonio Morales, Porterville, stated he is wanting the city to address and fix the riverbank next to his home.
- Ed McKervery, Porterville, stated the city should redirect some of its money in resources for the homeless shelter.
- Art Castillo, Porterville, stated the city should address the traffic speeds on Jaye Street, between Highway 190 and West Gibbons Avenue, as traffic has increased due to new housing development.
- Cesar Martinez, Porterville, stated it would be nice if there was something in the city that would promote the Arts and Creativeness in the community, and spoke of his desire to have an opportunity to create a Mural in the city.
- Luisa Velasquez, American Cancer Society, presented the Council with packets of information regarding the American Cancer Society – Cancer Action Network and spoke of their efforts in working with community members, to support evidence-based policy solutions designed to eliminate cancer as a major health problem.
- Angelica Garcia, American Cancer Society, shared results of a Survey that was conducted in the city related to second hand smoke and tobacco use.

REPORTS

I. City Commission and Committee Meetings

1. Parks & Leisure Services Commission - May 4, 2023 – no report was provided.

2. Library & Literacy Commission - May 9, 2023

Commissioner Edith Lavonne reported on a survey that will be releasing to the public soon, and spoke of participation statistics for the month April for various events such as Virtual Story Time, Adult Book Club, Bilingual Story Time, Bring your Own Game day, Book Bingo, Young Adult Book Club, and the Thousand Books Before Kindergarten Challenge.

3. Arts Commission - April 25, 2023 – no report was provided.

4. Animal Control Commission - May 11, 2023 – no report was provided.

5. Youth Commission - May 10, 2023

Commissioner Daniel Acedo Nevarez & Commissioner Ahla Saleh reported on the professional development that the Commission received during the year by touring and attending meetings with their local government and state officials.

6. Transactions and Use Tax Oversight Committee (TUTOC) – no report was provided.

II. Staff Informational Reports

1. Water Conservation Phase Iv Status Update - April 2023

CONSENT CALENDAR

City Manager Lollis noted that he had a conflict on Item No. 8.

COUNCIL ACTION: MOVED by Vice Mayor Carrillo, SECONDED by Mayor Flores that the City Council approve Items Nos. 1-16. The motion carried unanimously.

1. CITY COUNCIL MINUTES OF APRIL 14, 2023, AND MAY 02, 2023.

Recommendation: That the Council approve the draft Minutes of April 14, 2023, and May 02, 2023.

Documentation: M.O. 02-0516

Disposition: Approved.

2. PURCHASE OF PERSONAL PROTECTIVE EQUIPMENT

Recommendation: That the City Council approve the purchase of two sets of turnouts from Curtis at a cost of \$7,249.83, with an added ten percent (10%) contingency of \$724.98, for the total purchase to not exceed \$7,974.81

Documentation: M.O. 03-051623

Disposition: Approved.

3. AUTHORIZATION TO ADVERTISE FOR BIDS - MAIN STREET RECONSTRUCTION PROJECT (PUTNAM AVENUE TO MORTON AVENUE)

Recommendation: That the City Council:

1. Approve staff's recommended Plans and Project Manual;
2. Authorize staff to advertise for bids on the project; and
3. Authorize the City Engineer to negotiate construction surveying services with one of the firms as approved by Council MO #04-041922.

Documentation: M.O. 04-051623

Disposition: Approved.

4. AUTHORIZATION TO DISTRIBUTE REQUEST FOR QUALIFICATIONS -
EMERGENCY OPERATIONS CENTER & PUBLIC SAFETY
HEADQUARTERS

Recommendation: That the City Council authorize staff to distribute Design Services Request for Qualifications for the Emergency Operations Center & Public Safety Headquarters.

Documentation: M.O. 05-151623

Disposition: Approved.

5. AUTHORIZATION TO AWARD FREEDOM FEST FIREWORKS
CONTRACT

Recommendation: That the City Council authorize progress payments up to one hundred percent (100%) of the contract amount of \$25,000 to Zambelli Fireworks, as well as the contract provisions subject to the City Attorney's approval, including requiring the vendor to add the City of Porterville on to its liability coverage as an additional insured.

Documentation: M.O. 06-051623

Disposition: Approved.

6. AUTHORIZATION TO APPLY AND RECEIVE FINANCING FOR THE
CONSOLIDATION OF DEL ORO WATER COMPANY

Recommendation: That the City Council:

1. Approve the Preliminary Funding Award Notification Letter with the State Water Resources Control Board to consolidate the Del Oro Water Systems; Grandview Gardens, and East Plano (Paul Street), onto the City's water distribution system;
2. Adopt the draft Resolution authorizing the Mayor or Designee, the Public Works Director, to apply for and receive financing from the California State Water Resources Control Board for the planning, design, and construction of the Del Oro Systems; Grandview Gardens and East Plano Water Consolidation Project;
3. Direct the City Attorney as General Counsel to provide a legal opinion letter in regards to the proposed project once a funding agreement is received; and
4. Authorize the Mayor or Designee, the Public Works Director, to execute the funding agreement with the State Water Resources Control Board and any other necessary documents to effect the transaction.

Documentation: Resolution No. 21-2023

Disposition: Approved.

7. APPROVAL OF STATE SENATE BILL 1 (SB1) PROJECT LIST FOR FISCAL YEAR 2023-2024

Recommendation: That the City Council:

1. Adopt the draft Resolution for the SB1 project list for FY 2023-2024;
2. Authorize the City Clerk to record the attached draft Resolution; and
3. Authorize staff to submit the project list package to the California Transportation Commission to secure the City's FY 2023-2024 RMRA apportionment.

Documentation: Resolution No. 22-2023

Disposition: Approved.

8. CONSIDERATION OF FUNDING RECOMMENDATIONS AND REOPENING REQUEST FOR PROPOSALS FOR 2021 PERMANENT LOCAL HOUSING ALLOCATION (PLHA)

Recommendation: That the City Council:

1. Award Turning Point of Central California in the amount of \$154,234.50 for the Navigation Center, \$154,234.50 for Emergency Housing and \$67,950.00 for PSH operation support. The totals include up to 5% of the Administration allocation;
2. Award CCFCC in the amount of \$153,163.00; and
3. Authorize staff to reopen the Year 3 PLHA RFP for the remaining \$52,701.50 for PSH program operations.

Documentation: M.O. 07-051623

Disposition: Approved.

9. A RESOLUTION APPROVING THE APPLICATION FOR STATE OFF-HIGHWAY VEHICLE GRANT FUNDS

Recommendation: That the City Council adopt a Resolution approving the application for State Off-Highway Vehicle Grant Funds

Documentation: Resolution No. 23-2023

Disposition: Approved.

10. AUTHORIZATION OF STREET CLOSURES FOR KJUG FREE SUMMER CONCERT SERIES

Recommendation: That the City Council authorize the street closures for the KJUG Concerts on May 24, June 6 or 7 and June 21, 2023, and approve an expenditure not

to exceed \$5,000 for special event liability coverage to be paid out of the Risk Management Fund.

Documentation: M.O. 08-051623

Disposition: Approved.

11. AUTHORIZATION OF STREET CLOSURE FOR MILITARY BANNER CEREMONY

Recommendation: That the City Council authorize the temporary closure of Main Street between Thurman Avenue and Cleveland Avenue for the Military Banner Ceremony on May 26, 2023, from 9:00 AM to 3:00 PM.

Documentation: M.O. 09-051623

Disposition: Approved.

12. PARKS AND LEISURE SERVICES COMMISSION MEETINGS

Recommendation: That the City Council approve the Parks and Leisure Services Commission's request for a hiatus during the months of July and August 2023, with the Commission being available to meet if necessary.

Documentation: M.O. 10-051623

Disposition: Approved.

13. CANCELLATION OF PUBLIC HEARING TO CONSIDER ANNEXATION

Recommendation: That the City Council cancel the Public Hearing previously scheduled for the consideration of the annexation of APNs 261-015-013, 261-015-015 and 261-015-016.

Documentation: M.O. 11-051623

Disposition: Approved.

14. RESCINDING AND REPLACING RESOLUTION NO. 16-2023 CONCERNING CLASS A DRIVER'S LICENSE INCENTIVE PAY

Recommendation: That the City Council adopt the draft Resolution Rescinding and Replacing Resolution No. 16-2023 Approving a Side Letter between the City of Porterville and Porterville City Employees Association and Management & Confidential Series employees amending the Employee Pay & Benefit Plan Establishing Incentive Pay for Employees Attaining and Retaining a Class A Driver's License.

Documentation: Resolution No. 24-2023

Disposition: Approved.

15. CANCELLATION OF JULY 4, 2023, CITY COUNCIL MEETING

Recommendation: That the City Council cancel the first Council Meeting in July scheduled for July 4, 2023, due to the Independence Day holiday.

Documentation: M.O. 12-051623

Disposition: Approved.

16. STATUS AND REVIEW OF LOCAL DROUGHT EMERGENCY

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.

Documentation: M.O. 13-051623

Disposition: Approved.

PUBLIC HEARINGS

17. PUBLIC HEARING TO CONSIDER THE TRANSITION TO PHASE III OF THE CITY'S WATER CONSERVATION PLAN

Recommendation: That the City Council:

1. Conduct a Public Hearing to consider the transition from Phase IV to Phase III of the City's Water Conservation Plan effective June 1, 2023; and
2. Consider directing staff to transition from Phase III to Phase IV effective October 1, 2023.

City Manager Lollis introduced the item and Public Works Director Michael Knight presented the staff report.

Mayor Flores opened the Public Hearing at 7:13 p.m. and closed it at 7:14 p.m. when no one came forward to speak.

COUNCIL ACTION: MOVED by Council Member Beltran, SECONDED by Council Member Meister that the City Council approve the transition from Phase IV to Phase III of the City's Water Conservation Plan effective June 1, 2023; and directed staff to transition from Phase III to Phase IV effect October 1, 2023. The motion carried unanimously.

Documentation: M.O. 14-051623

Disposition: Approved.

SCHEDULED MATTERS

18. CONSIDER RESOLUTIONS OF OPPOSITION TO ASSEMBLY BILL 1090 (JONES-SAWYER) AND STATE SENATE BILL 94 (CORTESE)

Recommendation: That the City Council consider Resolutions of Opposition to Assembly Bill 1090 (Jones-Sawyer) and Senate Bill 94 (Cortese).

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

Council Member Meister stated Assembly Bill 1090 failed and is no longer eligible for consideration of opposition.

COUNCIL ACTION: MOVED by Council Member Meister, SECONDED by Council Member Beltran that the City Council approve the Resolution of Opposition to Senate Bill 94. The motion failed.

AYES: Meister, Beltran,
NOES: Weyhrauch, Carrillo, Flores
ABSTAIN: None
ABSENT: None

Documentation: M.O. 15-051623

Disposition: Motion failed.

19. BID RESULTS - TULE RIVER PARKWAY, PHASE 3 PROJECT

Recommendation: That the City Council consider:

1. Award of the Tule River Parkway, Phase 3 Project to American Paving Co. in the amount of \$2,536,720;
2. Authorize progress payments up to one hundred percent (100%) of the contract amount;
3. Authorize a contingency in the amount of \$253,672;
4. Authorize ten percent (10%) for construction staking, construction management, quality control and inspection services;
5. Authorize an additional appropriation of \$1,091,564 in Local Transportation Funds to fully fund the project.

City Manager Lollis introduced the item and Engineering and Project Management Director Javier Sanchez presented the staff report.

COUNCIL ACTION: MOVED by Mayor Flores, SECONDED by Council Member Weyhrauch that the City Council award the Tulare River Parkway, Phase 3 Project to American Paving Co. in the amount of \$2,536,720.00. The motion carried unanimously.

Documentation: M.O. 16-051623

Disposition: Approved.

20. STATUS AND REVIEW OF DECLARATION OF LOCAL FLOOD EMERGENCY

Recommendation: That the City Council:

1. Receive the report of status and review of the Declaration of Local Emergency and determine the need exists to continue said Declaration; and
2. Consider approval of the draft License to Use State Property Agreement with the California Military Department.

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

COUNCIL ACTION: MOVED by Mayor Flores, SECONDED by Council Member Meister that the City Council continue the Declaration of Local Emergency; and approve the license to use State Property Agreement with the California Military Department for the 1-year exclusive use of the Porterville Armory. The motion carried unanimously.

Documentation: M.O. 17-051623

Disposition: Approved.

AB 1234 REPORTS

1. Military Banner Program Committee - April 25, 2023

Vice Mayor Carrillo reported on the approval of minutes, committee member vacancies, and presented an update on the upcoming Military Banner Program.

2. Local Initiatives Navigation Center (LINC) Committee - May 3, 2023

Council Member Beltran reported on the approval of minutes, several updates that included the budget report, the Porterville Welcome Center, the Street Medicine Team, and a volunteer table that was requested at the LINC events.

3. Easter Tule Groundwater Sustainability Agency (ETGSA) - May 4, 2023

Council Member Weyrhauch reported on the approval of minutes, ratification of bills to be paid, approval of the ETGSA 9th Amended Rules and Regulations, review of logo proposals for ETGSA, the setting of a date for Public Hearing to Enforce Tier 1 Penalty Delinquencies, and other various routine staff reports.

4. Tulare County Water Commission - May 8, 2023

Mayor Flores stated she had been unable to attend the meeting.

5. Tulare County Association of Governments One Voice Trip to Washington DC - May 9-12, 2023

Mayor Flores reported on those in attendance and spoke of a hearing by the Committee on Natural Resources “Save Our Sequoias Act” by Speaker Kevin McCarthy and stated that the group met with Trevor Smith of Speaker Kevin McCarthy’s office and presented him with a regional transportation booklet. Mayor Flores stated on Thursday of the trip they attended a meeting with the Department of Transportation and a later meeting with the Federal Aviation Administration.

6. Social Services Transportation Advisory Council - May 9, 2023

Vice Mayor Carrillo reported on the unmet needs and recommendations which was a request direct access from Visalia north side route from downtown, toward the target shopping center and regional on demand service.

7. Transit Forum - May 10, 2023

Vice Mayor Carrillo stated Visalia Transit and TCRTA continue to work on an operations plan for regional on demand micro transit service.

8. CalVans Board - May 11, 2023

Vice Mayor Carrillo reported on the proposed Calvans budget totals for staff benefits, services and supplies.

9. Tulare County Economic Development Corporation Board - May 11, 2023

Assistant City Manager Jason Ridenour reported on the Strategic Planning Session which was focused on the budget.

10. Tulare County Association of Governments (TCAG)/ Tulare County Transportation Authority (TCTA) Board - May 15, 2023

Mayor Flores reported on an educational workshop that included a KNN presentation of the summary of outstanding debt, the adoption of resolutions, the approval of minutes, the Local Clearinghouse Review, and several informational items.

11. Tulare County Regional Transit Authority (TCRTA) - May 15, 2023

Council Member Weyhrauch reported on several action and discussion items such as a professional services agreement, the notice of withdrawal from the City of Porterville, and the board of directors meeting schedule.

ORAL COMMUNICATIONS

None

OTHER MATTERS

- Council Member Beltran thanked Yolanda Bocanegra for the Flag Day update; lauded the Youth Commission for their earlier report; spoke of the Eagle Mountain Casino Grand Opening Event; and the recent Cinco Day Mayo Parade.
- Council Member Weyhrauch spoke of road improvements that were done in the city; stated the Centennial Park Mural Restoration looks great; stated he would like to take part in future

contractor reports; and thanked the Mayor and City Manager for attending the One Voice Trip in Washington D.C.

- Council Member Meister wished all mothers a Happy Mother's Day; thanked the Tule Tribe and congratulated them for the Eagle Mountain Casino Grand Opening; and requested that the council consider for an item to be placed on the agenda to assist the Flag Day Committee.

COUNCIL ACTION: MOVED by Council Member Meister, SECONDED by Council Member Weyhrauch that the City Council place an item on the next Council Meeting, as a Scheduled Matter, to consider approval of Payment for Parts and Rental of Specialized equipment to repair the flag pole in the Grocery Outlet/Dollar Tree shopping mall. The motion carried unanimously.

Documentation: M.O. 18-051623

Disposition: Approved.

- Vice Mayor Carrillo spoke of her attendance at the Eagle Mountain Casino Grand Opening Event; spoke of her visit to Tulare Lake with the Santa Rosa Rancheria Tribe; thanked the Youth Commission for its report; and lauded the library reports.
- Mayor Flores spoke of her attendance to various events such as the JESPOG ZeroNox Event, the City Employee Luncheon at the Corporation Yard, and the Cinco De Mayo Parade; and congratulated the Eagle Mountain Casino for their Grand Opening.
- City Manager Lollis spoke of a memorable moment during his trip to Washington D.C.; and highlighted on upcoming events such as the Fair Week, KJUG Summer Concert Series, and Military Banner Ceremony.

CLOSED SESSION

None

ADJOURNMENT –

The Council adjourned at 9:06 p.m. to the meeting of June 6, 2023, at 5:30 p.m.

Fernando Gabriel-Moraga, Deputy City Clerk

SEAL

Martha A. Flores, Mayor



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Authorization to Purchase Specialized Equipment - Centrifuge

SOURCE: Public Works

COMMENT: The City's Public Works Department - Laboratory Division is requesting authorization to purchase one centrifuge to replace the existing unit originally installed in 1994. The existing unit is obsolete, and replacement parts are no longer available.

The centrifuge is used for anaerobic digester samples, which require special sample handling and preparation, including separating liquids and solids. The centrifuge accomplishes this as it spins at a high rotation rate to separate the liquid from the solids. The extracted liquid is distilled to determine volatile acids and alkalinity concentrations, which are critical to anaerobic digester performance and operation.

Staff received three quotes as follows:

Vendor	Cost
Fisher Scientific	\$ 6,323
VWR	\$ 7,840
Laboratory Supply Network	\$ 7,858

Fisher Scientific has been identified as the lowest quote, securing the centrifuge proposal. Expenditure for the centrifuge, in the amount not to exceed \$6,956, which includes taxes, shipping, and a ten percent (10%) contingency, will be funded from the Fiscal Year 2022-2023 Laboratory Equipment Replacement Budget.

RECOMMENDATION: That the City Council:

1. Award the purchase of one centrifuge to Fisher Scientific for an amount not to exceed \$6,956, which includes taxes, shipping, and a ten percent (10%) contingency;
2. Direct the Finance Director to initiate a Purchase Order for Fisher Scientific for an amount not to exceed \$6,956, which includes taxes, shipping, and a ten percent (10%) contingency; and
3. Direct the Finance Director to make payment to Fisher Scientific upon receipt of an invoice approved by the

Public Works Director.

ATTACHMENTS:

1. Fisher Scientific Quote
2. VWR Quote
3. Laboratory Supply Network Quote

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

Sales Quotation

*Quote Nbr	Creation Date	Due Date	Page
3150-8257-13	05/30/2023		1 of 1
Payment Terms		Delivery Terms	
NET 45 DAYS		DEST	
Valid To		Prepared By	
09/27/2023		SCAPPE, FRANCESCA	
Customer Reference		Sales Representative	
QUOTE 5/30		FRANCESCA SCAPPE	
To place an order	Ph: 800-766-7000	Fx: 800-926-1166	
Submitted To:		Customer Account:	
CAROLINE THOMASON FRANCESCA.SCAPPE@THERMOFISHER.COM 559-782-7508		CITY OF PORTERVILLE LABORATORY 1265 W GRAND AVE PORTERVILLE CA 93257-0001	



Part of Thermo Fisher Scientific

FISHER SCIENTIFIC COMPANY LLC
4500 TURNBERRY DRIVE
HANOVER PARK IL 60133-5491

[Review and Place Order](#)

[Click here or go through your purchasing system to fishersci.com quotes](#)

***Please reference this Quote Number on all correspondence.**

Don't have a profile? Register on fishersci.com

For complete Terms and Conditions, please [click here.](#)

Nbr	Qty	UN	Catalog Number	Description	Unit Price	Extended Price
1	1	EA	S72219	CENTRIFUGE FC5816 Ohaus Frontier 5000 Series Multi Pro Centrifuge, Capacity: 6 x 250 ml, Hertz: 50/60, Max. RCF: 21,379, Max. Speed: 15,000rpm, Refrigerated: No, Voltage: 120/230, Electrical Requirements: 120V, For Use With: NA, Includes: NA, Stainless steel, Product Line: Centrifuge Vendor Catalog # 30314817/EMD This item is being sold as 1 per each	4,865.29	4,865.29
						
2	1	EA	S72230	ROTOR SWING OUT 4X250ML ID Ohaus Rotor, Swing out, 4 x 250ml, ID, Capacity: 4 x 250 ml, For Use With: FC5714, Stainless steel, Max. RCF: 3780 x g, Max. Speed: 4,500 rpm, Angle: 0-90 deg., Description: Rotor, Swing out, 4x250ml, ID, Includes: NA, Net Weight: 4.060 kg, Recommended Applications: Education Vendor Catalog # 30314820 This item is being sold as 1 per each	1,450.61	1,450.61
						
MERCHANDISE TOTAL						6,315.90
Fuel Surcharge						7.45
TOTAL						6,323.35

NOTES:

We now offer highly competitive financing with low monthly payments. Please contact your local sales representative for more information.

Tell us about your recent customer service experience by completing a short survey. This should take no longer than three minutes. Enter the link into your browser and enter the passcode: USA-PGH-CS2

<http://survey.medallia.com/fishersci>



Part of Thermo Fisher Scientific

To: CAROLINE THOMASON

Date: 05/30/2023

Message: NASPO CONTRACT # 7-16-99-26-02

THERE WILL NOT BE ANY STANDARD SHIPPING CHARGES



Printed from VWR Website
User: Caroline Thomason
Date: 05-31-2023 Time: 20:47

VWR® Mega Star 1.6 General Purpose 1.6 L Benchtop Centrifuges

Supplier: VWR International



Optimize projects with the Mega Star 1.6 general purpose centrifuge series. These versatile compact benchtop centrifuges provide maximum sample security and reproducibility in an intuitive, easy to use platform. Choose between a ventilated or refrigerated compact benchtop 1.6 L model, sold as an individual centrifuge or a package, to enhance productivity.

- Space saving general purpose Mega Star 1.6 and 1.6R centrifuges
- Equipped with a simple, intuitive keypad control interface in a compact footprint
- Can run up to 16×50 ml conical tubes, 36×15 ml conical tubes or 10× standard microplates

... More Product Information



Order Now

SPECIFICATIONS

Model	Mega Star 1.6	Mega Star 1.6R
Max. Speed	15200 rpm (depending on rotor)	15200 rpm (depending on rotor)
Max. RCF	25830×g (depending on rotor)	25830×g (depending on rotor)
Voltage	120 V	120 V
Height	Lid open: 85.5 cm (33.6") Lid cosed: 36.2 cm (14.3")	Lid open: 85.5 cm (33.6") Lid cosed: 36.1 cm (14.2")
Depth	66 cm (26")	66 cm (26")
Width	44.5 cm (17.5")	62.5 cm (24.6")

ORDER

DOCUMENTATION

Q and A

Description	Capacity	Temperature range	Weight	VWR Catalog Number	Unit	Availability	Your Price	Quantity		
VWR® Mega Star 1.6 general purpose 1.6 L benchtop centrifuge, ventilated, 120 V (centrifuge only)	1.6 L	—	61 kg (134 lbs.)	76468-134	Each	Ordered Upon Request	\$5,827.27	-	0	+
VWR® Mega Star 1.6R general purpose 1.6 L benchtop centrifuge, refrigerated, 120 V (centrifuge only)	1.6 L	-10...+40 °C	92 kg (202.8 lbs.)	76468-132	Each	In Stock at VWR	\$8,764.42	-	0	+

Centrifuge packages

Description	Capacity	Temperature range	Weight	VWR Catalog Number	Unit	Availability	Your Price	Quantity		
VWR® Mega Star 1.6 general purpose 1.6 L benchtop centrifuge tissue culture package, ventilated, 120 V (tissue culture packages includes TX400 rotor, set of 4×400 ml buckets, set of four ClickSeal™ biocontainment lids, set of four 4×50 ml conical tube adapters, set of four 9×15 ml conical tube adapters)	1.6 L	—	61 kg (134 lbs.)	76519-282	Each	Ordered Upon Request	\$7,840.03	-	0	+



Laboratory Supply Network, Inc.
PO Box 1353, Atkinson, NH 03811-1353
Phone: +1 603-652-1395
Fax: +1 603-652-1399
Email: sales@labcentrifuges.net

LabCentrifuges.net Quote
Created on: 2023-05-26
Quote #LC3868956

Product	SKU	Quantity	Price	Total
Frontier Rotor R-S4x250/4MI and Adapters Accessory: R-S4x250/4MI Rotor	OH:30314820	1	\$1,955	\$1,955
OHAUS Frontier FC5816 Multi-Pro Centrifuges http://labcentrifuges.net/products/frontier-fc5816-multi-pro-centrifuges?variant=15390369284165 Type: Non-refrigerated	OH:30314817	1	\$6,557 \$5,903	\$5,903

Terms

This quote is valid for 30 days.
Purchase Orders must be made out to Laboratory Supply Network.
Automatically generated quotes do not denote sales tax. Laboratory Supply Network must charge and collect sales tax for shipments to the state of California.
Terms & Conditions of Sale:
<http://www.labsup.net/terms-and-conditions-of-sale/>

[Renew this quote](#)

Subtotal: \$7,858 USD

Shipping to the US: FREE!Excludes Alaska and Hawaii. Please contact us for a shipping quote.

Total: \$7,858 USD

Quote prepared for

Caroline Thomason
City of Porterville Laboratory
1265 W. Grand Ave.
Porterville, 93257
United States
5597827508
cthomason@ci.porterville.ca.us



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Authorization to Repair Refuse Vehicle Engine

SOURCE: Public Works

COMMENT: City Vehicle #6681 is an active residential refuse truck which has extensive wear to the engine requiring an engine overhaul. A Cummins engine powers this vehicle and should only be repaired by an authorized Cummins engine repair facility.

Staff is requesting authorization to utilize Cummins Sales and Service, which is the nearest authorized Cummins engine repair service facility, at an estimated cost of \$34,330 (inclusive of all parts, taxes, and labor, including a 10% contingency). Funding for the repair will be the Solid Waste operating fund.

RECOMMENDATION: That the City Council:

1. Authorize the refuse truck repair by Cummins Sales and Service at a cost not to exceed \$34,330 (inclusive of all parts, taxes, and labor, including a 10% contingency); and
2. Authorize payment of said repair upon satisfactory completion.

ATTACHMENTS: 1. Cummins Quote

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager



Sales and Service

BAR ARD Number: ARD00293082 EPA: CAL000430089
Remit to:
Cummins Sales and Service
PO Box 772639
Detroit, MI 48277-2639

FRESNO CA BRANCH
2755 S. CHERRY AVENUE
FRESNO, CA 93706-
(559)274-4400

INVOICE NO

ESTIMATE

TO PAY ONLINE LOGON TO
customerpayment.cummins.com

BILL TO

CITY OF PORTERVILLE
291 N MAIN ST
PORTERVILLE, CA 93257-3737

OWNER

CITY OF PORTERVILLE
291 N MAIN ST
PORTERVILLE, CA 93257-3737
IGNACIO VILLANUEVA - 559 2027976

PAGE 1 OF 3

*** CHARGE ***

#6681

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
11-MAY-2023		20-MAR-2014	ISL G CM2180		PETERBILT
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
255161		27-APR-2023	73591250		320(LCF)
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
220600			89052 / 0		6681

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
------------------	--------------	------------------	-------------	-------------	--------------	------------	--------

OSN/MSN/VIN 3BPZL20X8EF242017

COMPLAINT

FREE GUARDIAN INSPECTION
1) CUSTOMER STATES THE CEL AND STOP ENGINE LIGHT ARE ON WITH MISS
FIRE CODES FOR CYLINDERS #1 AND #4.
NOTE: CUSTOMER REPLACED THE FOLLOWING: PLUGS, COILS, COIL HARNESS
AND IGNITION CONTROL MODULE.

CAUSE

GUIDANZ- 00566507
FAILED CYLINDER HEAD AND ALUMINUM PISTONS
ECM CAL- AW90045.26

CORRECTION

THANK YOU FOR CHOOSING CUMMINS SALES AND SERVICE

COVERAGE

CUSTOMER BILLABLE

THIS ESTIMATE MAY VARY ONCE ALL PARTS HAVE BEEN REMOVED AND
INSPECTED. IF ADDITIONAL PARTS OR LABOR ARE NEEDED A REVISED
ESTIMATE WILL BE SENT.

DIAGNOSTIC CHARGE: 0.00

1	0 5569421RX	HEAD,CYLINDER	DRC	6,146.96	6,146.96
1	0 4933818D	HEAD,CYLINDER	CLEAN	472.50	472.50
-1	0 4933818D	HEAD,CYLINDER	DIRTY	472.50	- 472.50
18	0 V891001	P BL 1 S GN2 15W-40 BULK	VALVOLINE	17.75	319.50
12	0 3944593	SCREW,HEX FLANGE HEAD CAP	CECO	5.16	61.92
2	0 3103015	SEAL,GROMMET	CECO	4.31	8.62
1	0 3163075	PAINT	CECO	28.52	28.52
6	0 4937472	PLUG,SPARK	CECO	36.54	219.24
1	0 5478594	THERMOSTAT	CECO	109.90	109.90
1	0 LF9009	ORDERED ITEM PAC, LF	CECO FLG	57.03	57.03

Completion date : 21-Apr-2023 10:17AM. Estimate expires : 27-May-2023 02:46PM.

Billing Inquiries? Call (877)480-6970

APPENDIX A IS ATTACHED AND INCORPORATED HEREIN. IN APPENDIX A THERE ARE
ADDITIONAL CONTRACT TERMS AND CONDITIONS, INCLUDING LIMITATION ON
WARRANTIES AND LIABILITIES WHICH ARE EXPRESSIVELY INCORPORATED HEREIN AND
WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ, FULLY UNDERSTOOD AND
ACCEPTED.

AUTHORIZED BY (print name) _____ SIGNATURE _____ DATE _____



Sales and Service

BAR ARD Number: ARD00293082 EPA: CAL000430089
Remit to:
Cummins Sales and Service
PO Box 772639
Detroit, MI 48277-2639

FRESNO CA BRANCH
2755 S. CHERRY AVENUE
FRESNO, CA 93706-
(559)274-4400

INVOICE NO
ESTIMATE
TO PAY ONLINE LOGON TO customerpayment.cummins.com

BILL TO

CITY OF PORTERVILLE
291 N MAIN ST
PORTERVILLE, CA 93257-3737

OWNER

CITY OF PORTERVILLE
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IGNACIO VILLANUEVA - 559 2027976

PAGE 2 OF 3

*** CHARGE ***

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
11-MAY-2023		20-MAR-2014	ISL G CM2180		PETERBILT
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
255161		27-APR-2023	73591250		320(LCF)
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
220600			89052 / 0		6681

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
OSN/MSN/VIN		3BPZL20X8EF242017					
1	0	0	NG5900	PAC, NG	FLG	81.17	81.17
1	0	0	5690199	BELT,V RIBBED	CECO	81.67	81.67
			ORDERED ITEM	4942430 CECO			
1	0	0	5690168	BELT,V RIBBED	CECO	88.47	88.47
			ORDERED ITEM	3288656 CECO			
1	0	0	3163087	LUBRICANT	CECO	37.22	37.22
4	0	0	3818824	NUT,REGULAR HEXAGON	CECO	4.30	17.20
4	0	0	5286984	STUD	CECO	12.01	48.04
1	0	0	3164067	SEALANT	CECO	25.56	25.56
1	0	0	4024883	KIT,SEAL	CECO	87.18	87.18
1	0	0	4954893	SENSOR,OXYGEN	CECO	243.43	243.43
1	0	0	FIL 2691	AIR FILTER	P2-NONSTOCK	258.77	258.77
1	0	0	5633625	KIT,OVERHAUL	CECO	4,089.90	4,089.90
1	0	0	3886396	6.2 CALIBRATION FLT REG.	CECO	95.15	95.15
1	0	0	CAC CLEAN	CAC CLEAN	P2-NONSTOCK	750.00	750.00
1	0	0	RAD CLEAN	RAD CLEAN	P2-NONSTOCK	1,500.00	1,500.00
6	0	0	3924445	SHIM	CECO	42.07	252.42

PARTS:	14,607.87
PARTS COVERAGE CREDIT:	0.00CR
TOTAL PARTS:	14,607.87
SURCHARGE TOTAL:	0.00
LABOR:	14,839.00
LABOR COVERAGE CREDIT:	0.00CR

Completion date : 21-Apr-2023 10:17AM. Estimate expires : 27-May-2023 02:46PM.

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AUTHORIZED BY (print name) _____ SIGNATURE _____ DATE _____



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CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
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REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
220600			89052 / 0		6681

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
OSN/MSN/VIN		3BPZL20X8EF242017					
TOTAL LABOR:							14,839.00
MISC.:							500.00
MISC. COVERAGE CREDIT:							0.00CR
TOTAL MISC.:							500.00
MISCELLANEOUS							500.00
LOCAL							355.03
STATE							906.47

Completion date : 21-Apr-2023 10:17AM. Estimate expires : 27-May-2023 02:46PM.

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SUB TOTAL: 29,946.87

TOTAL TAX: 1,261.50

TOTAL AMOUNT: US \$ 31,208.37

AUTHORIZED BY (print name) _____ SIGNATURE _____ DATE _____

A 31,329.20

TERMS AND CONDITIONS

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

SCOPE OF SERVICES; PERFORMANCE OF SERVICES Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.

CUSTOMER OBLIGATIONS If necessary, Customer shall provide Cummins safe and free access to Customer's site and arrange for all related services and utilities necessary for Cummins to safely and freely perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to injury to facility occupants, customers, invitees, or any third party and/or property damage or work interruption arising out of the Services. If applicable, Customer shall make all necessary arrangements to address and mitigate the consequences of any electrical service interruption which might occur during the Services. Customer is responsible for operating and maintaining the Equipment in accordance with the owner's manual for the Equipment.

INVOICING AND PAYMENT Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of Invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins.

TAXES; EXEMPTIONS The Invoice includes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer under this Agreement. Customer must provide a valid tax exemption certificate or direct payment certificate prior to shipment of the Goods or performance of the Services, or such taxes will be included in the Invoice.

DELIVERY; TITLE AND RISK OF LOSS Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

DELAYS Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of God, war, or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes. AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

LIMITED WARRANTIES

New Goods: New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement.

Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.

HHP Exchange Engine: HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

General Service Work: All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.

Used Goods: Used Goods are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used Goods before completing the purchase.

THE REMEDIES PROVIDED IN THE LIMITED WARRANTIES AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

INDEMNIFICATION Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services and/or Goods supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed, in whole or in part, by the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity, including any tenders for defense and indemnity by Cummins to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

LIMITATION OF LIABILITY NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL, EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF GOODS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF GOODS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY IN SECTION 7 IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

GOVERNING LAW AND JURISDICTION This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the court of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

ASSIGNMENT This Agreement is binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

CANCELLATION. Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non-recoverable costs incurred by Cummins.

REFUNDS/CREDITS Goods ordered and delivered by Cummins under this Agreement are not returnable unless agreed to by Cummins. Cummins may, at its sole discretion, agree to accept Goods for return and provide credit where Goods are in new and saleable condition and presented with a copy of the original invoice. Credits for returns will be subject to up to a 15% handling/restocking charge and are limited to eligible items purchased from Cummins.

INTELLECTUAL PROPERTY Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

COMPLIANCE WITH LAWS Customer shall comply with all laws applicable to its activities under this Agreement, including without limitation, all applicable national, provincial, and local export, anti-bribery, environmental, health, and safety laws and regulations in effect. Customer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Goods or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

CONFIDENTIALITY Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

PRICING To the extent allowed by law, actual prices may vary from the price at the time of order placement, as the same will be based on prices prevailing on the date of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and other unforeseen circumstances beyond Cummins' control.

MISCELLANEOUS All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is in writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Lease of Six Automated License Plate Readers from Flock Safety

SOURCE: Police

COMMENT: Over the last year, the city has seen an increase in retail theft, auto theft, and theft of catalytic converters throughout the city. These thefts normally involve a vehicle occupied by several individuals who steal from stores or the vehicles of their intended victims. The Porterville Police Department has enhanced its efforts by providing increased patrols as well as coordinating and developing partnerships with other agencies to address these issues.

Unfortunately, regardless of these increased efforts, it is anticipated the city will continue to experience thefts of this type. In order to enhance the Department's ability to prevent and investigate cases of theft, staff have researched the lease and installation of six cameras strategically placed throughout the city. The Department will use this new technology to assist with investigations; and staff believe additional technology could be beneficial in the deterrence, prevention, and investigation of these crimes.

Recently, Department staff attended a presentation by Flock Safety to examine the feasibility of installing Automated License Plate Readers (ALPRs) at strategic locations throughout the city to assist with the Department's efforts. These ALPRs would further enhance the ability to provide a method of alerts for certain vehicles as well as enhanced search abilities for license plates and vehicle descriptions.

License plates can be entered into the system within alert parameters, allowing for immediate notification upon a suspect's vehicle entering the city. Searches can be conducted within the Flock system for license plates including partial plates as well as vehicle descriptions. The system has the ability to differentiate between vehicle types, models, colors, vehicle damage, or other specific data entered into the system. Staff believes the addition of this system will enhance the Department's investigative abilities.

Flock Safety presented staff with a desirable approach to deploying ALPR cameras throughout the community. The Flock program is an all-inclusive model for deploying the APLR cameras. Flock Safety is the sole manufacturer and developer of the Flock Safety Camera. Flock Safety is also the sole provider of the comprehensive monitoring, processing, and machine vision services which integrate with the Flock Safety Camera. In addition to this, all of the Department's patrol vehicles are outfitted with the Axon Fleet 3 camera system. These cameras are also ALPR and, due to the fact that Axon and Flock

have agreements, the new Flock system will be a seamless partnership with the Axon in-car cameras.

There are several other differences between Flock and other ALPR companies. Most notably, they are the only manufacturer and service provider that leases ALPR services. Others require the city to purchase equipment. The technology is also different because it captures motion and not just license plates. In addition, as previously noted, they have a business partnership with Axon, which is the Department's provider for body and fleet ALPR cameras currently in the Department's police vehicles.

The key benefits of Flock Safety are that they charge an annual flat rate lease per camera of \$3,000, which is wireless, free of infrastructure setup, and has the option for solar or direct power. They also include a two-year warranty, Criminal Justice Information Services (CJIS) compliant cloud-based hosting, unlimited user licenses, ongoing software enhancements, camera setup, mounting, shipping, handling and a cellular connection.

The Flock lease program prevents the City from being burdened with maintaining costly equipment at the end of the agreement, which could require replacement. The Flock program is being utilized by more than 210 police departments across the nation. Bakersfield Police Department, McFarland Police Department, Visalia Police Department, Lindsay Police Department, Woodlake Police Department, and Farmersville Police Department are just a few agencies currently utilizing Flock's services. The City's agreement will allow the Department to have access to all Flock partner agencies cameras as well. Flock's cameras capture date, time, location, license plate (state, partial, paper, and no plate), vehicle details (type and color), as well as objects (bicycle, animals, and people).

At the end of the two-year lease period, staff can assess the benefits of the program and determine whether to recommend continuing or discontinuing the program. Staff received a quote from Flock Safety for six cameras and installation at a total cost of \$39,900. The initial cost includes the setup, installation, Flock safety advanced search features, and annual fees associated with adding the six cameras throughout the city. The Flock Safety contract is a two-year lease with the first year being \$21,900 while the second year would be \$18,000. Funding for this project is available in the Department's budget.

RECOMMENDATION: That the City Council:

- 1) Authorize the Police Department to enter into a two-year lease agreement with Flock Safety to install six cameras for a total cost of \$39,900; and
- 2) Authorize staff to sign all necessary documents regarding the contract and make payments per the contract language.

ATTACHMENTS:

1. Flock Safety Sole Source Letter
2. Flock Safety Agreement

Appropriated/Funded:

Review By:

Department Director:
Jake Castellow, Chief of Police

Final Approver: John Lollis, City Manager



Sole Source Letter for Flock Safety™ ALPR Cameras and Solution

Flock Safety is the sole manufacturer and developer of the Flock Safety ALPR Camera. Flock Safety is also the sole provider of the comprehensive monitoring, processing, and machine vision services which integrate with the Flock Safety ALPR Camera.

The Flock Safety ALPR camera and devices are the only Law Enforcement Grade ALPR System to offer the following combination of proprietary features:

1. **Vehicle Fingerprint Technology™:**

- Patented proprietary machine vision to analyze vehicle license plate, state recognition, and vehicle attributes such as color, type, make and objects (roof rack, bumper stickers, etc.) based on image analytics (not car registration data)
- Machine vision to capture and identify characteristics of vehicles with a paper license plate and vehicles with the absence of a license plate
- Ability to 'Save Search' based on description of vehicles using our patented Vehicle Fingerprint Technology without the need for a license plate, and set up alerts based on vehicle description
- Only LPR provider with "Visual Search" which can transform digital images from any source into an investigative lead by finding matching vehicles based on the vehicle attributes in the uploaded photo
- Falcon Flex™: an infrastructure-free, location-flexible license plate reader camera that is easy to self install. Falcon Flex ties seamlessly into the Flock ecosystem with a small and lightweight camera with the ability to read up to 30,000 license plates and vehicle attributes on a single battery charge

2. **Integrated Cloud-Software & Hardware Platform:**

- Ability to capture two (2+) lanes of traffic simultaneously with a single camera from a vertical mass
- Best in class ability to capture and process up to 30,000 vehicles per day with a single camera powered exclusively by solar power
- Wireless deployment of solar powered license plate reading cameras with integrated cellular communication weighing less than 5lbs and able to be powered solely by a solar panel of 60W or less
- Web based footage retrieval tool with filtering capabilities such as vehicle color, vehicle type, vehicle manufacturer, partial or full license plate, state of license plate, and object detection
- Utilizes motion capture to start and stop recording without the need for a reflective plate

flock safety

- Motion detection allows for unique cases such as bicycle capture, ATV, motorcycle, etc.
 - On device machine processing to limit LTE bandwidth consumption
 - Cloud storage of footage
 - Covert industrial design for minimizing visual pollution
3. Transparency & Ethical Product Design:
- One-of-a-kind “Transparency Portal” public-facing dashboard that details the policies in place by the purchaser, as well as automatically updated metrics from the Flock system
 - Built-in integration with NCMEC to receive AMBER Alerts to find missing children
 - Privacy controls to enable certain vehicles to “opt-out” of being captured
4. Integrated Audio & Gunshot Detection:
- Natively integrated audio detection capabilities utilizing machine learning to recognize audio signatures typical of crimes in progress (e.g., gunshots)
5. Live Video Integration:
- Ability to apply computer vision to third-party cameras using Wing™ LPR, transforming them to evidence capture devices using the same Vehicle Fingerprint technology offered on the Flock Safety Falcon™ ALPR cameras
 - Wing™ Livestream integrates live stream traffic cameras, publicly or privately owned livestream security cameras into one cloud-based situational awareness dashboard to increase response time in mission-critical incidents
 - Manage various government intelligence including ALPR, livestream cameras, CAD, automatic vehicle location (AVL) on Flock Safety’s Wing™ Suite
 - Access Wing™ Replay to unlock enhanced situational awareness with 7-day footage retention, Hot List Live Video Instant Replay, and downloadable MP4
6. Partnerships:
- Flock Safety is the only LPR provider to officially partner with AXON to be natively and directly integrated into Evidence.com
 - Flock Safety is the only LPR provider to be fully integrated into a dynamic network of Axon’s Fleet 3 mobile ALPR cameras for patrol cars and Flock Safety’s Falcon cameras
 - Access to additional cameras purchased by our HOA and private business partners, means an ever-increasing amount of cameras and data at no additional cost
 - Ability to potential access additional cameras from Flock Customers, including: Hanford PD, Woodlake PD, Farmersville PD, Lindsay PD, Reedley PD,



Bakersfield PD, Kern Co SO, Madera Co SO, Stallion Springs PD, Delano PD, McFarland PD, Newman PD, Fresno PD, Fresno Co SO, etc., at no additional cost

7. Warranty & Service:

- Lifetime maintenance and support included in subscription price
- Flock Safety is the only fully integrated ALPR one-stop solution from production of the camera to delivery and installation
- Performance monitoring software to predict potential failures, obstructions, tilts, and other critical or minor issues

Thank you,

A handwritten signature in black ink, appearing to read "G. Langley".

Garrett Langley CEO, Flock Safety

Flock Safety + CA - Porterville PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Caroline Fraher
caroline.fraher@flocksafety.com
3108443659

flock safety

Company Overview

At Flock Safety, technology unites law enforcement and the communities they serve to eliminate crime and shape a safer future, together. We created the first public safety operating system to enable neighborhoods, schools, businesses, and law enforcement to work together to collect visual, audio, and situational evidence across an entire city to solve and prevent crime.

Our connected platform, comprised of License Plate Recognition (LPR), live video, audio detection, and a suite of integrations (AVL, CAD & more), alerts law enforcement when an incident occurs and turns unbiased data into objective answers that increase case clearance, maximize resources, and reduce crime -- all without compromising transparency or human privacy.

Join thousands of agencies reducing crime with Flock Safety's public safety operating system

2000+	120	1B+	<60%*
communities with private-public partnerships	incident alerts / minute	1B+ vehicles detected / month	<60% local crime reduction in Flock cities

*According to a 2019 study conducted by Cobb County Police Department

Introduction

Layer Intelligence to Solve More Crime

The pathway to a safer future looks different for every community. As such, this proposal presents a combination of products that specifically addresses your public safety needs, geographical layout, sworn officer count, and budget. These components make up your custom public safety operating system, a connected device network and software platform designed to transform real-time data into a panoramic view of your jurisdiction and help you zero in on the leads that solve more cases, prevent future crimes, and foster trust in the communities you serve.

Software Platform

Flock Safety's out-of-box software platform collects and makes sense of visual, audio, and situational evidence across your entire network of devices.

Out-of-Box Software Features	
Simplified Search	Get a complete view of all activity tied to one vehicle in your network of privately and publicly owned cameras. The user-friendly search experience allows officers to filter hours of footage in seconds based on time, location, and detailed vehicle criteria using patented Vehicle Fingerprint™ technology. Search filters include: • Vehicle make • Body type • Color • License plates ○ Partial tags ○ Missing tags ○ Temporary tags ○ State recognition • Decals • Bumper stickers • Back racks • Top racks
National and Local Sharing	Access 1B+ additional plate reads each month without purchasing more cameras. Solve cross-jurisdiction crimes by opting into Flock Safety's sharing networks, including one-to-one, national, and statewide search networks. Users can also receive alerts from several external LPR databases: <i>California SVS</i> <i>FDLE</i> <i>FL Expired Licenses</i> <i>FL Expired Tags</i> <i>FL Sanctioned Drivers</i> <i>FL Sex Offenders</i> <i>Georgia DOR</i> <i>IL SOS</i> <i>Illinois Leads</i> <i>NCIC</i> <i>NCMEC Amber Alert</i> <i>REJIS</i> <i>CCIC</i> <i>FBI</i>
Real-time Alerts	Receive SMS, email, and in-app notifications for custom Hot Lists, NCIC wanted lists, AMBER alerts, Silver alerts, Vehicle Fingerprint matches, and more.
Interactive ESRI Map	View your AVL, CAD, traffic, and LPR alerts alongside live on-scene video from a single interactive map for a birdseye view of activity in your jurisdiction.
Vehicle Location Analysis	Visualize sequential Hot List alerts and the direction of travel to guide officers to find suspect vehicles faster.

Out-of-Box Software Features (Continued)

Transparency Portal	Establish community trust with a public-facing dashboard that shares policies, usage, and public safety outcomes related to your policing technology.
Insights Dashboard	Access at-a-glance reporting to easily prove ROI, discover crime and traffic patterns and prioritize changes to your public safety strategy by using data to determine the most significant impact.
Native MDT Application	Download FlockOS to your MDTs to ensure officers never miss a Hot List alert while out on patrol.
Hot List Attachments	Attach relevant information to Custom Hot List alerts. Give simple, digestible context to Dispatchers and Patrol Officers responding to Hot List alerts so they can act confidently and drive better outcomes. When you create a custom Hot List Alert, add case notes, photos, reports, and other relevant case information.
Single Sign On (SSO)	Increase your login speed and information security with Okta or Azure Single Sign On (SSO). Quickly access critical information you need to do your job by eliminating the need for password resets and steps in the log-in process.

License Plate Recognition

The Flock Safety Falcon® LPR camera uses Vehicle Fingerprint™ technology to transform hours of footage into actionable evidence, even when a license plate isn't visible, and sends Hot List alerts to law enforcement users when a suspect vehicle is detected. The Falcon has fixed and location-flexible deployment options with 30% more accurate reads than leading LPR.*

*Results from the 2019 side-by-side comparison test conducted by LA County Sheriff's Department

Flock Safety Falcon® LPR Camera	Flock Safety Falcon® Flex	Flock Safety Falcon® LR
Fixed, infrastructure-free LPR camera designed for permanent placement. √ 1 Standard LPR Camera √ Unlimited LTE data service + Flock OS platform licenses √ 1 DOT breakaway pole √ Dual solar panels √ Permitting, installation, and ongoing maintenance	Location-flexible LPR camera designed for fast, easy self-installation, which is ideal for your ever-changing investigative needs. √ 1 LPR Camera √ Unlimited LTE data service + software licenses √ 1 portable mount with varying-sized band clamps √ 1 Charger for internal battery √ 1 hardshell carrying case	Long-range, high-speed LPR camera that captures license plates and Vehicle Fingerprint data for increasing investigative leads on high-volume roadways like highways and interstates. √ 1 Long-Range LPR Camera √ Computing device in protective poly case √ AC Power √ Permitting, installation, and ongoing maintenance

Your Flock Safety Team

Flock Safety is more than a technology vendor; we are a partner in your mission to build a safer future. We work with thousands of law enforcement agencies across the US to build stronger, safer communities that celebrate the hard work of those who serve and protect. We don't disappear after contracts are signed; we pride ourselves on becoming an extension of your hard-working team as part of our subscription service.

Implementation	Meet with a Solutions Consultant (former LEO) to build a deployment plan based on your needs. Our Permitting Team and Installation Technicians will work to get your device network approved, installed, and activated.
User Training + Support	Your designated Customer Success Manager will help train your power users and ensure you maximize the platform, while our customer support team will assist with needs as they arise.
Maintenance	We proactively monitor the health of your device network. If we detect that a device is offline, a full-time technician will service your device for no extra charge. <i>Note: Ongoing maintenance does not apply to Falcon Flex devices.</i>
Public Relations	Government Affairs Get support educating your stakeholders, including city councils and other governing bodies. Media Relations Share crimes solved in the local media with the help of our Public Relations team.



EXHIBIT A
ORDER FORM

Customer: CA - Porterville PD
Legal Entity Name: CA - Porterville PD
Address: 350 N D St Porterville, California 93257

Initial Term: 24 Months
Renewal Term: 24 Months
Payment Terms: Net 30
Billing Frequency: Annual Plan - First Year Invoiced at Signing.
Retention Period: 30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$18,000.00
Flock Safety Flock OS			
FlockOS™	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon®	Included	6	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Standard Implementation Fee	\$650.00	6	\$3,900.00
		Subtotal Year 1:	\$21,900.00
		Annual Recurring Subtotal:	\$18,000.00
		Estimated Tax:	\$0.00
		Contract Total:	\$39,900.00

*Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	\$21,900.00
Annual Recurring after Year 1	\$18,000.00
Contract Total	\$39,900.00

*Tax not included

Product and Services Description

Flock Safety Platform Items	Product Description	Terms
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

By executing this Order Form, Customer represents and warrants that it has read and agrees to all of the terms and conditions contained in the Master Services Agreement attached. The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.

Customer: CA - Porterville PD

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PO Number: _____

Master Services Agreement

This Master Services Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the entity identified in the signature block (“**Customer**”) (each a “**Party**,” and together, the “**Parties**”) on this the 15 day of May 2023. This Agreement is effective on the date of mutual execution (“**Effective Date**”). Parties will sign an Order Form (“**Order Form**”) which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**. The Parties agree as follows:

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock’s technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer (“**Notifications**”);

WHEREAS, Customer desires access to the Flock Services (defined below) on existing devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock’s standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the Order Form. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

WHEREAS, Flock desires to provide Customer the Flock Services and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations and evidence gathering for law enforcement purposes, (“**Permitted Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Customer agree that this Agreement, and any Order Form, purchase orders, statements of work, product addenda, or the like, attached hereto as exhibits and incorporated by reference, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Anonymized Data**” means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.2 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.3 “**Customer Data**” means the data, media and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.4. “**Customer Hardware**” means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5 “**Embedded Software**” means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.6 “**Flock Hardware**” means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable product addenda.

1.7 “**Flock IP**” means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.8 “**Flock Network End User(s)**” means any user of the Flock Services that Customer authorizes access to or receives data from, pursuant to the licenses granted herein.

1.9 “**Flock Services**” means the provision of Flock’s software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.10 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.11 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e., NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.12 “**Installation Services**” means the services provided by Flock for installation of Flock Services.

1.13 “**Retention Period**” means the time period that the Customer Data is stored within the cloud storage, as specified in the product addenda.

1.14 “**Vehicle Fingerprint™**” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

1.15 “**Web Interface**” means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2. SERVICES AND SUPPORT

2.1 Provision of Access. Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the data retention time defined on the Order Form (“**Retention Period**”). Authorized End Users will be required to sign up for an account and select a password and username (“**User ID**”). Customer shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, including any acts or omissions of authorized End user which would constitute a breach of this agreement if undertaken by customer. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 Embedded Software License. Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 Support Services. Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as “**Support Services**”).

2.4 Upgrades to Platform. Flock may make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock’s products or services to its agencies; the competitive strength of, or market for, Flock’s products or services; such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not

diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 Service Interruption. Services may be interrupted in the event that: (a) Flock's provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("**Service Interruption**"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer's direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 Service Suspension. Flock may temporarily suspend Customer's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer's account ("**Service Suspension**"). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 Hazardous Conditions. Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock

is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3. CUSTOMER OBLIGATIONS

3.1 Customer Obligations. Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up to date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services. Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as “*Customer Obligations*”).

3.2 Customer Representations and Warranties. Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 Customer Data. As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform

all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 Customer Generated Data. Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages, text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (“***Customer Generated Data***”). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer’s intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 Anonymized Data. Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 Confidentiality. To the extent required by any applicable public records requests, each Party (the “***Receiving Party***”) understands that the other Party (the “***Disclosing Party***”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “***Proprietary Information***” of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving

Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 Usage Restrictions on Flock IP. Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other

than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 Disclosure of Footage. Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 Billing and Payment of Fees. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 Notice of Changes to Fees. Flock reserves the right to change the fees for subsequent Renewal Terms by providing sixty (60) days' notice (which may be sent by email) prior to the end of the Initial Term or Renewal Term (as applicable).

6.3 Late Fees. If payment is not issued to Flock by the due date of the invoice, an interest penalty of 1.0% of any unpaid amount may be added for each month or fraction thereafter, until final payment is made.

6.4 Taxes. Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing

authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the “**Term**”). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period (“Cure Period”). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the Cure Period, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 **Survival.** The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 10.1 and 10.6.

8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 **Manufacturer Defect.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a “**Defect**”), Customer must notify Flock’s technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 **Replacements.** In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that (1) Flock Services will be materially affected, and (2) that Flock shall have no liability to Customer regarding such affected Flock Services, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 **Warranty.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock’s reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 **Disclaimer.** THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER’S SOLE REMEDY, AND FLOCK’S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF

LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 10.6.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 Flock Indemnity. Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 Ownership of Hardware. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at

Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 Deployment Plan. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 Changes to Deployment Plan. After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer will receive prior notice and confirm approval of any such fees.

10.4 Customer Installation Obligations. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C ("***Customer Obligations***"). Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 Flock's Obligations. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 Compliance With Laws. Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 Entire Agreement. This Agreement, together with the Order Form(s), the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon purchase order is subject to these terms. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 Governing Law; Venue. This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 Special Terms. Flock may offer certain special terms which are indicated in the proposal and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("**Special Terms**"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 Publicity. Flock has the right to reference and use Customer's name and trademarks and disclose the nature of the Services in business and development and marketing efforts.

11.9 Feedback. If Agency or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 Export. Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 Headings. The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 Authority. Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Public Disrepute.** In the event Customer or its employees become the subject of an indictment, arrest, public disrepute, contempt, scandal or behaves in a manner that, in the reasonable judgment of Flock, reflects unfavorably upon Flock, and/or their officers or principals, licensees, such act(s) or omission(s) shall constitute a material breach of this Agreement and Flock shall, in addition to any other rights and remedies available to it hereunder, whether at law or in equity, have the right to elect to terminate this Agreement.

11.15 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESS:

ADDRESS:

ATTN:

EMAIL:

EXHIBIT B
INSURANCE

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than “A” and “VII”. Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

- (i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;
- (ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate;
- (iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate;
- (iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and
- (v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars (\$5,000,000).



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Authorization to Distribute a Request for Qualifications for Sports Complex Baseball Field Design

SOURCE: Parks and Leisure Services

COMMENT: With the construction of the South County Justice Center came the removal of the Municipal Ballpark. The ballpark consisted of one adult-sized baseball field with lights. In an effort to replace the former ballpark field, a priority project was included in the City adopted 2022-2023 Fiscal Year Budget to construct a new lighted baseball field on the southeast portion of the Sports Complex. The project's estimated cost is \$1 million, which includes design and is currently planned to be funded by federal American Rescue Plan Act (ARPA) funds. To make the new baseball field versatile for multiple ages, staff is recommending an artificial turf infield with a portable pitcher's mound and a natural grass outfield.

Staff has proceeded with the preparation of a Request for Qualifications for this project. The firms interested in the project shall submit a statement of qualifications that will be reviewed and rated by a selection panel. The highest ranking firms may or may not be asked to participate in an interview panel and ranked again. Staff will then present the results of the ranking to the City Council for approval and to direct staff to negotiate a fee with the highest ranking firm or the firm determined by Council. The chosen firm will meet with staff to fine tune the scope and deliver a fee. If the fee is acceptable, staff will then seek the Council's approval to execute a Service Agreement so that the firm can commence with the Sports Complex Baseball Field Design project. The City intends to select one qualified design firm to provide full-service.

RECOMMENDATION: That the City Council authorize staff to distribute a Request for Qualifications for the design of the Sports Complex Baseball Field.

ATTACHMENTS:

1. Draft Request for Qualifications Cover Letter
2. Draft Request for Qualifications
3. Sports Complex Baseball Field Map
4. Locator Map

Appropriated/Funded:

Review By:
Department Director:

Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager



REQUEST FOR QUALIFICATIONS

**Professional Services – Sports Complex Baseball Field Project
Design
May 2023**

**PREPARED BY:
PARKS AND LEISURE SERVICES DEPARTMENT
May 2023**

I INTRODUCTION AND OBJECTIVES:

The City of Porterville (hereinafter referred to as "CITY") is requesting statements of qualifications (SOQs) from qualified consultant firms to provide professional services for the design of the Sports Complex Baseball Field Project. This document identifies the general project scope and procedures for Consultant involvement in this process. Responding consultants must have relevant experience and the ability to provide the requisite professional services.

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 via 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 Thursday, June 29, 2023. Three (3) copies of the proposal shall be submitted in a sealed envelope, plainly marked "Statement of Qualifications for Sports Complex Baseball Field Project Design." Cost proposals shall not be submitted until requested by the CITY. Proposals shall be addressed to:

Donnie Moore, Director
Parks and Leisure Services Department
City of Porterville
291 N. Main Street
Porterville, CA 93257

The City reserves the right to reject any and all proposals, which do not meet the requirements of this 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:

Sarah Weaver, Project Manager, 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 \$2 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 requirements of the Contract.

XI SUBCONTRACTING:

Only those firms identified in the Contract as subcontractor's or subconsultant's 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.

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 the fourth week of July 2023. 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 CONSULTANT 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 CONSULTANT's 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 chosen CONSULTANT is expected to be presented at the City Council meeting scheduled for Tuesday, August 15, 2023. 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, and cancel any or all portions of this RFQ and resulting Contract.

XVII COMPENSATION:

- A. All items of work required for completion of the project/s to result from this RFQ shall be paid for following the cost proposal format specified in each task order request. 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 subconsultant's 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 addressing each of the items, 'a' through 'p', as shown in the City's "Consultant Selection Rating Form"; 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 SPORTS COMPLEX BASEBALL FIELD DESIGN

The City of Porterville seeks “Statement of Qualifications” (SOQ) from companies interested in providing design services for the Sports Complex Baseball Field project. The City intends to select one (1) qualified company to provide full-service documents for a new baseball field at the Sports Complex with a synthetic turf infield and natural grass outfield. This document identifies the general project scope and procedures for Contractor involvement in this process. Responding businesses must have relevant experience and the ability to provide the requisite professional services.

SCOPE OF SERVICES:

The contractor will respond directly to the Engineering and Project Management Director or their designee on the project. The selected contractor will perform, but not be limited to the following tasks:

1. Meet with City staff to ascertain the full scope of work and determine the level and amount of information and drawings available to the consultant to assist in the preparation of the formal “scope of service”. Said scope shall be prepared and transmitted to the City for review and concurrence. The contractor shall include their “fee” for all work described in the scope of services and, if acceptable to the City, the scope of services and associated fee shall form the basis for the Contract Services Agreement. A brief description of some of the work needed is listed below.
2. Provide clarifications and answer questions as needed.
3. Coordinate early consultation and ongoing meetings with City staff.
4. The Contractor shall provide a working schedule indicating major milestones to complete the work identified in the scope of services above.
5. The Contractor will be required to perform field data collection necessary to complete the requirements of the Project. The Contractor is solely responsible for safety of its employees including any sub-contracted employees during any field operations.
6. The Contractor shall provide project management to a level commensurate with the Project including clearly defined lines of communication between the City and the Contractor, coordination necessary for successful completion of the Project, timely invoicing for services rendered, and notification of tasks outside the executed Agreement.

DESIRABLE QUALIFICATIONS OF THE CONTRACTOR:

The City is seeking a qualified professional with the following qualifications:

1. Experience in similar baseball field projects.
2. The company should be comprised of professionals with the technical competence and resources to perform the work specific to this RFQ.
3. The company should include the proper mix of professionals capable of producing the desired outcome of CITY.

LOCAL AGENCY RESPONSIBILITIES:

The CONTRACTOR will report to the CITY's Contract Administrator. The CONTRACTOR shall not proceed with any work until the CITY provides the Notice to Proceed to the CONTRACTOR.

The CITY's Contract Administrator will directly handle the project management and monitoring of the CONTRACTOR's work to ensure it is complete, accurate, and consistent with the terms and conditions of the CONTRACTOR's 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 (or designee) shall be responsible for the following:

- Serve as the CITY's primary contact person for the CONTRACTOR
- Monitor the CONTRACTOR's progress and provide direction
- Review billings and determine whether costs billed are reasonable in relation to the work performed during billing period
- Approve the CONTRACTOR's progress payments
- Identify other CITY personnel for CONTRACTOR to contact, if needed
- Provide access to CITY facilities as required
- Provide available data pertinent to the Project
- Provide CONTRACTOR with CITY documents including policies, procedures, regulations and standards pertinent to the Project
- Examine documents submitted to CITY by CONTRACTOR and render decisions pertaining thereto in a timely manner

Locator Map Baseball Field



— Baseball

1 in = 250 feet



Date Printed: 5/15/2023 by the Community Development Department



Search Google Maps



Restaurants

Hotels

Things to do

Museums

Transit

Pharmacies

ATMs



W Scranton Ave

W Scranton Ave

W Scranton Ave

Ave 136

Rd 216

Rd 216

Rd 216

West St

West St

West St

W Edison Ct

W Edison Ct

Nuckols Ranch

Porterville Dog Park

Porterville Sports Complex

Porterville OHV Park

Redwood Taphouse

Eagle Mountain Casino

Young's Commercial Transfer - Porterville

Truck Shop

South County Detention Center

EndureQuest Corporation (Plastic...

Lozano's Automotive

Sequoia N Forest Headqu

Rick's Place

Porterville Municipal Airport

Arrow Falcon Exporters

DeArman Aircraft Service

Google

Imagery ©2023 Maxar Technologies, USDA/FPAC/GEQ, Map data ©2023 United States Terms Privacy Send feedback 500 ft



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Acceptance of Subdivision Improvements - The Villas at Sierra Meadows, Phase 2 (Smee Homes, Inc)

SOURCE: Engineering and Project Management

COMMENT: The Subdivider, Smee Homes, Inc., has requested that the public improvements constructed for the Villas at Sierra Meadows, Phase 2 subdivision be accepted by the City for maintenance. All required improvements, excluding sidewalks, have been completed, inspected by City staff and found to be acceptable. A Landscape and Lighting District (LLD) was also a requirement of the development. Improvements associated with the District have also been inspected by City staff and found to be acceptable.

The Subdivider has on file a one (1) year maintenance guarantee for five percent (5%) of the total cost of improvements and remaining public sidewalk security via bond.

RECOMMENDATION: That the City Council:

1. Accept the public improvements, including those related to the Landscape & Lighting District of Villas at Sierra Meadows, Phase 2 subdivision for maintenance;
2. Authorize the City Clerk to file the Notice of Completion; and
3. Release the payment guarantee thirty-five (35) days after recordation, provided no liens have been filed.

ATTACHMENTS: 1. The Villas at Sierra Meadows, Phase 2 Map

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager

OWNER'S STATEMENT

WE HEREBY STATE WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO, THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN UPON THIS MAP, AND THAT EXCEPT AS SHOWN ON THIS MAP AND STATEMENTS MADE A PART THEREOF, WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS CLEAR TITLE TO SAID PROPERTY AND WE HEREBY CONSENT TO THE MAKING OF SAID MAP AND SUBDIVISION AS SHOWN WITHIN THE DISTINCTIVE BOUNDARY LINES, AND HEREBY CONSENT TO THE RECORDATION OF SAID MAP.

WE HEREBY DEDICATE FOR PUBLIC USE THE STREETS WITHIN THE BOUNDARY OF SAID MAP.

WE HEREBY DEDICATE FOR PUBLIC USE EASEMENTS FOR PUBLIC UTILITIES UNDER, ON OR OVER THOSE CERTAIN STRIPS OF LAND LYING ADJACENT TO THE FRONT AND/OR SIDE LINES OF LOTS 1 THROUGH 39 DESIGNATED AS "PUBLIC UTILITIES EASEMENT" AS SHOWN ON SAID MAP, WITHIN SAID SUBDIVISION SUCH STRIPS OF LAND TO BE KEPT OPEN AND FREE FROM BUILDINGS AND STRUCTURES OF ANY KIND.

THE O'SULLIVAN FAMILY REVOCABLE TRUST

BY: THOMAS J. O'SULLIVAN, TRUSTEE

BY: DEBORAH L. O'SULLIVAN, TRUSTEE

NOTARY ACKNOWLEDGEMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA
COUNTY OF } S.S.

ON , BEFORE ME, A NOTARY PUBLIC, PERSONALLY APPEARED, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEY AUTHORIZED CAPACITY AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S),OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S), ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FORGOING PARAGRAPH IS TRUE AND CORRECT. WITNESS MY HAND.

NOTARY PUBLIC

PRINTED NAME:

COUNTY OF:

COMMISSION EXPIRES:

COMMISSION NO:

ZONING ADMINISTRATOR'S STATEMENT

I HEREBY STATE THAT THIS MAP CONFORMS TO THE APPROVED TENTATIVE MAP DATED FEBRUARY 4, 2020.

DATED THIS DAY OF , 20 .

JON RIDENOUR
COMMUNITY DEVELOPMENT DIRECTOR

FLOOD HAZARD INFORMATIONAL NOTE

THE FOLLOWING FLOOD ZONE INFORMATION IS BASED ON OUR INTERPRETATION OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP (MAP NO. 06107C1642E) FOR COMMUNITY NUMBER 060407, CITY OF PORTERVILLE, TULARE COUNTY, CALIFORNIA, DATED JUNE 16, 2009. THE SUBJECT SITE IS LOCATED WITHIN ZONE X (UNSHADED) WHICH IS OUTSIDE OF THE 0.2 PERCENT ANNUAL CHANCE OF FLOOD.

TRACT MAP NO.
THE VILLAS AT SIERRA MEADOWS
PHASE 2

BEING A SUBDIVISION OF THE REMAINDER OF THE VILLAS AT SIERRA MEADOWS PHASE 1, AS RECORDED OF VOLUME 44 OF MAPS, AT PAGE 61, IN TULARE COUNTY RECORDS, BEING ALSO A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 22 SOUTH, RANGE 27 EAST, MOUNT DIABLO MERIDIAN, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA

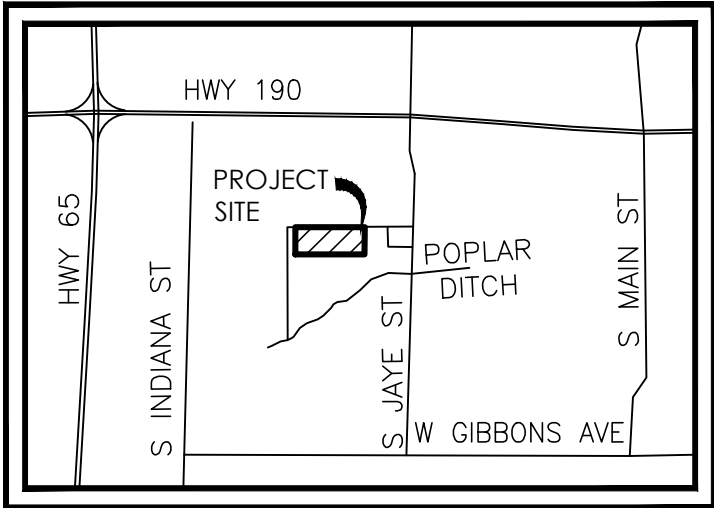
CONSISTING OF 39 LOTS CONTAINING 7.35 GROSS ACRES, 5.07 NET ACRES AND A DESIGNATED REMAINDER CONTAINING 7.15 GROSS ACRES, TOTAL ACREAGE 14.50
JUNE 2021

PREPARED BY:

BORUM LAND SURVEYING
1445 W. GRAND AVE. STE C
GROVER BEACH, CA 93433
(805) 270-4154

PREPARED FOR:

THE O'SULLIVAN FAMILY REVOCABLE TRUST
1279 W. HENDERSON AVE. #340
PORTERVILLE, CALIFORNIA 93257



VICINITY MAP
NOT TO SCALE

SOIL ENGINEER'S STATEMENT

I HEREBY STATE THAT THE PRELIMINARY SOILS REPORT WAS SUBMITTED BY ME IN MARCH 2021 IN ACCORDANCE WITH THE PROVISIONS OF ORDINANCE 900 OF THE MUNICIPAL CODE OF THE CITY OF PORTERVILLE AND THAT SAID REPORT IS ON FILE IN THE CITY BUILDING INSPECTOR'S OFFICE.

SOILS REPORT NO. DATE

DATED THIS DAY OF , 20 .

SALVADOR ALVAREZ, PE 83957

BOARD OF SUPERVISORS' STATEMENT

I, JASON T. BRITT, COUNTY ADMINISTRATIVE OFFICER / CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE, STATE OF CALIFORNIA , DO HEREBY STATE THAT SAID BOARD OF SUPERVISORS HAS APPROVED THE PROVISIONS MADE FOR THE PAYMENT OF TAXES AS PROVIDED IN DIVISION 2, TITLE 7 OF THE GOVERNMENT CODE OF STATE OF CALIFORNIA.

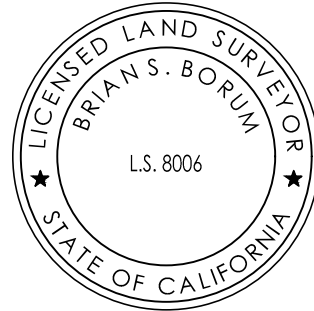
DATED THIS DAY OF , 20 .

JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER / CLERK OF THE BOARD OF SUPERVISORS

BY: DEPUTY

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME, OR UNDER MY DIRECTION, AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF THE O'SULLIVAN FAMILY REVOCABLE TRUST IN MARCH 2021. I HEREBY STATE THAT THIS TRACT MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY. ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.



BRIAN S. BORUM, PLS 8006

DATE

CITY SURVEYOR'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP; THAT THE SUBDIVISION AS SHOWN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP, AND ANY APPROVED ALTERATIONS THEREOF; THAT ALL PROVISIONS OF CHAPTER 2 OF THE SUBDIVISION MAP ACT AND ANY LOCAL ORDINANCES APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP HAVE BEEN COMPLIED WITH; AND THAT I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT.

DEE JASPAR, RCE 23042

DATE

CITY CLERK'S STATEMENT

I, JOHN D. LOLLIS, CITY CLERK OF THE CITY OF PORTERVILLE, STATE OF CALIFORNIA, HEREBY STATE TO THE COUNTY RECORDER, AND TO WHOMSOEVER IT MAY CONCERN, THAT ALL PROVISIONS OF DIVISION 2, TITLE 7 OF THE GOVERNMENT CODE OF THE STATE OF CLAIFORNIA AND OF ANY LOCAL ORDINANCES PERTAINING TO DEPOSITS REQUIRED AT THE TIME OF APPROVL OF THIS MAP BY THE CITY COUNCIL OF THE CITY OF PORTERVILLE HAVE BEEN COMLIED WITH.

DATED THIS DAY OF , 20 .

CITY CLERK

CITY COUNCIL'S STATEMENT

THIS IS TO STATE THAT AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE HELD ON THE DAY OF , 20 , AN ORDER WAS DULY AND REGULARLY MADE AND ENTERED INTO APPROVING THIS MAP AND SUBDIVISIONS, AND ON BEHALF OF THE PUBLIC, ACCEPTING, SUBJECT TO IMPROVEMENTS, THE PUBLIC STREET AND LOTS A & B; AND ACCEPTING THE PUBLIC UTILITY EASEMENTS ALL INCLUDED WITHIN THE BOUNDARIES OF THE SUBDIVISION AND AS SHOWN AND/OR STATED UPON THIS MAP.

WITNESS MY HAND AND OFFICIAL SEAL OF THE CITY OF PORTERVILLE THIS ON THE DAY OF , 20 .

CITY CLERK

RECORDER'S STATEMENT

DOCUMENT NO. FEE PAID:

FILED THIS DAY OF , 20 , AT M. IN VOLUME OF

MAPS, AT PAGE , TULARE COUNTY RECORDS, AT THE REQUEST OF BRIAN S. BORUM-LAND SURVEYOR

ROLAND P. HILL
TULARE COUNTY RECORDER

BY: DEPUTY COUNTY RECORDER



TRACT MAP NO. _____

THE VILLAS AT SIERRA MEADOWS PHASE 2

BEING A SUBDIVISION OF THE REMAINDER OF THE VILLAS AT SIERRA MEADOWS PHASE 1, AS RECORDED OF VOLUME 44 OF MAPS, AT PAGE 61, IN TULARE COUNTY RECORDS, BEING ALSO A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 22 SOUTH, RANGE 27 EAST, MOUNT DIABLO MERIDIAN, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA

CONSISTING OF 39 LOTS CONTAINING 7.35 GROSS ACRES, 5.07 NET ACRES AND A DESIGNATED REMAINDER CONTAINING 7.15 GROSS ACRES, TOTAL ACREAGE 14.50
JUNE 2021

BASIS OF BEARINGS

THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 22 SOUTH, RANGE 27 EAST, MOUNT DIABLO MERIDIAN, TAKEN AS N0°26'30"E AS SHOWN ON RECORD OF SURVEY MAP RECORDED IN BOOK 31 OF LICENSED SURVEYS AT PAGE 38, TULARE COUNTY RECORDS.

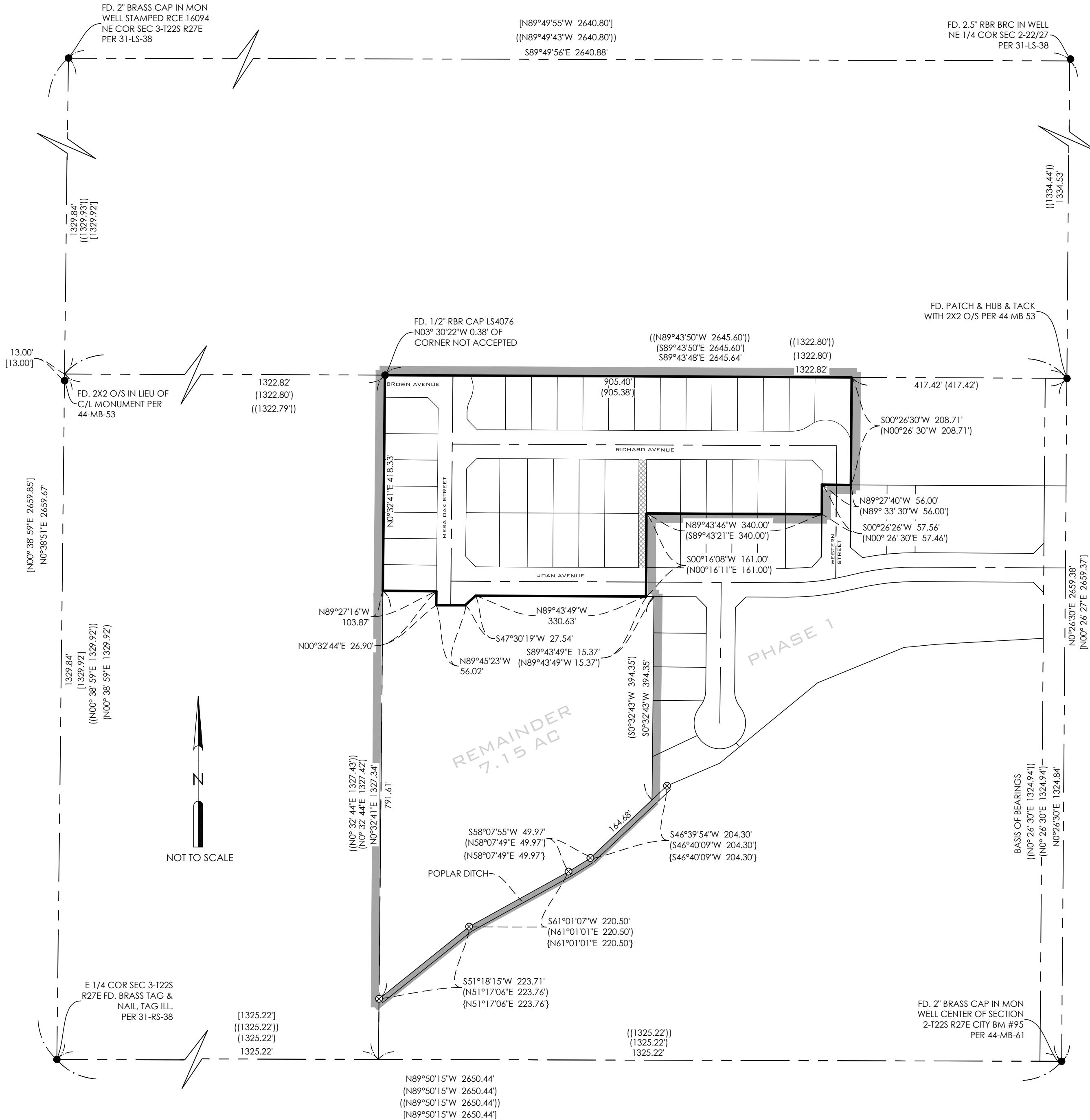
LEGEND

- FOUND AND ACCEPTED MONUMENTS AS DESCRIBED
- SET CITY STANDARD MONUMENT STAMPED LS 8006
- ⊗ FOUND 1/2" REBAR TAGGED PLS 4076 PER BOOK 44 OF MAPS AT PAGE 61 OFFICIAL RECORDS
- (...) RECORD DATA PER MAP THE VILLAS AT SIERRA MEADOWS PHASE 1 RECORDED IN BOOK 44 OF OF MAPS AT PAGE 61 OFFICIAL RECORDS
- ((...)) RECORD DATA PER MAP RECORDED IN VOLUME 31 OF LICENSED SURVEYS AT PAGE 38 T.C.R.
- [...] RECORD DATA PER MAP RECORDED IN VOLUME 44 OF MAPS AT PAGE 53 TULARE COUNTY RECORDS
- { ... } UNRECORDED JAYE STREET PROPERTY SURVEY PLAT PREPARED BY THE CITY OF PORTERVILLE DATED 9/15/2018
- LINE INDICATES SUBDIVISION BOUNDARY
- 15' WIDE PEDESTRIAN ACCESS EASEMENT
- R RADIAL
- ILL ILLEGIBLE

NOTE: SET 3/4" I.P. WITH CAP LS 8006 AT ALL LOT CORNERS AND BEGINNING AND ENDING OF CURVES

UNPLOTTABLE EASEMENTS OF RECORD

- EASEMENT TO POPLAR IRRIGATION COMPANY, A CORPORATION, FOR WATER DITCH PURPOSES RECORDED APRIL 13, 1900 PER BOOK 97, PAGES 261-264 OF DEEDS.
- EASEMENT TO MT. WHITNEY POWER AND ELECTRIC COMPANY FOR PUBLIC UTILITIES RECORDED AUGUST 1, 1913 PER BOOK 31, PAGE 256 OF CONTRACTS.
- EASEMENT TO SOUTHERN CALIFORNIA EDISON COMPANY FOR PUBLIC UTILITIES RECORDED MARCH 4, 1953 AS DOCUMENT NO. 6978 OF OFFICIAL RECORDS.



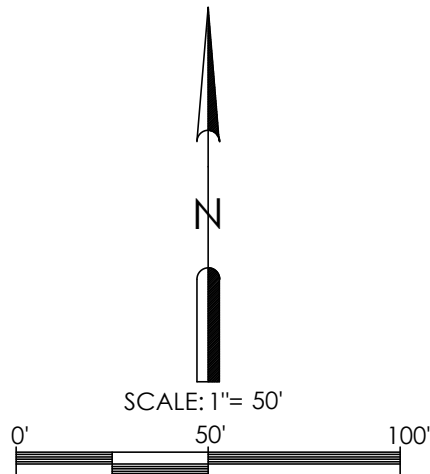
TRACT MAP NO. _____

THE VILLAS AT SIERRA MEADOWS

PHASE 2

BEING A SUBDIVISION OF THE REMAINDER OF THE VILLAS AT SIERRA MEADOWS PHASE 1, AS RECORDED OF VOLUME 44 OF MAPS, AT PAGE 61, IN TULARE COUNTY RECORDS, BEING ALSO A PORTION OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 22 SOUTH, RANGE 27 EAST, MOUNT DIABLO MERIDIAN, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA

CONSISTING OF 39 LOTS CONTAINING 7.35 GROSS ACRES, 5.07 NET ACRES AND A DESIGNATED REMAINDER CONTAINING 7.15 GROSS ACRES, TOTAL ACREAGE 14.50 JUNE 2021



LEGEND

- FOUND AND ACCEPTED MONUMENTS AS DESCRIBED
 - SET CITY STANDARD MONUMENT STAMPED LS 8006
 - ⊗ FOUND 1/2" REBAR TAGGED PLS 4076 PER BOOK 44 OF MAPS AT PAGE 61 OFFICIAL RECORDS
 - (...) RECORD DATA PER MAP THE VILLAS AT SIERRA MEADOWS PHASE 1 RECORDED IN BOOK 44 OF OF MAPS AT PAGE 61 OFFICIAL RECORDS
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 - ◇ 15' WIDE PEDESTRIAN ACCESS EASEMENT
 - R RADIAL
 - ILL ILLEGIBLE
- NOTE: SET 3/4" I.P. WITH CAP LS 8006 AT ALL LOT CORNERS AND BEGINNING AND ENDING OF CURVES



RADIAL LINE TABLE	
RADIAL #	BEARING
R1	N62° 07' 49"E
R2	N61° 48' 21"W
R3	N89° 27' 16"W
R4	S0° 16' 13"W
R5	S38° 28' 07"E
R6	N24° 13' 18"W
R7	S89° 43' 47"E

PARCEL LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	28.35	S44° 35' 32"E
L2	14.73	S0° 32' 44"W
L3	28.35	S44° 35' 31"E
L4	28.22	N45° 24' 29"E
L5	28.35	N44° 35' 31"W
L6	8.15	S89° 43' 47"E
L7	28.33	S44° 38' 38"E

CURVE TABLE				
CURVE #	LENGTH	RADIUS	DELTA	TANGENT
C1	48.92	50.00	56°03'50"	26.62
C2	24.13	50.00	27°38'55"	12.30
C3	33.81	50.00	38°44'20"	17.58
C4	12.43	50.00	14°14'49"	6.25
C5	99.91	50.00	114°29'21"	77.72

BASIS OF BEARINGS

THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 2, TOWNSHIP 22 SOUTH, RANGE 27 EAST, MOUNT DIABLO MERIDIAN, TAKEN AS N0°26'30"E AS SHOWN ON RECORD OF SURVEY MAP RECORDED IN BOOK 31 OF LICENSED SURVEYS AT PAGE 38, TULARE COUNTY RECORDS.



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Approval of Amendment No. 4 to the Consultant Services Agreement with MuniServices, LLC

SOURCE: Finance

COMMENT: The City currently has an ongoing consultant services agreement with MuniServices, LLC to perform revenue enhancement services pertaining to the examination of the City's sales or transactions and use tax records, including Measure H and Measure I district taxes. MuniServices is requesting an amendment to the contract, particularly Exhibit C, Section 5 - Compensation, to add an annual adjustment of five percent (5%) to the fixed fee portion of compensation. The only fixed fee in the current agreement is for the Sales Tax Analysis & Reporting Services of \$3,000 per year, which has not changed since the inception of the contract in April 1995.

RECOMMENDATION: That the City Council approve Amendment No. 4 to the Consultant Services Agreement with MuniServices, LLC, adding a clause to increase the fixed fee portion of compensation annually by five percent (5%).

ATTACHMENTS:

1. Amendment No. 4 to the Consultant Services Agreement
2. Consultant Services Agreement: Exhibit C, Section 5

Appropriated/Funded:

Review By:

Department Director:
Maria Bemis, Finance Director

Final Approver: John Lollis, City Manager

AMENDMENT NO. 4
TO THE CONSULTANT SERVICES AGREEMENT

This Amendment No. 4 is entered into as of July 1, 2023, by and between the City of Porterville, a municipal corporation ("City"), and MuniServices, LLC., a Delaware limited liability company ("Consultant"), collectively the Parties.

The City and Consultant agree as follows:

WHEREAS, the City and Consultant entered into a Consulting Services Agreement, effective April 18, 1995, to perform, among other things, Sales or Transactions and Use Tax Audit Services and Sales Tax Analysis & Reporting Services (the "Agreement") and

WHEREAS, the Parties desire to amend the Agreement to include Price Adjustment language for the Sales Tax Analysis & Reporting Services.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained here, the Parties hereby amend the Agreement as follows:

1. Exhibit C. Section 5. **COMPENSATION** is hereby amended to include the following language:

The fees/compensation associated with the Sales Tax Analysis & Reporting Services are adjusted annually at the beginning of each Term of the Agreement by five percent (5%).

2. Except as herein modified, all other provisions of the Agreement, including any exhibits and subsequent amendments thereto, shall remain in full force and effect.
3. In case of a conflict between the terms of this Amendment and the terms of the Agreement, the terms of this Amendment shall strictly prevail.

IN WITNESS WHEREOF, the parties are signing this Amendment on the date stated in the introductory paragraph.

MuniServices, LLC

City of Porterville

Consultant

A Municipal Corporation

By: _____

By: _____

Name and Title

Name and Title

5. COMPENSATION

MRC shall provide the Sales Tax Analysis and Reporting Service for \$750 per quarter, payable only after the City has received the STARS Query System STARS Digest(s), and sufficient funds to cover the charges from the City's share of new tax revenue produced from MRC's revenue enhancement audit service.

6. CERTIFICATION OF CONFIDENTIALITY

Section 7056 of the State of California Revenue and Taxation Code specifically limits the disclosure of confidential taxpayer information contained in the records of the State Board of Equalization (SBE). Section 7056 specifies the conditions under which a City may authorize persons other than City officers and employees to examine State Sales and Use Tax records. By this agreement, MRC is:

- ☐ Authorized to examine sales and use tax records of the SBE provided to the City pursuant to contract under the Bradley-Burns Uniform Sales and Use Tax Law.
- ☐ Required to disclose information contained in, or derived from, those sales and use tax records only to an officer or employee of the City who is authorized by resolution to examine the information.
- ☐ Prohibited from performing consulting services for a retailer during the term of this agreement.
- ☐ Prohibited from retaining the information contained in, or derived from, those sales and use tax records, after this agreement has expired.

Information obtained by examination of SBE records shall be used only for purposes related to collection of local sales and use tax or for other governmental functions of the City as set forth by resolution adopted pursuant to Section 7056(b) of the Revenue and Taxation Code.

MRC hereby certifies that any and all information used in the conduct of work performed is to be used only for those purposes authorized by the City and by the Bradley-Burns Uniform Local Sales and Use Tax Law.



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Authorization to Negotiate a Consultant Agreement - Porterville Public Library Project

SOURCE: Engineering and Project Management

COMMENT: At its meeting on March 7, 2023, the City Council authorized the distribution of a Request for Qualifications (RFQ) for design services for the Porterville Public Library. On April 26, 2023, staff received sixteen (16) Statements of Qualifications (SOQs) for the design of the Porterville Public Library. Staff reviewed and rated the firms in accordance with the "Policy for Selecting Consultants to Provide Architectural, Engineering and Similar Services" to narrow down the firms that would move on to the interview portion of the selection process. Of the sixteen (16) firms that submitted SOQs, seven were invited to move forward to the interview process.

Consultant interviews were conducted on May 22, 2023, and the firms were ranked based on a combination of the presentations given and the answer provided to a standard set of questions regarding the project. The results of the interviews are as follows (70 total points possible):

1) Paul Halajian Architects Clovis, CA	62 pts
2) Steinberg Hart Los Angeles, CA	60.1 pts
3) Johnson Favaro Culver City, Ca	59 pts
4) Miller Hull w/ Andrew Goodwin Designs San Diego, CA (liaison office in Porterville)	58.9 pts
5) Darden Architects Fresno, CA	58.5 pts
6) HMC Los Angeles, CA	53.7 pts
7) COAR Design Group Santa Rosa, CA	49.8 pts

Staff is pleased with the qualifications of the listed consultants and their interest
Item No. 8.

in the project and recommends negotiating a contract with the top-ranked firm. Staff will seek Council approval of a Service Agreement at a later meeting.

RECOMMENDATION: That the City Council:

1. Authorize staff to negotiate a scope of services contract with Paul Halajian Architects; and
2. Authorize staff to negotiate a scope of service contract with Steinberg Hart if staff is unable to negotiate an acceptable contract with Paul Halajian Architects.

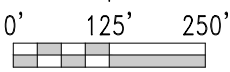
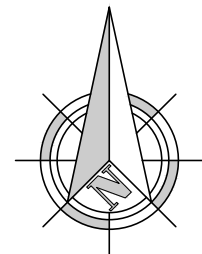
ATTACHMENTS: 1. Locator Map

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager



SCALE: 1" = 250'

CITY OF PORTERVILLE
ENGINEERING DIVISION
291 NORTH MAIN STREET
PORTERVILLE, CA. 93257
(559) 782-7462

LOCATOR MAP

DRAWN BY	GG
CHECKED BY	SW
SCALE	1" = 250'
DATE	3/1/2023

SHEET
1
OF
1



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Ratification of Emergency Expenditure - Walk-in Cooler - Airport Restaurant

SOURCE: Finance

COMMENT: The walk-in cooler at the Airport restaurant (Airway Cafe) stopped working properly and became freezing over. Efforts were made to fix and correct the problem to no avail. The equipment is over twenty (20) years old and parts for this particular cooler are no longer manufactured. The cost of finding replacement parts and repairing the cooler will be too high.

Staff received a proposal from a local contractor, Serrato Heating & AC, to replace the walk-in cooler in the amount of \$6,800, which includes the installation of the new equipment and the disposal of the old one. The equipment will have to be special-ordered and has a lead-way time of fifteen (15) days.

In order to minimize the disruption in the operation of the Airport restaurant, staff requested and received authorization from the Mayor to order the new walk-in cooler as an emergency purchase in accordance with Municipal Code Section 2-38, Emergency Expenditures/Appropriations. Funding is available from the Airport Operating Fund.

RECOMMENDATION: That the City Council ratify the emergency purchase of a walk-in cooler for the Airport Restaurant in the amount of \$6,800, plus any applicable sales tax and shipping costs.

ATTACHMENTS:

1. Serrato Heating & AC Quote
2. Municipal Code 2-38 Emergency ExpendituresAppropriations

Appropriated/Funded:

Review By:

Department Director:
Maria Bemis, Finance Director

Final Approver: John Lollis, City Manager



05/25/2023

Airway Cafe

Job Location: 1893 S. Newcomb St, Porterville CA, 93257

Checked walk in and found walk in freezing over. Found suction line pressure low. Added 3lbs of R-22 refrigerant to attempt to correct problem but unit continued to freeze over. Also, found defective condenser fan motor. Replace condenser fan motor with 9W, CW one. Since unit continued to freeze I recovered the refrigerant and recovered approximately 7lbs from the system. The system's recommended factory charge is approximately 4lbs. I then weighed in 4lbs and found unit continued to ice up even with the correct charge. I determined the system has a restriction. R-22 is no longer manufactured which causes the price of the repair to be too high for the age of the Unit. In addition, system has had refrigerant added to it in the past which is an indication that the unit also has a refrigerant leak.

Proposal to replace walk in cooler refrigeration equipment with a Heatcraft brand Capsule Pack. Will install a new Digital temperature control inside the walk-in cooler. Price to include disposing of hazardous materials and properly disposing of existing equipment. Will furnish all necessary equipment, materials and labor needed to complete the job. One year labor warranty on work performed.

*equipment will have to be special ordered and has a lead-way of 15 days.

Proposed Equipment:

Heatcraft Capsule Pack #PT0032MANAESB

Total price \$6,800.

INVOICE # 1531

28846 Highway 190

559-361-1411

Lic. 1007909



2-38: EMERGENCY EXPENDITURES/APPROPRIATIONS:

An appropriation and/or expenditure of up to one hundred thousand dollars (\$100,000.00) is authorized without additional prior council approval, if: a) the city manager has requested that such an appropriation/expenditure be made; b) the mayor has determined that the circumstances for the request constitute an extraordinary emergency, meaning that there is an immediate need to make such appropriation/expenditure for the preservation of the public peace, health or safety; and c) the city manager notifies the council of the specific appropriation/expenditure in writing. (Ord. 1704 § 1, 10-3-2006)



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Authorization to Execute a Consultant Agreement with QK, Inc. - Parks Master Plan

SOURCE: Engineering and Project Management

COMMENT: At its meeting on May 2, 2023, the City Council authorized staff to begin negotiations for a scope and services contract with QK, Inc. for design services for the Parks Master Plan. This contract also includes the preparation of a draft Development Impact Fee and Quimby Act Study.

Staff was able to negotiate design services for the Parks Master Plan at a not to exceed price of \$149,217. Funding for this work is available from the City's federal American Rescue Plan Act (ARPA) funds.

Staff has found the negotiated price acceptable.

RECOMMENDATION: That the City Council:

1. Authorize the Engineering and Project Management Director to execute the Consultant Service Agreement for the Parks Master Plan with QK, Inc. in the amount of \$149,217;
2. Authorize the appropriation of \$149,217 in federal American Rescue Plan Act (ARPA) funds to fund the project; and
3. Authorize progress payments up to one hundred percent (100%) of the fee amount.

ATTACHMENTS:

1. Draft Service Agreement
2. Scope of Services

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager

SERVICE AGREEMENT

DATE: June 6, 2023

PARTIES: City of Porterville, a California municipal corporation, hereinafter referred to as "CITY"; and QK, Inc, 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: Parks Master Plan.

Description of Project: In general, the consultant will develop a Parks Master Plan for the current and future needs of the City as summarized in 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 in the attached proposal.

SECTION 2. PAYMENT:

In consideration for said services and materials, CITY shall pay CONSULTANT on a time and materials basis not to exceed **One Hundred Forty-Nine Thousand Two Hundred Seventeen** Dollars, (\$149,217).

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 design "work directives" shall be completed in time to meet the various submittal deadlines for the grant. 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 Two Million Dollars (\$2,000,000) per occurrence; and
- (iii) Errors and Omissions insurance of Two Million Dollars (\$2,000,000) minimum per occurrence, if deductible for Errors and Omissions insurance is Fifty Thousand Dollars (\$50,000) or more, the City may require a Surety Bond for the deductible; and
- (iv) Automotive liability in the amount not less than Two Million Dollars (\$2,000,000) per occurrence; fully protecting CITY, its elected and appointed officers, employees, agents

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

SECTION 6. WORKMANSHIP AND MATERIALS:

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

SECTION 7. ASSIGNMENT OF CONTRACT:

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

SECTION 8. AFFIRMATIVE ACTION.

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

SECTION 9. CONFLICT OF INTEREST CODE:

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

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

SECTION 10. TERMINATION:

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

SECTION 11. ENTIRE CONTRACT:

It is understood and agreed that this Service Agreement represents the entire Agreement between

the parties. Should it be necessary to institute legal proceedings to enforce any and all of the covenants and conditions of this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs.

SECTION 12. DISPUTES; VENUE:

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

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

CITY OF PORTERVILLE

CONSULTANT

By_____

By_____

Date_____

Date_____



May 26, 2023

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

**Subject: Scope of Services, Schedule, and Fee for Preparation of Porterville Parks Master Plan
City of Porterville, CA**

Dear Mr. Cervantez:

QK is pleased to offer our services to the City of Porterville to prepare its Parks Master Plan (Master Plan). We are excited to work with the City to develop a Master Plan that will meet or exceed the General Plan's objectives. Our plan will also provide exceptional access to various parks, trails, and recreational features for Porterville residents.

Attached is our Scope of Services, Schedule, and Fee Estimate for your review and consideration. We are happy to discuss our proposal with you and answer any questions you may have following your review.

Thank you for your confidence in the QK team. We look forward to beginning this important project with the City upon the signing of a contract.

Sincerely,

Christopher Mynk, AICP
Principal Planner/Project Manager

Jeff Cowart, PE
VP of Municipal Services & Quality Control

Enclosures: Scope of Services, Schedule, and Fee Estimate
Charge Rate Schedule

cc: Steve Brandt, QK
Mike Ratajski, QK

P230121
MR/SB/CM/JSC

Scope of Services, Schedule, and Fee Estimate

City of Porterville Parks Master Plan

PROJECT UNDERSTANDING

The City of Porterville's (City) goal is to develop a Parks Master Plan (Master Plan) to reflect the current and future user needs, demographics, facility conditions, priorities, and financial strategies and funding opportunities. The City also wants this updated Master Plan to comply with the City of Porterville General Plan.

We know that input from as many community members as possible is key to the success of the Master Plan. Many policies can be developed by listening to the input that the community provides. Our use of TurningPoint Technology "clicker" surveys embedded in our PowerPoint presentations have been very effective in getting the opinions of even the shyest participants who often prefer not to raise their hands and speak. We will create and oversee questionnaires and surveys so that the response to a question cannot be skewed to favor one position over another. We will gather input from the community using voting dots on exhibit boards. Spanish translation services at workshops and meetings will be provided by the City of Porterville.

We will conduct a needs assessment to identify the current and future recreation facility needs in Porterville, to identify recreation demand that is unmet, and to suggest the relative priority for each identified need. Needs will be identified and prioritized by engaging the community in public meetings and online or written surveys. A successful outreach program engages all generations, cultural groups, abilities, and incomes.

We also understand the overwhelming value of listening to Parks and Leisure staff, Public Works Department staff, the Porterville Parks and Leisure Commission, and City Council members. Scheduling interviews with them and their input will be included in the decision-making process during the development of the Master Plan.

Emerging trends will have impacts on current facilities and the development of new parks and recreation facilities. We will examine national, regional, and local trends.

The Parks and Leisure Department is responsible for maintaining the aesthetic and recreational value of property including parks, athletic fields, and trails. Meeting the park and landscape maintenance needs of the City will require the QK team to identify costs for renovating existing parks, maintenance, and developing new parks. We will include funding opportunities to meet the challenges that the Parks and Leisure staff will face.

In compliance with the City's General Plan and a review of and the intent of the Quimby Act, the City wishes to update park impact fees to fund the acquisition and development of land for park and recreation facilities, pursuant to the General Plan. A Park Development Impact and Quimby Act Fee Study will also be included as part of this Master Plan Scope of Services.

The QK team will provide a realistic and visionary guide for the creative, orderly development and management of parks and recreation facilities for the City of Porterville, now and into the future. The Master Plan findings and recommendations will be derived from town hall meetings, surveys, input from professional staff including maintenance personnel, and a detailed technical analysis and needs assessment. We propose the following scope of services.

APPROACH/SCOPE OF SERVICES

TASK 1.0 INITIAL DATA GATHERING

Subtask 1.1 Kick-Off Meeting and Field Data Collection

QK will attend a kick-off meeting with the City to review the scope of work, schedule, public outreach plan, identify key stakeholders, review anticipated products, and discuss current and future levels of park and landscape maintenance. As part of this meeting, we will also review key meeting dates with the City and define specific goals and objectives for the Master Plan. Our first meeting with the City will also be our field data collection trip. The QK Team will tour

all the parks with City staff, take pictures, ask questions, get feedback on issues of maintenance, safety concerns, age, recreational needs, vandalism, graffiti, ADA needs, and other pertinent issues for each of the park. This one-day trip will include photos of the site for future use in public meetings and the Master Plan report document. This one-day field trip will be documented and addressed with City staff as described in Subtask 3.1.

Deliverables:

- Meeting Notes
- Field Notes and Photos from Parks Visit (to be incorporated in the Master Plan document)

Subtask 1.2 Information Gathering / Data Research / Base Mapping

QK will collect and analyze the community profile including geography, demographics, socio-economic conditions, and trends specific to the community that will affect Parks and Recreation considerations for the future.

QK will compile necessary base information, plans, studies, and recreation needs study materials that will be used in the development of the Master Plan. We will review the materials available and identify any missing data that may be needed for a thorough master plan. Utilizing existing base materials provided by the City in GIS format including plans, maps, topography, and other available data, we will develop exhibits for presentations, plans, and the document.

Deliverables:

- Base mapping and information that will be used for Master Plan efforts
- Parks list by classification and characteristics

Subtask 1.3 Trends and National Benchmarks

QK will identify benchmark National Park and Recreation Association (NPRA) recommendations, along with regional trends. QK will prepare a benchmark analysis to compare Porterville with other agencies in park acreage, budgets, staffing numbers, revenue recovery, and facilities. QK will work with City staff to identify an appropriate list of potential cities to compare.

Deliverables:

- Benchmark trends analysis

Subtask 1.4 Project Management and Project Schedule

QK will provide overall project management the project, including day-to-day oversight of all work items identified in the scope of services, management of the project budget, responding to City staff questions/correspondence, preparing and submitting monthly invoices, and preparing and maintaining the project schedule.

Deliverables:

- Project Schedule with Milestones
- Response to questions/correspondence
- Invoices (monthly)

Subtask 1.5 Meetings with Staff

QK will hold no more than ten (10) meetings as needed (some may include teleconference with project update memo) with the City for project updates during the life of the project. QK's Project Manager shall schedule the meetings, as necessary, at key times during the development of the Master Plan. The meetings are likely to include brief updates on the progress of the Master Plan and/or milestones where input from staff is needed.

Deliverables:

- List of potential meeting/teleconference dates
- Agenda for each meeting
- Meeting notes following each meeting

TASK 2.0 PUBLIC ENGAGEMENT

Part of our proposed services is public outreach and community engagement to allow Porterville's citizens to be involved in this project. We will provide a preliminary outreach plan to the City for review and incorporate City staff input into a revised final version.

Subtask 2.1 Public Outreach Plan

QK will prepare a public outreach plan and update the project schedule with dates for all meetings and presentations to be reviewed by the City staff for their input and acceptance. We anticipate two (2) public meetings as identified in the City's task list. Each meeting will provide a variety of ways for participants to interact, learn, and engage in a way that is meaningful and comfortable (by providing a range of written and verbal input options and small and large group options). Experienced QK facilitators will guide the community through the workshops and ensure that all voices are heard and acknowledged.

QK anticipates that all meetings, including the joint session and City Council meeting will be noticed in the *Porterville Recorder* and with posters at several park sites. A recognizable logo will be created for the Parks Master Plan process that will be included in all advertisements.

Deliverables:

- Public Outreach Plan
- Updated Project Schedule
- Notices for the meetings in the *Porterville Recorder*; posters placed at up to four (4) city parks, City Hall, and the Porterville Senior Center; and Porterville Parks Master Plan logo

Subtask 2.2 Stakeholder Interviews

We understand the overwhelming value of listening to Parks and Leisure staff, Public Works Department staff, the Porterville Parks and Leisure Commission, and City Council members. We will interview representatives during the decision-making process of Master Plan development so that their input will be effectively included in the final plan.

QK will conduct one (1) all-day stakeholder interview event to interview representatives from the following potential list of stakeholders:

- The Parks and Leisure Commission
- Local sports leagues
- Senior citizens' representative (or focus group for later date in Subtask 2.4)
- Youth Commission (or focus group for later date in Subtask 2.4)
- Selected Park and Leisure staff member
- City Council members
- Fire and Police Department
- School Superintendent/Representative

QK will prepare a list of pertinent questions that will be reviewed by the City before this stakeholder meeting. Our questionnaire will include the opportunity for stakeholders to include any additional ideas, concerns, or thoughts that were not identified in the prepared list of questions. If any stakeholder is unable to attend an in-person interview, QK can arrange phone interviews.

Deliverables:

- List of Questions to be Approved by the City
- Summary of comments received

Subtask 2.3 Community Survey

QK will develop a community survey and present it to City staff for review and comment. We will distribute the survey at community meetings and provide a version for the City to post on its website.

Following the survey period, QK will summarize the results and review them with Parks and Leisure staff. The summary will help guide the direction of new facilities and renovations/improvements for inclusion the Master Plan.

Note: Questions from the Community Survey may be included in both our community meeting presentations and in written format where respondents can provide their own additional unstructured comments.

Deliverables:

- Community Surveys
- Summary of the survey findings

Subtask 2.4 Focus Groups

QK will arrange targeted focus group meeting(s) to gather detailed information and interests of specific groups. Examples of groups that can yield valuable input are the Porterville Youth Commission and Porterville Seniors. We could schedule focus group meetings with them either on the day of the public outreach meeting or during the youth commission's monthly meeting and the Thursday Bridge Game at the Senior Center. Only two (2) focus groups are anticipated.

Deliverables:

- PowerPoint Presentation
- Agendas/Questionnaires for each meeting
- Meeting notes from each meeting

Subtask 2.5 Public Workshops

QK will conduct and prepare two (2) community workshops (detailed below) to provide various ways for participants to interact, learn, and engage in accessible and meaningful ways. Our facilitators will guide residents through workshops and allow all voices to be heard and acknowledged.

QK will provide meeting minutes for all Master Plan process public meetings. Spanish translation services at workshops and meetings will be provided by the City of Porterville.

Workshop 1: Introduction

Workshop 1 will include, at a minimum:

- Overview of the Parks Master Plan, planning process, and a brief image tour of current City parks
- Timeline for Master Plan completion
- Review of local, regional, and national trends
- Map of the City's Parks and Trails System
- Summary of comments received from Stakeholder Interviews
- Community Survey

We will schedule this two-hour meeting preferably during evening hours to facilitate public attendance. It will consist of a digital presentation and a question-and-answer period. We will also include exhibit boards that will be used with “voting dots” to identify the following:

1. Where residents live
2. Preferred City Park or Parks’
3. Preference for types of recreational amenities

Deliverables:

- PowerPoint Presentation
- TurningPoint Survey imbedded into PowerPoint Presentation
- Community Survey Handout
- Exhibit Boards as indicated
- Summary of meeting responses

Workshop 2: Renovations & New Parks

Workshop 2 will include, at a minimum:

- Summary of survey results and input gathered during Workshop 1
- Additional survey questions on various topics
- Timeline for Master Plan completion

QK will ask participants to prioritize facilities for new and renovated parks and to select their preferred locations for facilities, for example, such as skateparks, pickleball courts, and new restrooms. The second workshop is intended to be a prelude to the draft Master Plan. The contents of the workshop will be reviewed and approved by City staff.

Workshop Tools

We will use a TurningPoint Technology clicker survey embedded in our PowerPoint presentation. Our past outreach experience has shown that workshop participants enjoy providing their responses to questions with a clicker that allows everyone in the audience to have a voice.

We will also use exhibit boards with images of City parks for participants to write comments and ideas on Post-It notes and attach them to any of the exhibit boards. Participants will be able to view the boards before and after the event as well as during a brief break. Our team members will be available at the event entrance to hand out voting dots so residents can select the image of their favorite/preferred recreational activity on exhibit boards.

Using the City’s current Mission Statement, we will work with the community to develop a preliminary set of Parks Master Plan goals and policies based on input from the community at the workshops. The Porterville Parks and Leisure department’s mission of “enhancing quality of life by providing opportunities for public enjoyment, inspiration, education, personal development and cultural enrichment - and providing clean, safe, well-designed parks and facilities” is an **ideal starting point** for the process of developing goals and policies.

Deliverables:

- Exhibit Boards as needed (i.e., Images of typical recreational facilities/amenities; City aerial map; City parks systems map)
- PowerPoint Presentation
- TurningPoint Survey
- Summary of survey responses
- We will provide the material presented at each meeting for uploading to the City's website for public consumption and comment.

Subtask 2.6 Public Meeting Notification

All workshops will be announced in the *Porterville Recorder* newspaper and through posters at the most popular park sites (up to 4), City Hall, and the Senior Center. We will help create a recognizable logo for the Master Plan process that will be included in all advertisements.

QK will prepare the advertisement for the newspaper and posters for the meetings. The cost of the newspaper advertisements will be a reimbursable expense. QK will maintain a list of participants (typically provided by the Parks and Leisure Department from past public events) that will be noticed via email for future Master Plan public events and as additionally collected from the public workshops. A sign-in sheet will be located at the entrance to each event for participants to sign.

Deliverables:

- Public meeting notifications
- Sign-up sheet maintained by QK

TASK 3.0 INVENTORY AND ANALYSIS

Subtask 3.1 Physical Analysis

After QK visits each City park during Subtask 1.1, we will identify any maintenance or safety concerns and prepare a summary of existing conditions and inventories, including recommendations for renovation. The physical inventory will include the following:

- Location
- Size and boundary
- Use (mini-park, neighborhood, community or regional, trail)
- Current conditions
- Renovation needs
- Park facilities, including park/ponds

The inventory will be reviewed by City Staff to ensure accuracy and completeness before proceeding with the analysis. The analysis will include:

- System gaps. Conduct a “gap” analysis between the community’s needs and the existing inventory. Compare the previous Parks Master Plan standards with current parks and facilities and identify needs.
- Operations and maintenance issues and requirements.
- Potential for increased recreational opportunities, including potential joint use with schools, storm basins, and with other organizations.
- Opportunities for expansion of existing parks and recreation facilities.
- Opportunities for modifications to improve long term sustainability.

Analysis of the City’s recreational programs will determine the level of recreational needs currently being met by the City and to identify those recreational areas that are lacking or not being served in Porterville. This task will also include the review and identification of potential locations to expand the City’s recreational facilities, identifying potential revenue sources, and operating/maintenance requirements.

City Mapping

QK will develop exhibits for presentations, plans, and the Master Plan as needed using existing base materials provided by the City in GIS format (e.g., plans, maps, topography). During this process, we anticipate the City’s collaboration and support in providing any additional assistance required.

Through this collaborative approach, QK aims to deliver a clear and effective Master Plan that meets the needs of the community and serves as a strong foundation for future park and recreational development.

Deliverables:

- Inventory and Analysis of Porterville City Park system

Subtask 3.2 *Level of Service*

QK will collect and analyze information on participation, needs, desires, operations, programming and land use trends and make level of service recommendations. Identify areas of service shortfalls and projected impact of future trends. QK will identify the level of service for community and neighborhood parks, including the location, based on the General Plan, scale, and scope of future proposed parks.

Deliverables:

- Draft memo and list of projects and program elements that depict the level of service for existing and future parks and programs.
- Level of Service exhibit

Subtask 3.3 *Recommendations for Renovation*

QK will Identify recommendations for renovation after the site visit to city parks and facilities completed in Subtask 1.1).

Deliverables:

- List of renovations by park and recreation facility

Subtask 3.4 *ADA Recommendations*

QK will address accessibility in parks, with consideration of ADA guidelines and requirements. The California Code of Regulations, Title 24, Part 2 mandates that all publicly funded buildings, structures, and related facilities shall be accessible to and usable by persons with disabilities. These regulations pertain to Porterville's public buildings, parks, and facilities that were constructed using state, City, or municipal funds or that are owned, leased, rented, contracted, or sublet by the City.

QK's field reconnaissance and Master Plan will identify necessary modifications to playgrounds and public sidewalks to meet accessibility requirements and best practices and create a more accessible community. We will include a detailed summary of ADA access needs per facility in the Master Plan.

Deliverables:

- List of recommendations by park and facility.

TASK 4.0 IMPLEMENTATION

Subtask 4.1 *Develop 15-Year Implementation Plan*

QK will develop a 15-year parks development Implementation Plan, including a proposed schedule and cost projections. Any new developments should include an estimated annual maintenance cost. We will meet with City staff to discuss our findings and revise as required.

Deliverables:

- 15-Year Implementation Plan with schedule and cost projections

Subtask 4.2 Develop Action Plan with Phased Goals, Objectives & Policies and Program for Renovation and New Development

QK will develop an action plan which includes strategies, priorities and an analysis of budget support and funding mechanisms for short-term, mid-term and long term for park maintenance operations and recreation programs and services.

The Master Plan must include phased goals, plans, objectives and policy statements that articulate a clear vision and "road map" and model for the Parks and Leisure Department's future.

QK will develop a definitive program for renovation and development of recreation facilities and administration of facilities for the future.

Deliverables:

- Action plan with strategies, priorities, and budget analysis
- Master Plan roadmap of goals, objectives, and policies
- Program for renovation and development

Subtask 4.3 General Plan Compliance

QK will develop a section in the Master Plan on compliance with the City's General Plan goals, objectives, and policies.

Deliverables:

- Section in Master Plan detailing General Plan compliance

Subtask 4.4 CEQA Compliance

QK will review the Master Parks Plan for consistency with the Porterville General Plan and Final EIR. We expect that 15061 (b)(3) activity falls under the common-sense exemption of the California Environmental Quality Act (CEQA). This exemption applies when it is certain that the activity in question will not have a significant impact on the environment. If there is no possibility of a significant environmental effect, the activity is not subject to CEQA.

We will create a Notice of Exemption (NOE) to serve as evidence that supports our determination regarding the adequate level of effort required for CEQA compliance. QK will post the NOE with the State Clearinghouse and the County Clerk. If the City receives any comments regarding the use of this exemption, a full environmental review may be necessary. At that time, QK can provide a contract amendment with a scope of work and fee to complete that work.

Deliverables:

- Notice of Exemption (NOE)

Subtask 4.5 Identify Opportunities for Funding, Partnerships, and Acquisition Alternatives

QK will identify opportunities for available funding, partnership, and acquisition alternatives. Opportunities identified will be detailed in a section of the Master Plan.

Deliverables:

- Section in Master Plan document identifying potential funding sources

Subtask 4.6 Options for adoption of Quimby Act and Development Impact Fee

QK will prepare a memo describing the opportunities for, and legal limitations of, adopting a Quimby Act fee and increasing the park impact fee. The legal limitations described in Government Code Section 66477 (Quimby Act) and

Government Code Section 66000 et. seq. (Fees for Development Projects) will be summarized in the memo. If the analysis, as applied to Porterville, yields multiple options for moving forward, the memo will describe the options so that direction can be given by the City on what fee increases should be studied in the Development Impact Fee and Quimby Act Study that will be prepared in Task 7.0.

Deliverables:

- Administrative Draft Memo regarding Quimby Act and Parks Development Impact Fee
- Final Draft Memo regarding Quimby Act and Parks Development Impact Fee

TASK 5.0 DRAFT MASTER PLAN

Subtask 5.1 *Administrative Draft Master Plan*

QK will produce an Administrative Draft Master Plan for review by the City staff prior to public release. An overall strategy for implementation of the proposed improvements will be developed. The Plan will include:

- **Executive Summary.** The Plan's Executive Summary is typically fewer than twenty pages and consists of an overview of the plan with applicable charts, tables, and graphics.
- **Introduction.** The Introduction will include the purpose for conducting a Parks Master Plan, how the Plan document is organized, and the Location and Geographic Context of the City of Porterville.
- **Community Profile | Demographics.** QK will collect and analyze Porterville's community profile including geography, demography, socioeconomic conditions, and trends that may affect future community parks and recreation considerations.
- **Existing Conditions.** QK will provide a summary of existing conditions, inventories, and level-of-service analysis that includes identifying areas that fall short of applicable standards (i.e., regional, state, and national).
- **Trends.** QK will identify NPRA recommendations/benchmarks and regional trends. We will work with City staff to identify an appropriate list of cities with which to perform a benchmark analysis that compares Porterville with its peers in terms of park acreage, budgets, staffing, revenue recovery, and applicable facilities.
- **Park Classification Guidelines.** QK will help the City develop park classification guidelines for future parks so that they will be adequately sized and feature suitable amenities for their intended purpose. These classifications will encompass both recommended and optional amenities for each park category.
- **Facility Needs Summary.** This section of the Master Plan synthesizes data from diverse sources, such as public and staff input, relevant studies, and analyses, to create a comprehensive overview of recreation facilities tailored to meet the needs of Porterville residents. We will gather input for this section through various channels, including community surveys, stakeholder interviews, and public feedback. The Facility Needs Summary then prioritizes these needs based on the frequency and significance of input received. As a result, the more frequently a particular need is identified by the public, the higher it is ranked, so that the Master Plan accurately reflects the community's preferences and requirements.
- **Action | Implementation Plan.** The implementation plan consists of strategies, priorities, and a budgetary analysis aimed at delivering the short-term, mid-term, and long-term sustainability and planned growth of the Parks and Leisure system. It identifies responsible parties and their roles and outlines specific action items and timelines for each task, ultimately leading to the successful implementation of renovated and new park projects. Moreover, the plan offers clear and practical definitions and recommendations for designated park and open space areas, including defining acreages and setting appropriate parameters. This comprehensive

approach verifies that the park and open space system meets the needs and expectations of the community, both now and in the future.

- **Goals | Policies.** QK will offer recommendations and strategies for goals and policies that incorporate feedback gathered from the community, Parks and Leisure Commission, staff, and other stakeholders. We will develop written goals, targets, and policy statements that present a clear vision, serving as a road map to park services. Additionally, QK will conduct a thorough analysis of the Quimby Act in relation to the City of Porterville for help in identifying future park impact fees.
- **Prioritization Plan.** QK will develop a plan that prioritizes renovations and improvements to existing parks, trails, and facilities as well as prioritize planned future facilities. We will base our prioritization on the following factors:
 - Urgent need, specifically in cases of outdated or unsafe areas and equipment
 - High-use areas and equipment
 - Vandalism history
 - Community input
 - Parks and Leisure staff input
 - Facility tour
- **Phasing Plan.** QK will break our prioritized list of projects and actions into short-, medium-, and long-term phases based on their cost, complexity, implementation readiness, and other relevant factors.
- **Cost Estimates.** QK will provide order-of-magnitude construction cost estimates for the recommended repairs and improvements. A detailed order-of-magnitude cost estimate will be located in the Appendix of the Master Plan document.
- **Land Acquisition & Development Plan.** This section includes a plan with guidelines and cost assumptions for land development for future parks, recreation facilities, and trails. We will include annual inflation assumptions.
- **Funding Sources.** QK will identify specific potential capital funding sources to facilitate improvements, including eligible grant programs.
- **Operations & Maintenance (O&M) Plan, Expenses, and Staffing.** This plan will identify required O&M tasks, associated costs, and responsible parties. A comparable park and recreation agency dedicates 44% of its operating budget to parks and 43% to recreation. Additionally, staffing accounts for 54% of the total operating budget. We expect to recommend similar percentages in Porterville's Master Plan.
- **General Plan Compliance.** This section will demonstrate the Parks Master Plan's compliance with Porterville's General Plan and a determination regarding the adequate level of effort required for CEQA compliance.
- **Appendices.** To be determined.

Deliverables:

- Administrative Draft Master Plan

Subtask 5.2 Draft Master Plan

QK will refine the Administrative Draft Master Plan based on comments from City staff and prepare a Draft Master Plan for review during a joint session with the Parks and Leisure Commission and City Council (Subtask 5.3).

Deliverables:

- Draft Master Plan

Subtask 5.3 Joint Session

QK will facilitate a joint session with the Parks and Leisure Commission and City Council to review all information received to date and to hear their recommendations for key elements of the draft Master Plan. One of the key topics of this meeting will be to present recommendations for long term park sustainability. QK will refine the document based on comments received.

Deliverables:

- PowerPoint presentation
- Summary of comments received

TASK 6.0 FINAL MASTER PLAN

Subtask 6.1 City Council Meeting

QK will meet with City Council to review all information received to date and to present the draft final Master Plan for final comment and approval.

Deliverables:

- PowerPoint presentation
- Summary of comments received
- Draft of final Master Plan document

Subtask 6.2 Final Master Plan

QK will refine the Parks Master Plan Update as needed based on any directed City Council changes to the Draft Master Plan.

Deliverables:

- Final adopted Master Plan

TASK 7.0 DEVELOPMENT IMPACT FEE AND QUIMBY ACT STUDY

Subtask 7.1 Literature/Data Review, Data Collection, and Development

QK and Porterville staff will meet to confirm the scope of the Impact Fee and Quimby Act Study using information from the memo prepared in Subtask 4.6. The policies cost estimates prepared in the Parks Master Plan will be reviewed along with the parks policies in the General Plan. These documents will ultimately be used to model a fee structure that meets the infrastructure needs identified in the various documents to accommodate projected growth identified within the General Plan. The research in the task will be used to write the Impact Fee and Quimby Act Study.

Subtask 7.2 Administrative Draft Impact Fee Study

QK will prepare an Administrative Draft of the Impact Fee and Quimby Act Study for City staff review. The Administrative Draft will include a draft fee structure, population projections, and costs that will be covered by Impact Fees and/or Quimby Act dedications and in-lieu fees.

The Impact Fee and Quimby Act Study will also identify a system for fairly providing Impact Fee credit to developers that construct improvements that are meant to be funded by Impact Fees. Finally, the study will compare the proposed fees with previous fees and fees of surrounding jurisdictions. QK will meet to go over comments with City staff related to the Administrative Draft so that the Public Draft can be refined and acceptable to City staff by the time the Study is released publicly.

Deliverables:

- Administrative Draft Development Impact Fee and Quimby Act Study
- Follow-up meeting to discuss comments with City Staff

Subtask 7.3 Public Draft Impact Fee Study

QK will prepare a Public Draft of the Impact Fee and Quimby Act Study based upon the comments received in Subtask 7.2. This draft will be intended for public distribution and review prior to the public hearing. State law requires that the local Building Industry Association chapter receive a copy of the study at least 30 days before the public hearing to adopt a new fee. QK will present the Impact Fee and Quimby Act Study at a public hearing of the City Council.

Deliverables:

- Draft Development Impact Fee and Quimby Act Study
- Attendance at up to two (2) public meetings
- Final Development Impact Fee and Quimby Act Study

SCHEDULE

Our proposed schedule to complete the Scope of Services above is included at the end of this document.

FEE ESTIMATE

Our total proposed fee for the above tasks identified by this scope of services is a fixed fee of \$149,217.00, which includes labor and reimbursable expenses such as mileage and printing cost. This also includes up to ten (10) informal meetings with City staff and the public meetings as described above. Any additional meetings or tasks not identified here will require additional fees.

Task	Description	Fee Type	Fee Amount
1.0	INITIAL DATA GATHERING		
1.1	Kick-Off Meeting and Field Data Collection	Fixed Fee	\$4,272.00
1.2	Information Gathering / Data Research / Base Mapping	Fixed Fee	\$3,742.00
1.3	Trends and National Benchmarks	Fixed Fee	\$1,358.00
1.4	Project Management and Project Timeline	Fixed Fee	\$3,238.00
1.5	Meetings with Staff (up to 10)	Fixed Fee	\$4,608.00
2.0	PUBLIC ENGAGEMENT		
2.1	Public Outreach Plan	Fixed Fee	\$1,412.00
2.2	Stakeholder Interviews	Fixed Fee	\$4,580.00
2.3	Community Survey	Fixed Fee	\$1,748.00
2.4	Focus Groups	Fixed Fee	\$4,781.00
2.5	Public Workshops (2)	Fixed Fee	\$13,102.00
2.6	Public Meeting Notification	Fixed Fee	\$1,358.00
3.0	INVENTORY AND ANALYSIS		
3.1	Physical Analysis	Fixed Fee	\$2,600.00
3.2	Level of Service	Fixed Fee	\$3,722.00
3.3	Recommendations for Renovation	Fixed Fee	\$5,972.00
3.4	ADA Recommendations	Fixed Fee	\$7,230.00
4.0	IMPLEMENTATION		
4.1	Develop 15-Year Implementation Plan	Fixed Fee	\$4,450.00
4.2	Develop Action Plan with Phased Goals, Objectives & Policies and Program for Renovation and New Development	Fixed Fee	\$7,992.00
4.3	General Plan Compliance	Fixed Fee	\$4,074.00
4.4	CEQA Compliance	Fixed Fee	\$2,340.00

Task	Description	Fee Type	Fee Amount
4.5	Identify Opportunities for Funding, Partnerships, and Acquisition Alternatives	Fixed Fee	\$4,520.00
4.6	Options for Adoption of Quimby Act and Development Impact Fee	Fixed Fee	\$7,042.00
5.0	DRAFT MASTER PLAN		
5.1	Administrative Draft Master Plan	Fixed Fee	\$22,757.00
5.2	Draft Master Plan	Fixed Fee	\$7,210.00
5.3	Joint Session	Fixed Fee	\$4,228.00
6.0	FINAL MASTER PLAN		
6.1	City Council Meeting	Fixed Fee	\$3,628.00
6.2	Final Master Plan	Fixed Fee	\$4,295.00
7.0	DEVELOPMENT IMPACT FEE AND QUIMBY ACT STUDY		
7.1	Literature/Data Review, Data Collection, and Development	Fixed Fee	\$1,774.00
7.2	Administrative Draft Impact Fee Study	Fixed Fee	\$6,042.00
7.3	Public Draft Impact Fee Study	Fixed Fee	\$5,142.00
Total Fee			\$149,217.00

Notes:

1. Expenses for reproduction, mailing, mileage, etc. are included in the fixed fee above and billed per our attached Charge Rate Schedule.
2. Tasks billed by fixed fees will be invoiced monthly based on the percentage of work completed.
3. Additional Services requested in writing and approved by the client will be provided on a time-and-materials basis.
4. The Fee Estimate and Schedule are good for a period of 90 days from the date of the proposal. After 90 days, the Fee Estimate and Schedule are subject to change.

EXCLUSIONS AND ASSUMPTIONS

- We expect a Notice of Exemption will be used for CEQA compliance. If the City receives any comments regarding the use of this exemption, a full environmental review may be necessary. At that time, QK can provide a contract amendment with a scope of work and fee to complete that work.
- Spanish translation services at workshops and meetings will be provided by the City of Porterville.
- Professional engineering or land surveying services excluded.

AUTHORIZATION OF SERVICES

In order to authorize services described herein, please send us an Agreement. Typically, we can begin our services within 5 business days of the time authorization is received depending on client need and schedule constraints.

SCHEDULE

Client Name: City of Porterville
Project Name: Porterville Parks Master Plan

QK Project Manager: Christopher Mynk, AICP
QK Proposal No. P230121

Task Description	Months following Notice to Proceed												
	2023						2024						
	June 2023	July	August	September	October	November	December	January 2024	February	March	April	May	June
TASK 1.0 - INITIAL DATA GATHERING													
1.1 Kick-Off Meeting and Field Data Collection													
1.2 Information Gathering / Data Research / Base Mapping													
1.3 Trends and National Benchmarks													
1.4 Project Management and Project Timeline													
1.5 Meetings with Staff (up to 10)													
TASK 2.0 - PUBLIC ENGAGEMENT													
2.1 Public Outreach Plan													
2.2 Stakeholder Interviews													
2.3 Community Survey													
2.4 Focus Groups													
2.5 Public Workshops													
Workshop 1: Introduction													
Workshop 2: Renovations & New Parks													
2.6 Public Meeting Notification													
TASK 3.0 - INVENTORY AND ANALYSIS													
3.1 Physical Analysis													
3.2 Level of Service													
3.3 Recommendations for Renovation													
3.4 ADA Recommendations													
TASK 4.0 - IMPLEMENTATION													
4.1 Develop 15-Year Implementation Plan													
4.2 Develop Action Plan with Phased Goals, Objectives & Policies and Program for Renovation and New Development													
4.3 General Plan Compliance													
4.4 CEQA Compliance													
4.5 Identify Opportunities for Funding, Partnerships, and Acquisition Alternatives													
4.6 Options for Adoption of Quimby Act and Development Impact Fee													
TASK 5.0 - DRAFT MASTER PLAN													
5.1 Administrative Draft Master Plan													
5.2 Draft Master Plan													
5.3 Joint Session													
TASK 6.0 - FINAL MASTER PLAN													
6.1 City Council Meeting													
6.2 Final Master Plan													
TASK 7.0 - DEVELOPMENT IMPACT FEE AND QUIMBY ACT STUDY													
7.1 Literature/Data Review, Data Collection, and Development													
7.2 Administrative Draft Impact Fee Study													
7.3 Public Draft Impact Fee Study													

LEGEND:

- Notice to Proceed
- Kick-off Meeting with City Staff
- Deliverables
- Meetings with City Staff
- Stakeholder Interviews, Focus Groups, or Public Workshops
- Joint Session or City Council Meeting
- Project Completion

Charge Rate Schedule



2023 CHARGE RATE SCHEDULE

Current

TECHNICAL SERVICES	
Project Administrator	\$100 hour
Assistant CADD Technician / Assistant CADD Designer / GIS Technician	\$96 hour
Associate CADD Technician / Associate CADD Designer / Associate GIS Analyst	\$112 hour
Senior Associate CADD Technician/ Senior Associate CADD Designer / Senior Associate GIS Analyst	\$122 hour
Senior CADD Technician / Senior CADD Designer / Senior GIS Analyst	\$145 hour
Landscape Architect Technician	\$112 hour
PROFESSIONAL SERVICES	
Engineering	
Assistant Engineer	\$118 hour
Associate Engineer	\$150 hour
Senior Associate Engineer	\$175 hour
Project Engineer	\$195 hour
Senior Engineer / City Engineer / District Engineer	\$230 hour
Principal Engineer	\$275 hour
Planning / Environmental / Landscape Architecture	
Assistant Environmental Scientist	\$88 hour
Assistant Planner	\$100 hour
Associate Planner / Associate Environmental Scientist	\$121 hour
Senior Associate Environmental Scientist	\$140 hour
Senior Associate Planner	\$145 hour
Senior Environmental Scientist	\$173 hour
Senior Planner / Senior Landscape Architect	\$173 hour
Principal Planner / Principal Environmental Scientist	\$195 hour
Senior Principal Planner / Senior Principal Environmental Scientist	\$215 hour
Construction and Project Management	
Field Construction Observer	\$130 hour
Senior Field Construction Observer	\$152 hour
Assistant Construction Manager / Assistant Project Manager	\$121 hour
Associate Project Manager	\$139 hour
Associate Construction Manager / Associate Field Construction Observer	\$142 hour
Project Manager	\$146 hour
Senior Associate Construction Manager / Senior Associate Project Manager	\$163 hour
Senior Project Manager	\$187 hour
Senior Construction Manager	\$190 hour
Principal Construction Manager / Principal Project Manager	\$210 hour
Surveying	
Assistant Surveyor	\$113 hour
Associate Surveyor	\$130 hour
Senior Associate Surveyor	\$160 hour
Project Surveyor	\$178 hour
Senior Surveyor	\$190 hour
One-Person Survey Crew	\$155 hour
Two-Person Survey Crew	\$250 hour
Three-Person Survey Crew	\$350 hour
UAV Pilot	\$178 hour
UAV Flight Observer	\$130 hour

Fees are based on the median hourly pay rate for employees in each classification, plus indirect costs, overhead, and profit.

EXPENSES	
Plotting, Printing and Reproduction, Equipment Rental, Postage and Shipping	1.15 x Cost
Transportation and per diem (QK will provide documented evidence of business travel, travel outside of work areas shall be pre-approved by Client)	1.15 x Cost
Mileage	\$0.77 mile
Other Expenses – Including Subconsultants & Purchased Services through Subcontracts	1.15 x Cost

Rates are effective through December 31, 2023. If contract assignment extends beyond that date, a new rate schedule may be added to the contract. Expert Witness/ Litigation support will be billed as quoted.

Rates based on "Prevailing Wage" (PW) for Construction Surveying will be determined by project and County per California law.

12/20/2022



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Porterville College Landscape Phasing

SOURCE: Engineering and Project Management

COMMENT: Porterville College is implementing its Facilities Master Plan for the campus. As part of the Master Plan for the College, the circulation for College Avenue would no longer extend onto Main Street, as a new road (Triunfo Avenue) would connect Main Street and Plano Street. The roads for College Avenue and Triunfo Avenue will be constructed by the College to City Standards.

The College is requesting that the landscape portion of the roads be allowed to be completed in two phases. The first phase will be installed when the roads are constructed. The second phase of the landscape would be installed once construction begins on the adjacent facilities as defined in the provided exhibit.

Staff reviewed the proposed phasing and found the phasing to be reasonable.

RECOMMENDATION: That the City Council approve the phasing of the landscape improvements along the proposed College and Triunfo Avenue project.

ATTACHMENTS: 1. College and Triunfo Avenues Proposed Landscape Phasing Exhibit

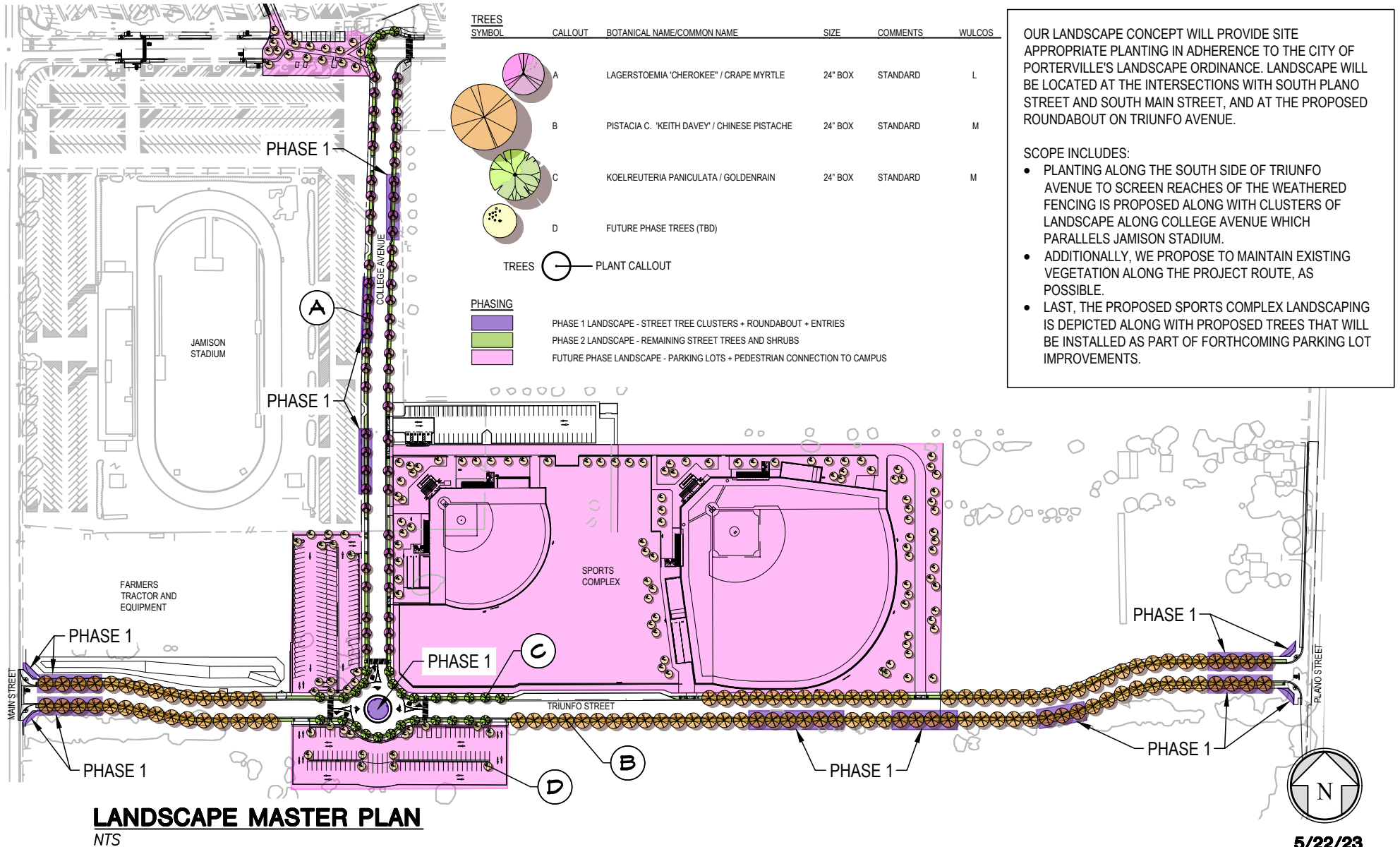
Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager

PROPOSED LANDSCAPE APPROACH



PORTERVILLE COLLEGE COLLEGE AVENUE AND TRIUNFO STREET



PROPOSED STREET TREES



FALL COLOR

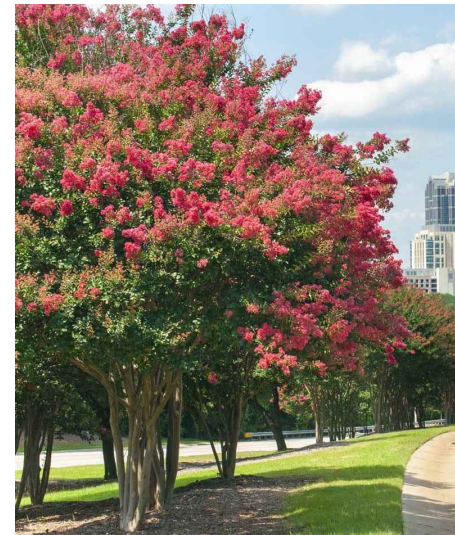
PISTACIA CHINENSIS, CHINESE PISTACHE



SUMMER COLOR



KOELREUTERIA PANICULATA, GOLDEN RAIN TREE



**LAGERSTROEMIA INDICA 'CHEROKEE',
CHEROKEE CRAPE MYRTLE**

NOTE: TREES ARE FROM
THE APPROVED CITY OF
PORTERVILLE TREE LIST.

5/22/23



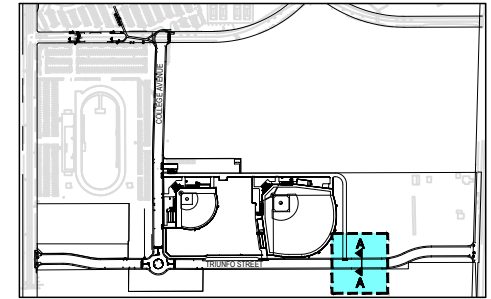
PORTERVILLE COLLEGE
COLLEGE AVENUE AND TRIUNFO STREET



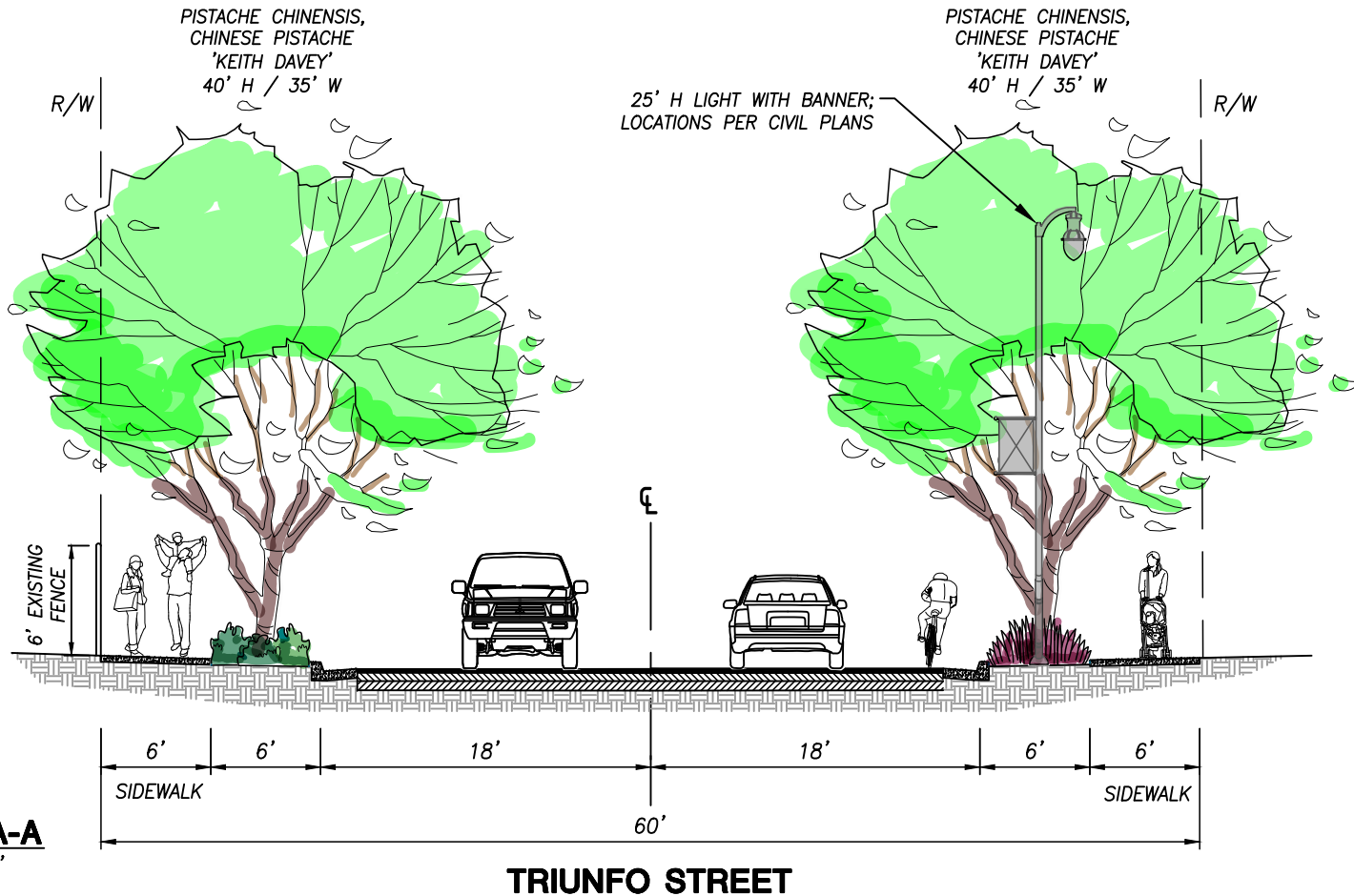
PROPOSED LANDSCAPE EXHIBIT 1

PHASE 1 + PHASE 2

NOTE: TREES ARE FROM THE APPROVED CITY OF PORTERVILLE TREE LIST.



KEY MAP



SECTION A-A

SCALE: 1" = 10'

5/22/23



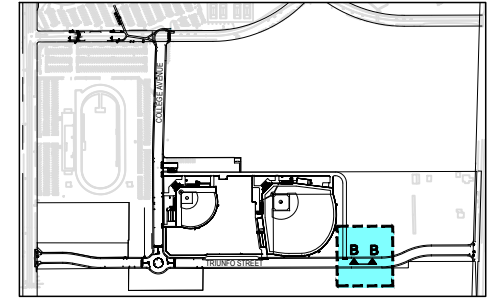
PORTERVILLE COLLEGE
COLLEGE AVENUE AND TRIUNFO STREET



PROPOSED LANDSCAPE

EXHIBIT 2

PHASE 1 + PHASE 2



KEY MAP



SECTION B-B

SCALE: 1" = 10'

5/22/23



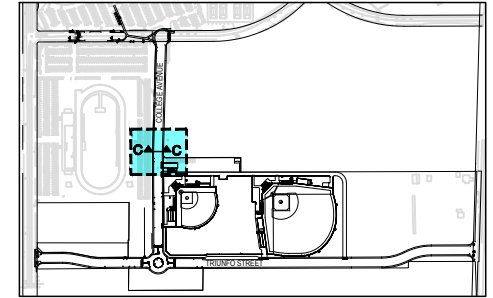
PORTERVILLE COLLEGE
COLLEGE AVENUE AND TRIUNFO STREET



PROPOSED LANDSCAPE

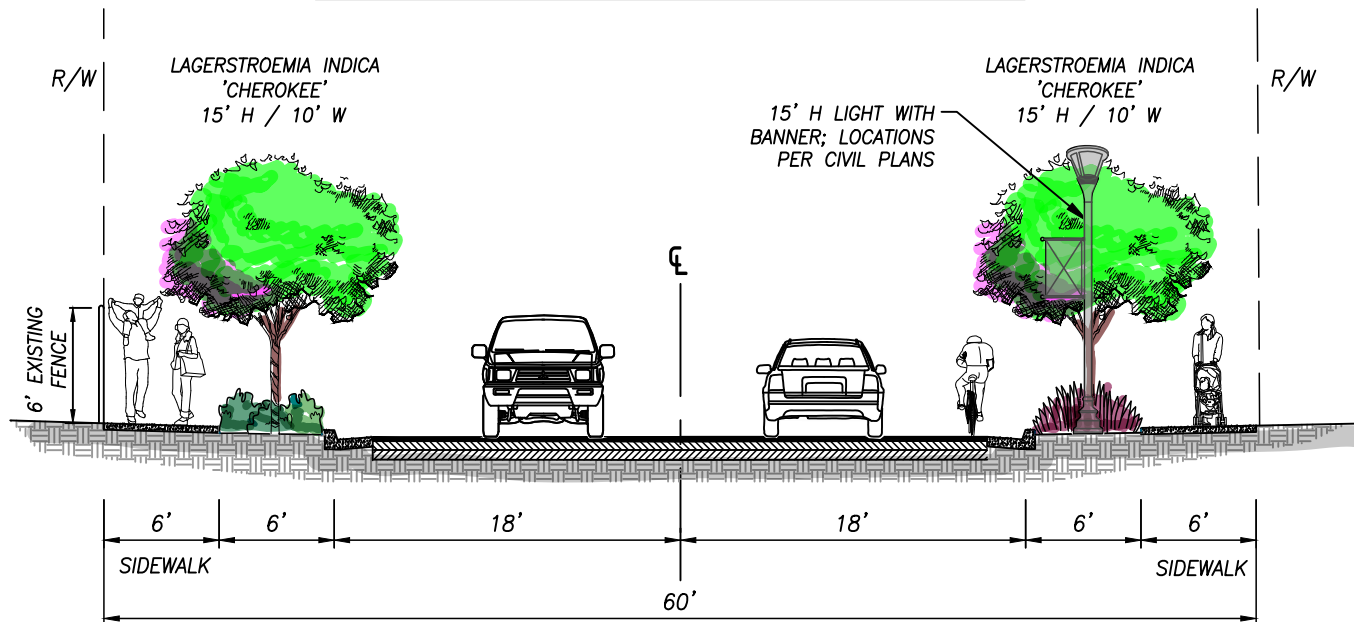
EXHIBIT 3

PHASE 1 + PHASE 2



KEY MAP

NOTE: TREES ARE FROM THE APPROVED CITY OF PORTERVILLE TREE LIST.



SECTION C-C

SCALE: 1" = 10'

COLLEGE AVENUE

5/22/23



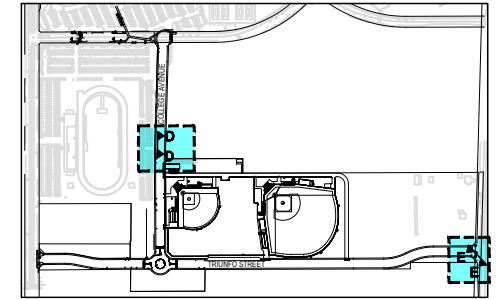
PORTERVILLE COLLEGE
COLLEGE AVENUE AND TRIUNFO STREET



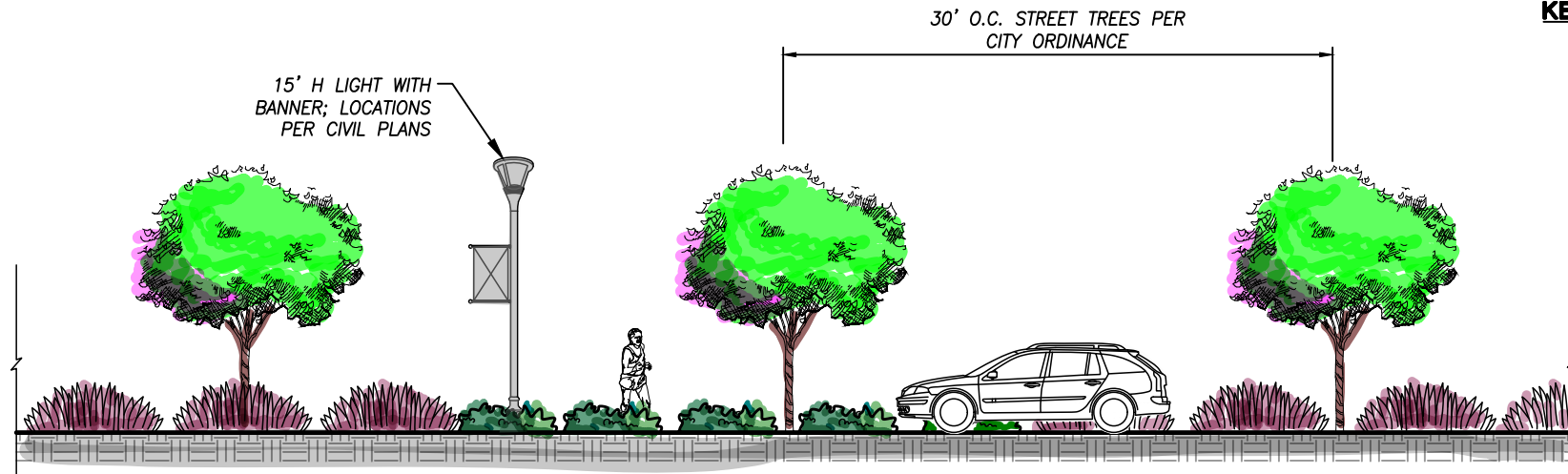
PROPOSED LANDSCAPE

EXHIBIT 4

PHASE 1 + PHASE 2



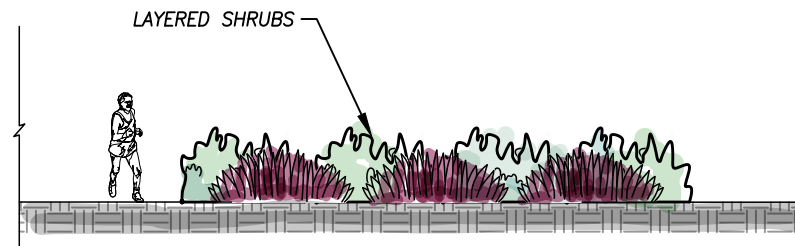
KEY MAP



SECTION D-D

SCALE: 1" = 10'

COLLEGE AVENUE



SECTION E-E

SCALE: 1" = 10'

**PLANO STREET
CORNER PLANTING**

5/22/23

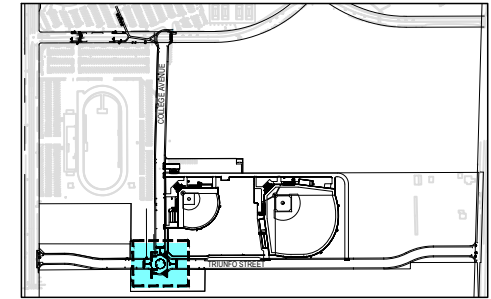


PORTERVILLE COLLEGE
COLLEGE AVENUE AND TRIUNFO STREET

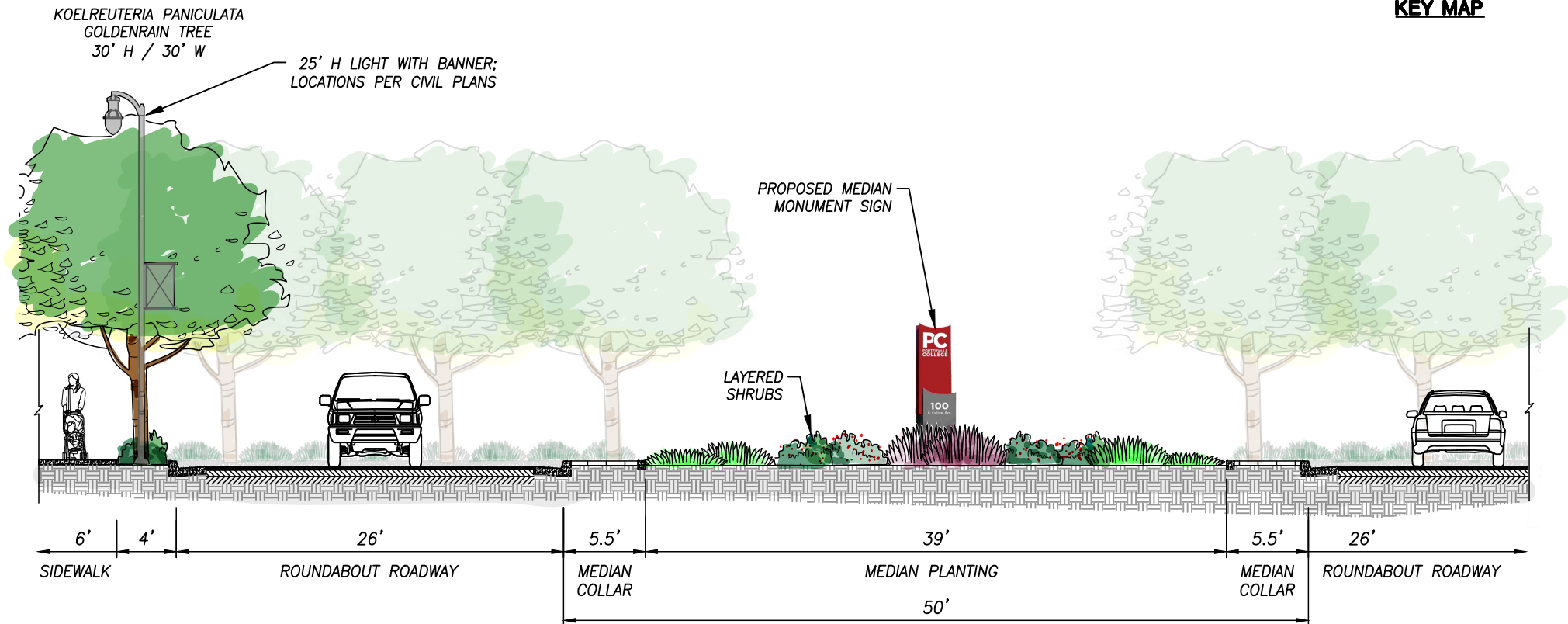


PROPOSED LANDSCAPE EXHIBIT 5

PHASE 1 + PHASE 2



KEY MAP



**TRIUNFO STREET / COLLEGE AVENUE
ROUNDAABOUT**

SECTION F-F

SCALE: 1" = 10'

5/22/23



PORTERVILLE COLLEGE
COLLEGE AVENUE AND TRIUNFO STREET





CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Request for Approval of the Self-Performed Street Maintenance Program for Fiscal Year 2023-2024

SOURCE: Public Works

COMMENT: Staff is requesting the expenditure of \$2,000,000 in Fiscal Year 2023-2024 for the Self-Performed Street Maintenance Program. In addition to work performed in support of Annexation Projects, staff has prepared a list of street sections that qualify for this fiscal year's Self-Performed Street Maintenance Program; qualification is based on the pavement condition index and the potential that this repair work will prolong the need for reconstruction and improve existing conditions. The proposed treatment is a typical grind out and pave back using an asphalt paver with Asphalt Concrete Hot Mix and/or a traditional cold mix curb-to-curb overlay. The street sections identified are as follows:

STREET	FROM	TO
Thurman Avenue	Cobb Way	Maston Street
Cobb Way	Cleveland Avenue	Thurman Avenue
Kessing Street	Putnam Avenue	Cleveland Avenue
Kanai Avenue	Wisconsin Street	Cloverleaf Street
Kanai Avenue	Indiana Street	Cottage Street
E Street	Morton Avenue	Thurman Avenue
Grand Avenue	Indiana Street	Cottage Street
Road 238	Avenue 178	Johns Drive
Avenue 178	Road 238	Main Street
Beverly Street	Mulberry Avenue	San Lucia Avenue
San Lucia Avenue	Beverly Street	Lindale Street
Jean Avenue	Lindale Street	Lowery Street
D Street	Olive Avenue	Orange Avenue
Walnut Avenue	E Street	F Street
F Street	Gibbons Avenue	North End
Gibbons Avenue	Jaye Street	F Street
Luisa Avenue	Silver Maple Street	Red Oak Street
Silver Maple Place	Luisa Avenue	North End

Red Oak Street	Luisa Avenue	Terry Court
Wellington Street	Luisa Avenue	Monache Lane
White Chapel Way	Kensington Street	East End
Aurora Avenue	Delta Street	Balmayne Way
Balmayne Way	Aurora Avenue	North End
C Street	Orange Avenue	Date Avenue
Crestview Street	Putnam Avenue	Hillcrest Street
Rio Vista Avenue	Rio Bonito Street	Carmella Street
Tule Court	Carmella Street	West End
Alamo Court	Rio Bonito Street	East End
Newcomb Street (n/b)	Slough Bridge	Henderson Avenue
Main Street	Henderson Avenue	Scenic Drive
Main Street	Scenic Drive	1041 N. Main Street
Main Street	1041 N. Main Street	1187 N. Main Street
Main Street	1187 N. Main Street	Westfield Avenue
Henderson Avenue (e/b)	Balmoral Drive	Mathew Street
Henderson Avenue (e/b)	Mathew Street	Belmont Street
Henderson Avenue (e/b)	Belmont Street	Patsy Street
Henderson Avenue (w/b)	State Route 65	1265 W. Henderson Ave
Olive Avenue (e/b)	G Street	F Street
Olive Avenue (e/b)	E Street	Railroad Tracks
Olive Avenue	D Street	Hockett Street
Morton Avenue	Porter Road	Indiana Street
Morton Avenue	Indiana Street	Cottage Street
Morton Avenue	Cottage Street	Villa Street
Morton Avenue	Villa Street	Pearson Drive
Morton Avenue	Pearson Drive	Kessing Street
Morton Avenue	Kessing Street	G Street
Morton Avenue	G Street	E Street
Morton Avenue	E Street	Main Street
Morton Avenue	Main Street	4th Street
Morton Avenue	4th Street	Roche Street
Morton Avenue	Roche Street	Plano Street
Westwood Street	Scranton Avenue	North City Limits
Scranton Avenue	Westwood Street	East City Limits
Scranton Avenue	Newcomb Street	West 1,000 Feet
Newcomb Street	Scranton Avenue	North City Limits

Surface Transportation Program funds, Measure I and Measure R Local funds are the sources of funding for this program.

RECOMMENDATION: That the City Council:

1. Approve the Fiscal Year 2023-2024 Self-Performed Street Maintenance Program; and
2. Authorize the expenditure of \$2,000,000 in Fiscal Year 2023-2024 for the Self-Performed Street Maintenance Program.

ATTACHMENTS:

1. Proposed Local Streets Overlay Projects Map
2. Proposed Arterial/Collector Overlay Projects Map
3. Morton Avenue Cold Mix Overlay Map
4. Airport Area Cold Mix Overlay Map

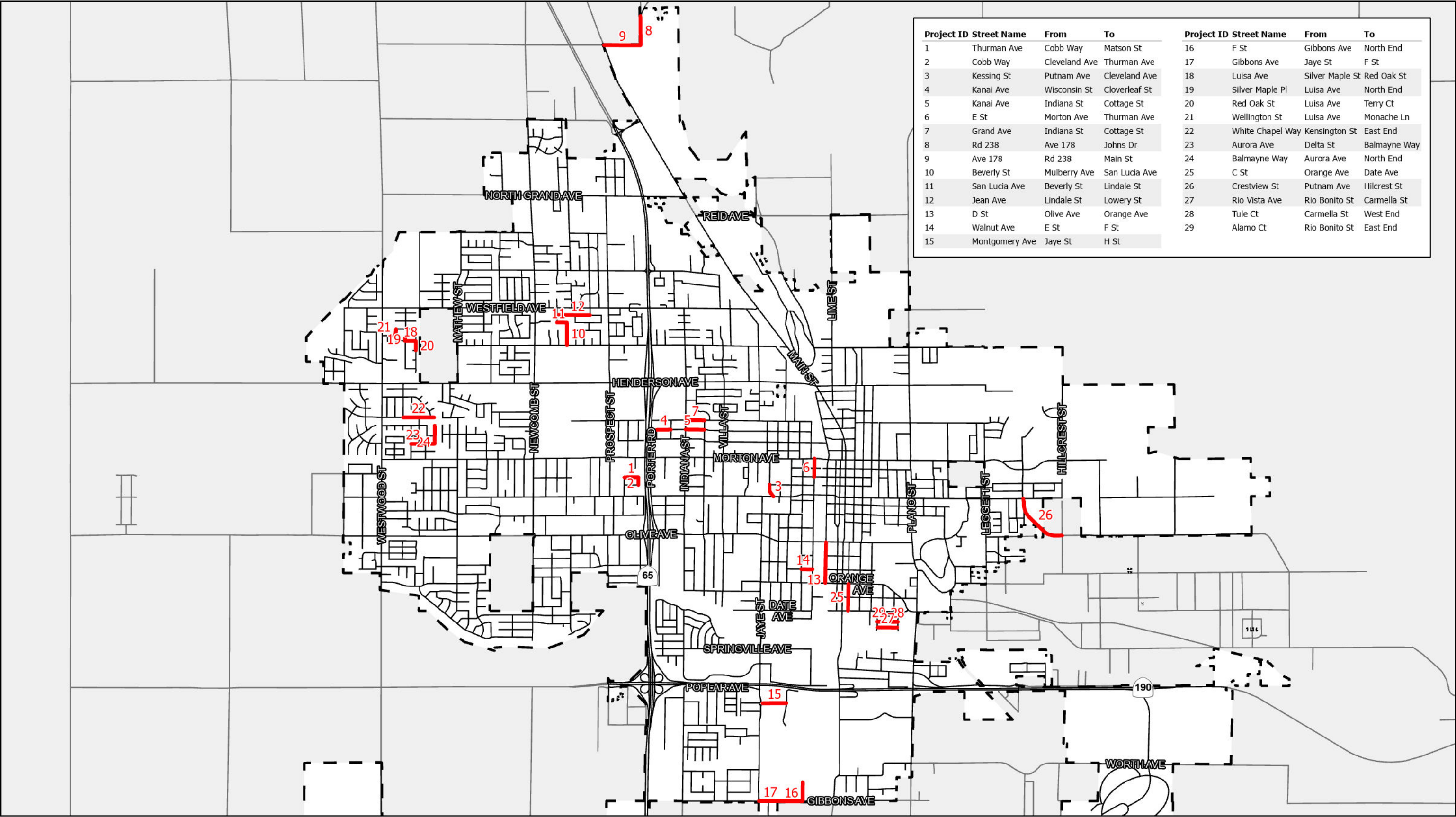
Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

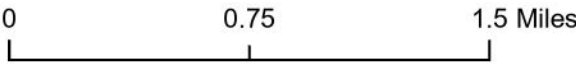
Final Approver: John Lollis, City Manager

Overlay Projects 2023/2024



Legend

- Overlay Projects 2023/2024
- City Limits



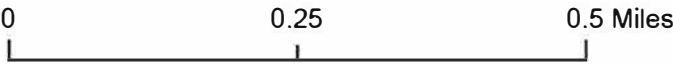
Overlay Projects 2023/2024



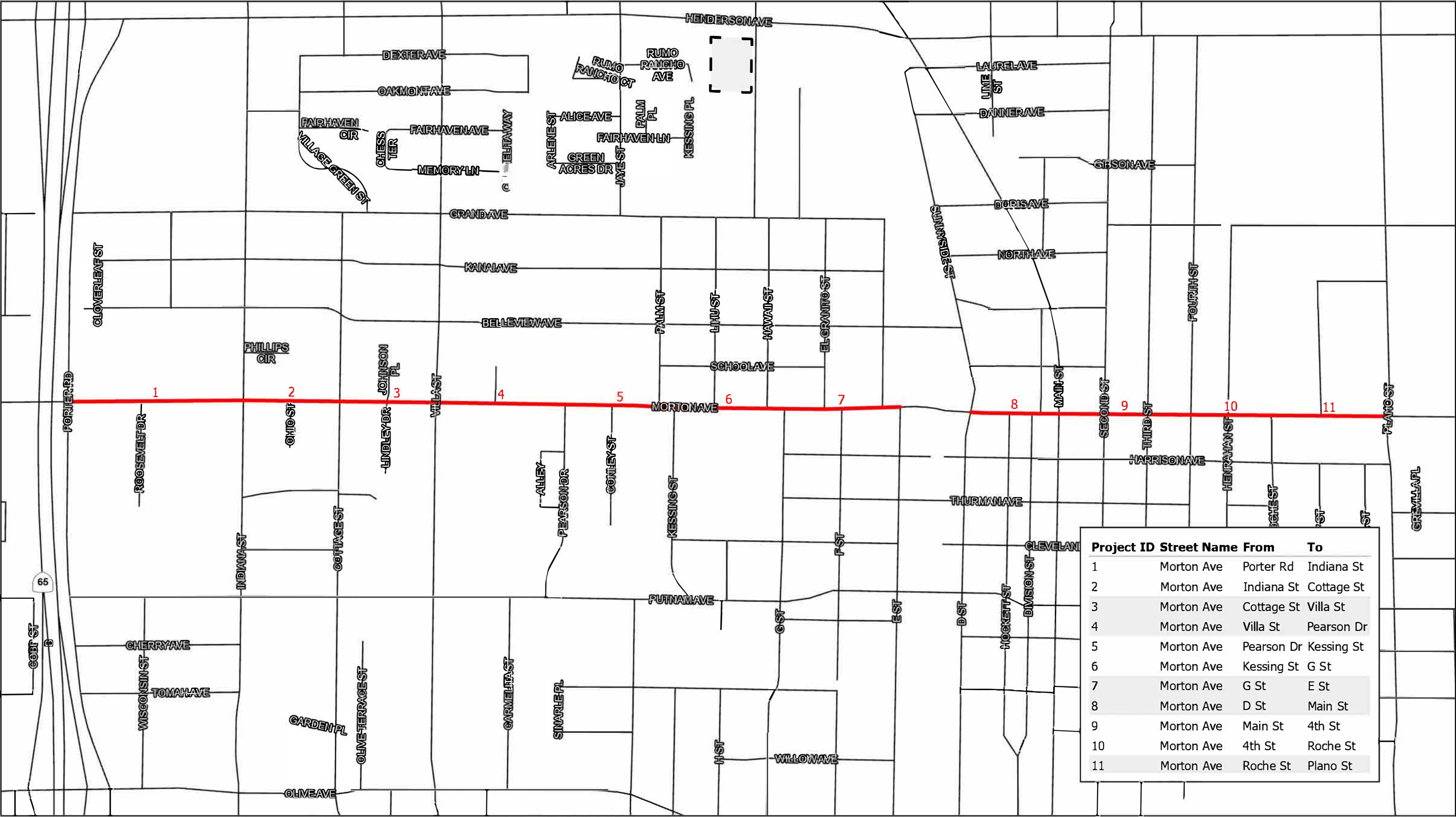
Project ID	Street Name	From	To
1	Newcomb St N/B	Slough bridge	Henderson Ave
2	Main St	Henderson Ave	Scenic Dt
3	Main St	Scenic Dr	1041 N Main St
4	Main St	1041 N Main St	1187 N Main St
5	Main St	1187 N Main St	Westfield Ave
6	Henderson Ave E/B	Balmoral Dr	Mathew Dr
7	Henderson Ave E/B	Mathew St	Belmont St
8	Henderson Ave E/B	Belmont St	Patsy St

Legend

-  Overlay Projects 2023/2024
-  City Limits

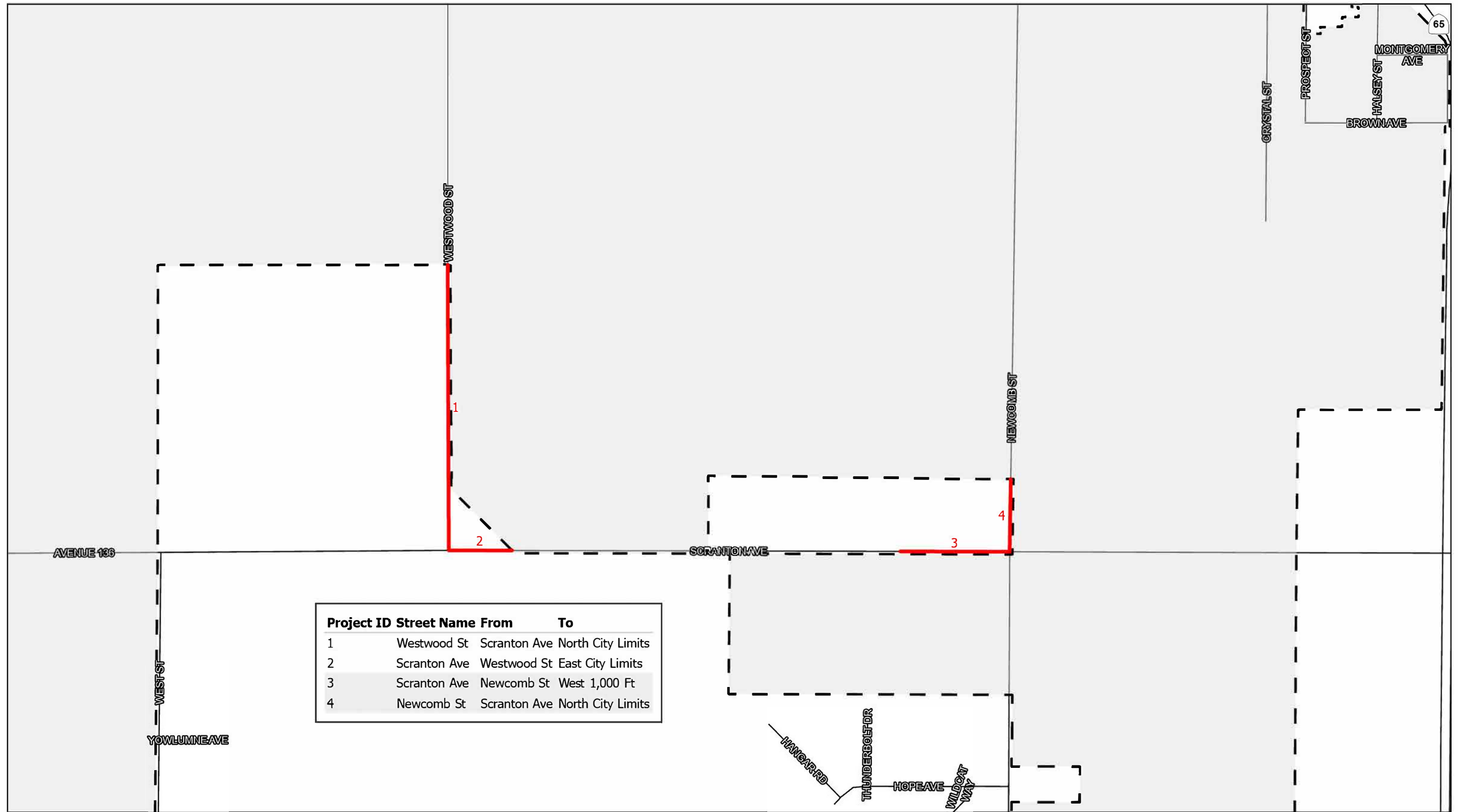


Overlay Projects 2023/2024



Project ID	Street Name	From	To
1	Morton Ave	Porter Rd	Indiana St
2	Morton Ave	Indiana St	Cottage St
3	Morton Ave	Cottage St	Villa St
4	Morton Ave	Villa St	Pearson Dr
5	Morton Ave	Pearson Dr	Kessing St
6	Morton Ave	Kessing St	G St
7	Morton Ave	G St	E St
8	Morton Ave	D St	Main St
9	Morton Ave	Main St	4th St
10	Morton Ave	4th St	Roche St
11	Morton Ave	Roche St	Plano St

Overlay Projects 2023/2024



Legend

- Overlay Projects 2023/2024
- City Limits

Date Printed: 5/12/2023
by the Community Development Department

0 0.25 0.5 Miles





CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Asphalt Grinding Program for Fiscal Year 2023-2024

SOURCE: Public Works

COMMENT: Staff is seeking City Council authorization for the expenditure of funds to contract with a grinding contractor for annual services. Such a contract would secure pricing for services and would greatly improve the efficiency and quality of efforts for the Fiscal Year 2023-2024 Overlay season. It is proposed that the grinding services consist of the milling of city streets, gutters edge, and the blending of existing asphalt during dig-outs and transitions through the project areas. The proposed services would help maintain or replace the asphalt with the proper thickness, which is critical for the longevity and durability of overlay projects.

With the utilization of a grinding contractor, City staff are capable of overlaying streets that have a lower than normal Pavement Condition Index (PCI) rating in lieu of complete reconstruction, resulting in a quality finished product. Maintenance actions combined with this process would add years to the life of a street, and the cost savings could be used to further the City's Street Maintenance Program. It would further assist the Public Works Department in maintaining minimum staffing levels, reducing equipment operations/maintenance costs, and improving the quality of the finished overlay product.

Staff requested quotes for service from three local contractors and received two responses for service quotes for the Fiscal Year 2023-2024:

Grinding Contractor	Quoted Cost of Service	Mobilization Fee
J. Mack Enterprises, Inc	\$4,000 @ 8hr Rental	No Mobilization Fee
Pavement Recycling Systems, Inc.	\$4,000 @ 8hr Rental	\$720 per day
Precision Cold Planing	Non-responsive	Non-responsive

After receiving two quotes and one non-responsive contractor, staff's recommendation is to award J. Mack Enterprises Inc., as they were the lowest bidder for the proposed scope of services. In the event of operational challenges, staff also seeks authority from the Council to utilize the additional contractor for the same service should scheduling conflicts occur. Staff proposes to prioritize awarding the services in the quoted amount and in the

order identified above. Funding for an Annual Grinding Contractor has been programmed in the Capital Improvement Budget 2023-2024 in the amount of \$75,000 from the Special Gas Tax Fund.

RECOMMENDATION: That the City Council:

1. Authorize staff to utilize annual grinding contractor J. Mack Enterprises, Inc. for Fiscal Year 2023-2024; and
2. Allow staff to substitute annual grinding contractor pending schedule conflicts as ranked by the quote for services.

ATTACHMENTS:

1. J. Mack Enterprises, Inc. Quote
2. Pavement Recycling Systems, Inc Quote

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

J. MACK
ENTERPRISES, INC.
ASPHALT MILLING

P.O. Box 7600
Visalia CA 93290

Date 4/18/2023

Price Quotation

ASPHALT GRINDING RENTAL RATE

Certified Small Business
#1731864
License #877657

DIR #1000004036

Job Location
City of Porterville

Phone
Fax

Phone (559) 622-9911
Fax (559) 622-9939

Attention: Joe
Bid # 5375
Bid Date 4/18/2023

Item	Description
	APRIL 1, 2023 - APRIL 1, 2024 RENTAL RATE SHEET FOR BIDDING PURPOSES ONLY- PRICES SUBJECT TO CHANGE
	ASPHALT GRINDING (ONLY) AS DIRECTED: DAILY RENTAL RATES
	4' OPERATED MILLING MACHINE FOR (0-8 HOURS) REGULAR HOURS \$4,000.00
INCLUDES	Cut & load into your trucks, Grind A/C as directed
EXCLUDES -	Milling any concrete, Hauling, Sweeping, Traffic Control, Supplying water by truck, Layout, Handwork (Mini Grinder and/or Jack Hammer), Trimming trees/shrubs that may interfere w/milling process, Areas not accessible to our machine, Any specific guarantee of gradation, Sawcutting

It is our goal to offer quality work, with quality people, at competitive pricing. We THANK YOU for the opportunity to prove it.

1. This bid is not divisible. All items in this quotation must be accepted for the prices set forth above to be effective. This quotation will be incorporated into the subcontract between the parties.
2. All areas to be ground shall be clearly marked by the General Contractor or Agency Representative prior to commencement of grinding.
3. The above stated price does not include permits, bonds, state or local taxes.
4. USA notification is to be done by the General Contractor prior to commencement of work.
5. Costs of repairs to damaged machinery due to hitting unmarked obstacles (i.e. water valves, manholes, buried steel or iron) will NOT be the responsibility of the General Contractor.
6. All teeth over one complete set will be charged to the contractor. This applies to daily rental only.
7. Back charges to J. Mack on unit price projects must be communicated by the contractor in written form within 48 hours from the time of the occurrence. Back charges are limited to the daily rental rate of our machine. No back charges will be accepted on daily rate rental projects.
8. Unless agreed otherwise, payment is due and payable within 30 days of billing. California Prompt Payment laws shall also apply. Code Section 7108.5 - Prime contractor or subcontractor shall pay to any subcontractor, not later than 10 days after receipt of payment for that portion of work.
9. Items not specifically included within the quotation are considered excluded (Permits, Testing, Bonds).
10. If an Insurance Certificate requires a Waiver of Subrogation, an additional charge of \$250.00 will be applied.
11. NO RETENTION to be withheld on rental rate work.
12. Retention on unit price work performed by J. Mack longer than 60 days after completion or acceptance of J. Mack's work.
13. Customer acknowledges the scope of J. Mack's work includes changing the elevation of the existing roadway. J. Mack will have no obligation of defense or indemnity arising of claims which are the result of J. Mack's normal construction activity.
14. J. Mack shall not be held liable for damage of property caused by unraveling of the milled surface after the contractor has reopened the milled roadway to public traffic.
15. Unless listed at bid time, price quotation is good for 30 days from date of bid.
16. If a job is cancelled by a customer after J. Mack's equipment and crew has been dispatched, regardless of conditions, customer will assume responsibility for all mobilization charges.
If a job is cancelled by a customer after J. Mack has been on jobsite, regardless of conditions, customer will assume responsibility for time incurred. (minimum 2 hour show-up)
17. The unit prices are quoted are for the estimated quantities set forth herein. The prices are subject to adjustment if the quantity of an item increases or decreases twenty percent (20%) or more from the estimate. Proposal is for Monday through Friday (Non Holiday) normal daytime hours.



An Employee Owned Company
**OTHERS TALK SAFETY,
 WE LIVE IT!**

Proposal and Contract**Pavement Recycling Systems, Inc**

CA License# 569352
 OR License# 185556

DIR# 1000003363
 UT License# 6982390-5501
 ID License# 015231-AA-2

NV License# 0036228
 AZ License# 183900
 WA License# 602-840-640

10240 San Sevaire Way, Jurupa Valley, CA 91752

Phone: (951) 682-1091 Fax: (951) 682-1094

From: Mike Akins

Email: makins@pavementrecycling.com

To: Joe Baeza
 City of Porterville

Quote No: 1825505

Phone: () -

Fax: () -

Bid Date: 5/8/2023

jbaeza@ci.porterville.ca.us

We propose to furnish you with labor and material per your representation of job requirements as follows:

City of Porterville 4' Milling Machine Rental Rates 2023/2024

Item No	Description	Quantity	UOM	Unit Price	Total Price
Schedule 1					
1	4' Milling Machine Rental First 4 Hours	1	LS	3,400.000	\$3,400.00
2	4' Milling Machine Rental Day Rate	1	DY	4,000.000	\$4,000.00
3	Mobilization	1	EA	720.000	\$720.00

Rental Special Conditions

- Item #1 includes: Provide One (1) 4' Cold Planer operated and maintained for up to 4 hours per day. After the first 4 hours for each shift worked, the hourly rate of \$300/hr will apply.
- Item #2 includes: Provide One (1) 4' Cold Planer operated and maintained for up to 8 hours per day. After 8 hours for each shift worked, the hourly rate of \$500/hr will apply.
- Item #3 includes: One (1) Mobilization for the move on and off the project.
- Excludes: Traffic control, water/water truck, hauling, sweeping, detailing/handwork, removal of pcc, survey/project layout, maintenance of the project.
- Excludes: USA notification, location and marking. Please see "General Conditions".
- All work is to be performed under the direct supervision and control of the customer. Customer accepts all liability for any claims arising from work performed as directed.

General Conditions

ACCEPTANCE of this bid/proposal/quotation (Bid) from PAVEMENT RECYCLING SYSTEMS, INC. (PRS) requires that the PRICING, SPECIAL CONDITIONS and the GENERAL CONDITIONS of this Bid be included in any subcontract or purchase order agreement (Contract) and the Bid terms and conditions take precedence over any conflicting terms.

PRS will not surrender any portion of extra work or force account mark-ups except those reserved by the owner for the General Contractor.

California prompt pay statutes shall be enforced.

Unless otherwise defined in the SPECIAL CONDITIONS of this bid PRS excludes from the services quoted her all: MAINTENANCE AND PROTECTION OF THE MILLED SURFACE, TRAFFIC CONTROL, SURVEYING, LAYOUT, SAWCUTTING AND TEMPORARY TAPERS. Upon completion of each segment of the designated work by PRS the work shall be deemed accepted and approved and the Customer shall assume maintenance and protection of the work. All utilities, obstructions, and foreign objects in the work zone must be marked and located by the Customer prior to PRS's work. PRS excludes any damage to unmarked or improperly located obstructions in the zone of work. PRS excludes notification to any underground alert service, marking or location of underground utilities. By accepting the Bid the Customer accepts sole responsibility for, and all subsequent liabilities coincident with the following requirements of the regional notification center law pursuant to Article 2 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1 of the California Government Code. Any indemnity and defense obligation required from PRS shall be proportional and limited to the extent PRS's acts, omissions, fault or negligence contribute to any alleged or actual claims or damages. Insurance included in this Bid: Commercial Liability \$1MM per occurrence / \$2MM aggregate; \$2MM Products and Completed Operations Aggregate; \$1MM Personal and Advertising Injury; \$1MM Commercial Auto; Worker's Compensation coverage per statute.

Date:

Accepted By:



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Annual Hauling Services for Asphalt Maintenance Program

SOURCE: Public Works

COMMENT: The City's Public Works Department-Streets Maintenance Division is asking for approval for the expenditure of funds for Annual Asphalt Hauling Services. Secured pricing and services for asphalt hauling will facilitate efforts for the 2023-2024 overlay season. Historically, staff has had to secure transport of asphalt on a project-by-project basis, presenting challenges for project scheduling. As the City continues to develop a robust asphalt maintenance program, staff is continuing to look for opportunities to increase efficiency. These efforts enable the Department to maintain staffing levels, reduce equipment operations costs, and complete a higher volume of overlays throughout the city, improving the quality of transportation. With the volume of asphalt material that needs to be delivered during the overlay session and overlay preparations, staff sought quotes for services from local trucking companies for hauling services during the Fiscal Year 2023-2024.

Hauling Services Contractor

Mike Clark Trucking
W.T.B., Inc.

Quoted Cost of Service

@ \$128.00 /hr.
@ \$150.00 /hr.

After reviewing the quotes received, staff recommends awarding Mike Clark Trucking as the lowest quote for the proposed scope of services. In the event of operational challenges, staff seeks authority from the City Council to utilize the additional contractor for same service should scheduling conflicts occur. Staff proposes to prioritize awarding the services in the quoted amount and in the order identified above. Funding for services will be made available from the Capital Improvement Projects Overlay Program funded by Surface Transportation Program and Measure R Local funds.

RECOMMENDATION: That the City Council:

1. Authorize staff to utilize an annual hauling services contractor, Mike Clark Trucking, for the Fiscal Year 2023-2024;
2. Allow staff to substitute annual hauling contractor pending schedule conflicts as ranked by the quote for services;
3. Allow for fund expenditures as defined by the operation of services from the Capital Improvement Project List and Self-performed Street Maintenance Overlay Program; and
4. Authorize payment of services upon satisfactory completion.

ATTACHMENTS:

1. Mike Clark Trucking Quote
2. W.T.B., Inc. Quote

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

Mike Clark Trucking
19385 Ave. 144, Porterville Ca.
Fax (559)784-8832 Office (559)784-5486 Cell (559)359-9918
C. S. B. #1770985 CA. #304331

Date: May 15, 2023
To : City of Porterville
Attn: Joe Baeza

Trucking for
2023-2024 Fiscal Year

Aggregates out of Jaxson Baker or Delano Rock to City Yard
Distribution and or Various sites throughout the city in
Super 10, Transfers, Semi Bottoms and Double Bottoms
\$128.00 per hour with 6 Hour Minimum

All other trucking transfers, double bottoms, Demo or Super 10 at \$128.00 per hour. 6 Hour minimums. Billing will be sent out weekly, pay at net thirty days. B & P Code Section 7108.6, penalty by the Debtor to the Carrier of 1.5 percent of the amount due per month for every month payment is outstanding.

QUOTE GOOD FOR (3) THREE MONTHS FROM THIS DATE

Fax Cover Sheet

W.T.B., INC.
7093 W. BELMONT
FRESNO, CALIFORNIA 93722
(559) 275-1998
(559) 275-1995

Send to:	From: Nick Young
Attention:	Date: May 8, 2023
Office Location:	Office Location: FRESNO, CA.
Fax Number:	Phone Number: (559) 275-1998

☐ Please Sign and Return

_____ Agent or Representative

_____ Date

Total pages, including cover: 2

General Conditions: Unless otherwise specified a 6-hour day, 8-hour night/weekend minimum will be incurred on any trucking day, as well as an 8% increase on all rates for nights and weekends. On all night work there will be a 24-hour cancellation policy or an 8-hour minimum will be applied. There will also be a 10% increase for all rubberized asphalt in transfers. **All tonnage quotes are per U.S. ton, based on full loads and direct routes to and from the jobsite and never will any averaging of standby be allowed. Standby will be assessed at the first point of arrival or delay due to the construction site (i.e., traffic control, detours, etc.) and will end when the truck is free and clear to return to the plant or point of origin without delay. If for any reason, there is a dispute over standby all tonnage prices will be reversed to hourly rates. If two or more trucks are sent back on standby and don't receive a load there will be a return charge applied for each truck that does not receive a load.** A fuel increase will be applied to all rates at 1% for every \$0.10 increase once fuel goes over \$5.25 per gallon. For a current rate on fuel please refer to www.eia.gov on-highway retail diesel prices. All quotes including material subject to change without notice depending on material availability. Also, please note that material prices do not include material environmental fees. All individual quotes will be void if this quote is not used in its entirety. It will be customer's responsibility for any citations written for load showing or overloads from job site off hauls. **Also, it is customer's responsibility to make WTB aware of any prevailing wage costs associated with project. All trucking rates shown are "non-prevailing" unless specified. WTB will pass on the extra costs associated with prevailing wage to the customer.** To ensure truck availability WTB requires a weekly estimate of trucks needed, with a minimum of 24-hour notice of confirmation for the scheduling of trucks. With the major shortage of trucks due to the new EPA state mandates, WTB will not be held liable for any shortages of trucks on any project. Please be advised WTB Inc. is a Vendor not a Sub Contractor.

Life of Quote: Unless otherwise specified herein this quote will be VOID 30 days after the noted bid date of WTB Inc. Due to material availability and price fluctuations all material prices will be VOID after 30 days.

Payment: All invoices shall be paid by the 20th of the following month. WTB Inc. is a Vendor-Supplier not a Sub Contractor, late payments will be assessed carrying charges at 1.5% compounded monthly on the outstanding balance. If a dispute arises between the parties, the prevailing party shall be entitled to recover attorney fees in addition to any other relief to which the party may be entitled.

Acceptance: Buyer shall SIGN and RETURN this quote sheet confirming "Special Conditions", price and estimated delivery date, via fax or return mail. **Failure to return a signed copy within 5 days after the start of quoted project constitutes complete and full acceptance.**

City of Porterville, Cold Mix to Porterville Yard & Delivery to Various Locations For 2023

Trucking Prices Only:

Day Hourly Rates:

Double Bottoms \$150.00

Transfers \$150.00

End dumps \$155.00

Demo 10's: \$155.00

10 Wheelers \$145.00

Please Note:

~ Please let WTB know within 24-hours of bid time if you will be using our quote.



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Street Striping Program for Fiscal Year 2023-2024

SOURCE: Public Works

COMMENT: The Public Works Department-Streets Maintenance Division is seeking authorization for the expenditure of funds for Annual Striping Services. Striping Services will consist of re-striping lane lines for arterial and collector streets throughout the city limits, in addition to the replacement of existing street markings after asphalt maintenance projects. City staff currently re-paint stop bars, stop legends, crosswalks, turn arrows, school legends, and school crosswalks. The City does not possess the equipment needed to maintain the existing travel lane lines; current efforts have been on an as-needed basis, dictated by overlay and street reconstruction projects, with a primary focus on implementing an aggressive road maintenance program.

The City's Street Maintenance Program, coupled with the re-striping of lane lines, is necessary for the visibility and safety of the traveling public and a requirement to keep traveling lane lines up to code with the Manual on Uniform Traffic Control Devices. Staff requested per linear feet quotes and services and received three quotes from surrounding area contractors for the Fiscal Year 2023-2024.

Striping Contractor	Average Quote Per Linear Feet	Mobilization
T&T Pavement Markings	\$0.27 Per Ft.	\$17,500
California Striping Inc.	\$0.34 Per Ft.	\$19,500
Fresno Seal & Stripe	\$0.36 Per Ft.	\$20,000

Services evaluated and included under the annual agreement are Mobilization, 4" edge line, 4" broken line, 8" single solid line, 4" two-way left turn, linear foot double yellow, linear foot bike lane, linear foot crosswalk removal, crosswalk thermoplastic, removal school xing legend, school xing thermoplastic, traffic control, and layout newly paved roads.

After reviewing the three quotes, the staff recommendation is to award T&T Pavement Markings as the lowest bidder for the proposed scope of services. In light of operational challenges, staff would also request the City Council to authorize the ability to use all three striping contractors should scheduling conflicts occur based on the order of quoted services (listed above). Funding for an Annual Striping Program will be determined by the areas of disturbance and performance. Funding will be made available from the following sources;

Surface Transportation Program funds, Measure I funds, and Measure R Local funds for the Fiscal Year 2023-2024 in accordance with Street Maintenance Operations, Capital Improvement Projects, and a Self-Performed Street Maintenance Program.

RECOMMENDATION: That the City Council:

1. Authorize staff to utilize annual striping contractor T&T Pavement Markings and Products Inc. for Fiscal Year 2023-2024;
2. Allow staff to substitute striping contractors pending schedule conflicts as ranked by the quote for services;
3. Allow for fund expenditures as defined by the operation of services from the Self-Performed Street Maintenance program; and
4. Authorize payment of services upon satisfactory completion.

ATTACHMENTS:

1. T&T Pavement Markings and Products Inc. Quote
2. California Striping Service, Inc Quote
3. Fresno Seal & Stripe, Inc. Quote

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager



"We are a non-union Contractor"

3276 W. Sussex Way
Fresno, CA 93722
Phone: 559-275-2879
Fax: 559-229-2527
TIN #81-4165560
License #687921
tandtpavemark@gmail.com
DIR Registration #1000046338
SB #2004666

PROPOSAL

DATE: 5/19/2023
PROPOSAL #: 23-299
PREVAILING:

CUSTOMER:

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

PROJECT:

2023-2024 Annual Striping

****THIS PROPOSAL IS TO BE ACCEPTED AS A WHOLE AND NOT BROKEN OUT IN PARTS.****

WE HEREBY PROPOSE TO FURNISH THE FOLLOWING WORK AS DESCRIBED BELOW:

This quote is for work performed, M-F, 6am-2pm. An additional cost will be added for weekend work.

Qty	Description	Total
	ALL STRIPING TO BE DONE IN 1 COAT OF PAINT EXCEPT FOR LINE ITEM #10 & 11	
	LINE ITEM #1 - \$17,500.00 Mobilization, Insurance	
	LINE ITEM #2 - \$.27 per foot Linear feet of 4" edge line (detail 27b)	
	LINE ITEM #3 - \$.23 per foot Linear feet of 4" broken line (detail 8), white or yellow	
	LINE ITEM #4 - \$.31 per foot Linear feet of 8" single solid line (detail 38a)	
	LINE ITEM #5 - \$.44 per foot Linear feet of 4" two way left turn (detail 31)	
	LINE ITEM #6 - \$.52 per foot Linear feet of double yellow center line (detail 21) includes black highlight in middle	
	LINE ITEM #7 - \$.26 per foot Linear feet of bike lane (detail 39)	
	LINE ITEM #8 - \$2.25 per foot Linear feet of yellow crosswalk removal	

- Please direct questions regarding this proposal to Tom Ochoa at (559) 217-7645.
- Upon acceptance of this proposal, please sign and email to our office.
- Proposal is not valid after 30 days without a signature.

Total:

Signature

Date

*Please note: Payments made by credit card on final invoice will be subject to an additional 3.5% surcharge on the total cost to cover fees.

THIS QUOTE INCLUDES ALL STIPULATIONS FOUND ON SEPARATE ATTACHMENT. IF NOT ATTACHED, PLEASE CONTACT OUR OFFICE.



"We are a non-union Contractor"

3276 W. Sussex Way
Fresno, CA 93722
Phone: 559-275-2879
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PROPOSAL

DATE: 5/19/2023
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PREVAILING:

CUSTOMER:

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

PROJECT:

2023-2024 Annual Striping

****THIS PROPOSAL IS TO BE ACCEPTED AS A WHOLE AND NOT BROKEN OUT IN PARTS.****

WE HEREBY PROPOSE TO FURNISH THE FOLLOWING WORK AS DESCRIBED BELOW:

This quote is for work performed, M-F, 6am-2pm. An additional cost will be added for weekend work.

Qty	Description	Total
	LINE ITEM #9 - \$2.35 per foot Install yellow crosswalk in thermoplastic (lf) LINE ITEM #10 - \$525.00 each Removal of existing Slow School Xing legend LINE ITEM #11 - \$495.00 each Installation of Slow School Xing legend in thermoplastic LINE ITEM #12 - \$15,250.00 Traffic Control LINE ITEM #13 - \$.30 per foot Layout and cat track newly paved roads prior to applying pavement stripes	

- Please direct questions regarding this proposal to Tom Ochoa at (559) 217-7645.
- Upon acceptance of this proposal, please sign and email to our office.
- Proposal is not valid after 30 days without a signature.

Total: \$0.00

Signature

Date

THIS QUOTE INCLUDES ALL STIPULATIONS FOUND ON SEPARATE ATTACHMENT. IF NOT ATTACHED, PLEASE CONTACT OUR OFFICE.

*Please note: Payments made by credit card on final invoice will be subject to an additional 3.5% surcharge on the total cost to cover fees.

CALIFORNIA STRIPING SERVICE, INC
6062 N. BETHEL CLOVIS, CA. 93619
559-325-2986/ FAX 559-325-6409
CELL 559-289-5133

DATE: 5-20-23

TO: CITY OF PORTERVILLE
ATTN: JOE

RE: 2023-2024 ANNUAL STRIPING CONTRACT

SCOPE OF WORK: PAINTED ITEMS WILL BE ONE COAT

ITEM #1	MOBILIZATION	=\$19500.00
ITEM #2	DETAIL 27B	.34 LF.
ITEM #3	DETAIL 8	.30LF.
ITEM #4	DETAIL 38A	.38LF.
ITEM #5	DETAIL 31	.51LF.
ITEM #6	DETAIL 21	.59LF.
ITEM #7	DETAIL 39	.33LF.
ITEM #8	REMOVE X-WALK	2.33LF.
ITEM#9	THERMOPLASTIC X-WALK	2.42LF.
ITEM #10	REMOVE SSX LEGENDS	850.00EA.
ITEM#11	THERMOPLATIC SSX LEGENDS	800.00EA.
ITEM #12	TRAFFIC CONTROL	17500.00
ITEM #13	LAYOUT NEW ROADS	.30LF.

IF YOU HAVE ANY QUESTIONS PLEASE GIVE ME A CALL.

THANK YOU,
MARK SHARER

Fresno Seal & Stripe, Inc.

1285 W Shaw Ave Ste 109
Fresno, CA 93711



ADDRESS

City of Porterville Maint.
291 N Main St
Porterville, CA 93257
United States

ESTIMATE 1317
DATE 05/22/2023

	DESCRIPTION	AMOUNT
STRIPING	PROJECT: CITY OF PORTERVILLE 2023-2024 ANNUAL STRIPING LOCATION: PORTERVILLE, CA ALL STRIPING TO BE DONE IN 1 COAT OF PAINT EXCEPT FOR: LINE ITEM #10 & 11 LINE ITEM #1 - \$20,000.00 Mobilization, Insurance LINE ITEM #2 - \$.36 per foot Linear feet of 4" edge line (detail 27b) LINE ITEM #3 - \$.32 per foot Linear feet of 4" broken line (detail 8), white or yellow LINE ITEM #4 - \$.40 per foot Linear feet of 8" single solid line (detail 38a) LINE ITEM #5 - \$.53 per foot Linear feet of 4" two way left turn (detail 31) LINE ITEM #6 - \$.61 per foot Linear feet of double yellow center line (detail 21) includes black highlight in middle LINE ITEM #7 - \$.35 per foot Linear feet of bike lane (detail 39) LINE ITEM #8 - \$2.34 per foot Linear feet of yellow crosswalk removal LINE ITEM #9 - \$2.44 per foot Install yellow crosswalk in thermoplastic (lf) LINE ITEM #10 - \$1075.00 each Removal of existing Slow School Xing legend	0.00

EXCLUSIONS FROM PROPOSAL: TRUNCATED DOMES, BOLLARDS, TEMPORARY/TIMBER BARRICADES, SPECIALTY BUILDING SIGNAGE, AND CONCRETE WHEEL STOPS WITH DRAINAGE SLOTS. NOTE: IRRIGATION MUST BE TURNED OFF 24 HOURS PRIOR TO COMMENCING WORK. -UPON ACCEPTANCE OF THIS PROPOSAL, PLEASE SIGN AND RETURN IT TO OUR OFFICE.

-PROPOSAL IS NOT VALID AFTER 30 (THIRTY) DAYS WITHOUT A SIGNATURE.

LINE ITEM #11 - \$925.00 each
Installation of Slow School Xing legend in thermoplastic

LINE ITEM #12 - \$18,000.00
Traffic Control

LINE ITEM #13 - \$.39 per foot
Layout and cat track newly paved roads prior to applying
pavement stripes

SUBTOTAL	0.00
TAX	0.00

TOTAL	\$0.00
-------	---------------

Accepted By

Accepted Date

EXCLUSIONS FROM PROPOSAL: TRUNCATED DOMES, BOLLARDS, TEMPORARY/TIMBER BARRICADES, SPECIALTY BUILDING SIGNAGE, AND CONCRETE WHEEL STOPS WITH DRAINAGE SLOTS. NOTE: IRRIGATION MUST BE TURNED OFF 24 HOURS PRIOR TO COMMENCING WORK. -UPON ACCEPTANCE OF THIS PROPOSAL, PLEASE SIGN AND RETURN IT TO OUR OFFICE.

-PROPOSAL IS NOT VALID AFTER 30 (THIRTY) DAYS WITHOUT A SIGNATURE.



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Annual Emulsion Program for Fiscal Year 2023/2024

SOURCE: Public Works

COMMENT: Staff is seeking the City Council's authorization for the expenditure of funds to contract with an emulsion distributor for annual services. Such a contract would secure pricing for services and would greatly improve the efficiency and quality of efforts for the 2023/2024 Overlay Season. An emulsion is a bonding agent for cold and hot mix operations. Staff sought quotes from two local emulsion distributors for services for the Fiscal Year 2023-2024.

Emulsion Distributor	Quoted Price Per Gallon
Cain Trucking, Inc.	\$3.00 Per Gallon
Asphalt Coating & Supplies	\$4.12 Per Gallon

After receiving two service quotes, staff recommends awarding to Cain Trucking, Inc. as they were the lowest bidder for the proposed scope of services. In the event of operational challenges, staff also seeks authority from the Council to utilize the additional contractor for the same services should scheduling conflicts occur. Staff proposes to prioritize awarding the services in the quoted amount and in the order identified above. Surface Transportation Program Funds, Measure R Local Funds, and Measure I are the sources of funding for this program.

RECOMMENDATION: That the City Council:

1. Authorize staff to utilize emulsion distributor Cain Trucking, Inc. for the Fiscal Year 2023/2024;
2. Allow staff to substitute emulsion distributors pending schedule conflicts as ranked by the quote for services; and
3. Allow for fund expenditures as defined by the operation of services from the Self-Performed Street Maintenance Program.

ATTACHMENTS:

1. Cain Trucking, Inc. Quote
2. Asphalt Coating & Supplies Quote

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager



CAIN TRUCKING, INC.

23004 ROAD 140
TULARE, CALIFORNIA, 93274

Here's a quote for tac oil

Time period : starting on July 1 2023 & ending on June 30 2024

Material : SS1H - concentrate

Total amount +/- 75 tons (240 gallons per ton)

Total Price : \$ 3.00 per gallon - sales tax included

Pickup at :

Cain Trucking Inc.

23004 Road 140

Tulare Ca 93274

Let me know if you have any questions.

Thank You

4044 West Woodside Ct.
Visalia, Ca. 93291
Phone 559-733-7602
Fax 559-635-8288

**Asphalt Coating &
Supplies**

Quote

Tuesday, May 17, 2023

EXPIRATION DATE
08/17/2024

City of Porterville
Attn: Joe Baeza
Streets Superintendent
555 N. Prospect
Porterville, CA 93257

Description	Unit	Quote Price
SS-1H	Gallons	\$4.12

“Valid for one fiscal year with a maximum allowable increase of 15% in expenses.”

“Let us plan for a successful fiscal year, with a budget that allows for growth while keeping expenses in check. With a maximum increase of 15% we can confidently navigate any challenges that come our way.” However, if there are significant changes in the market or unexpected costs arise, I may need to reevaluate the pricing strategy. It is important to maintain a balance between the profitability and affordability for customers.



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Department of Finance Population Update

SOURCE: Community Development

COMMENT: The Community Development Department has received a summary report of Porterville's estimated population and housing data prepared by the State Department of Finance (DOF). The DOF prepares these estimates based on information supplied by the City during the previous year, such as new housing units, demolitions, conversions, annexations and other factors, and comparing figures from the 2022 benchmark or a prior year's estimate. Annually, the Community Development Department reviews these estimates and forwards them to the City Council for review and adoption. After Council adoption, the City submits a request for certification to the State Controller.

The 2022 population estimate for the City of Porterville was revised from 62,345 to 62,654 with a DOF mid-year adjustment. The January 1, 2023, population estimate is 62,588 for the City of Porterville and becomes the basis used to distribute certain State subvention revenues to the City once certified. The 2023 population estimate represents a decrease of 0.105 percent or sixty-six (66) persons from the January 2023 estimate to the mid-year adjustment.

RECOMMENDATION: That the City Council authorize the Mayor to sign a request for State certification for the City of Porterville, May 1, 2023, at a population of 62,588.

ATTACHMENTS:

1. Draft Department of Finance 2023 Population Letter
2. 2023 Department of Finance Population Report
3. 2022 Department of Finance Population Report

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Assistant City Manager

Final Approver: John Lollis, City Manager

June 06, 2023

Department of Finance
Demographic Research Unit
915 "L" Street, 8th Floor
Sacramento, CA 95814

To Whom It May Concern:

On May 1, 2023, the City of Porterville received Porterville's estimated population and housing data for 2022 from the State Department of Finance.

On June 6, 2023, the Porterville City Council adopted Porterville's new estimated population of 62,588 and authorized transmittal of this correspondence requesting the State Controller to certify Porterville's January 1, 2022, population as 62,588 by Minute Order No. _____.

Sincerely,

Martha A. Flores
Mayor
City of Porterville

[About the Data](#)
E-1: City/County Population Estimates with Annual Percent Change
January 1, 2022 and 2023

State/County/City	Total Population		Percent
	1/1/2022	1/1/2023	Change
California	39,078,674	38,940,231	-0.4
Alameda	1,644,248	1,636,194	-0.5
Alameda	77,437	77,287	-0.2
Albany	21,524	21,401	-0.6
Berkeley	123,188	123,562	0.3
Dublin	72,374	71,750	-0.9
Emeryville	12,478	12,610	1.1
Fremont	229,122	229,467	0.2
Hayward	160,081	159,800	-0.2
Livermore	85,870	84,793	-1.3
Newark	47,150	47,459	0.7
Oakland	421,806	419,556	-0.5
Piedmont	10,913	10,793	-1.1
Pleasanton	77,524	76,459	-1.4
San Leandro	88,075	87,497	-0.7
Union City	67,702	66,754	-1.4
Balance of County	149,004	147,006	-1.3
Alpine	1,191	1,184	-0.6
Amador	40,108	39,837	-0.7
Amador	195	193	-1.0
Ione	8,809	8,772	-0.4
Jackson	4,983	4,938	-0.9
Plymouth	1,051	1,062	1.0
Sutter Creek	2,616	2,590	-1.0
Balance of County	22,454	22,282	-0.8
Butte	206,582	205,592	-0.5
Biggs	1,966	1,990	1.2
Chico	105,633	107,394	1.7
Gridley	7,473	7,548	1.0
Oroville	19,405	19,409	0.0
Paradise	7,367	9,142	24.1
Balance of County	64,738	60,109	-7.2
Calaveras	45,012	44,890	-0.3
Angels City	3,559	3,542	-0.5
Balance of County	41,453	41,348	-0.3
Colusa	21,819	21,771	-0.2
Colusa	6,417	6,428	0.2
Williams	5,576	5,568	-0.1
Balance of County	9,826	9,775	-0.5
Contra Costa	1,151,798	1,147,653	-0.4
Antioch	114,362	115,442	0.9
Brentwood	64,219	64,513	0.5

Clayton	10,782	10,666	-1.1
Concord	123,102	122,074	-0.8
Danville	43,166	42,823	-0.8
El Cerrito	25,710	25,484	-0.9
Hercules	25,944	26,297	1.4
Lafayette	25,119	25,004	-0.5
Martinez	36,790	36,543	-0.7
Moraga	17,055	16,893	-0.9
Oakley	44,257	44,995	1.7
Orinda	19,326	19,225	-0.5
Pinole	18,442	18,244	-1.1
Pittsburg	74,688	74,809	0.2
Pleasant Hill	33,697	33,397	-0.9
Richmond	114,521	113,518	-0.9
San Pablo	31,625	31,301	-1.0
San Ramon	83,587	82,870	-0.9
Walnut Creek	69,603	69,245	-0.5
Balance of County	175,803	174,310	-0.8
Del Norte	26,954	26,599	-1.3
Crescent City	6,054	5,790	-4.4
Balance of County	20,900	20,809	-0.4
El Dorado	189,816	189,006	-0.4
Placerville	10,621	10,585	-0.3
South Lake Tahoe	20,727	20,548	-0.9
Balance of County	158,468	157,873	-0.4
Fresno	1,009,790	1,011,499	0.2
Clovis	123,532	124,523	0.8
Coalinga	17,327	17,237	-0.5
Firebaugh	8,420	8,495	0.9
Fowler	6,936	7,168	3.3
Fresno	542,829	543,428	0.1
Huron	6,168	6,124	-0.7
Kerman	16,605	16,955	2.1
Kingsburg	12,432	12,865	3.5
Mendota	12,475	12,463	-0.1
Orange Cove	9,531	9,463	-0.7
Parlier	14,472	14,402	-0.5
Reedley	24,944	25,381	1.8
Sanger	26,302	26,241	-0.2
San Joaquin	3,634	3,608	-0.7
Selma	24,354	24,300	-0.2
Balance of County	159,829	158,846	-0.6
Glenn	28,778	28,636	-0.5
Orland	8,294	8,252	-0.5
Willows	6,443	6,395	-0.7
Balance of County	14,041	13,989	-0.4
Humboldt	134,528	134,047	-0.4

Arcata	17,960	18,688	4.1
Blue Lake	1,163	1,146	-1.5
Eureka	26,552	26,139	-1.6
Ferndale	1,374	1,371	-0.2
Fortuna	12,339	12,256	-0.7
Rio Dell	3,307	3,261	-1.4
Trinidad	298	294	-1.3
Balance of County	71,535	70,892	-0.9
Imperial	178,845	179,476	0.4
Brawley	26,752	27,539	2.9
Calexico	38,654	38,697	0.1
Calipatria	6,331	5,975	-5.6
El Centro	44,442	44,445	0.0
Holtville	5,534	5,502	-0.6
Imperial	21,347	21,496	0.7
Westmorland	1,991	1,989	-0.1
Balance of County	33,794	33,833	0.1
Inyo	18,921	18,896	-0.1
Bishop	3,878	3,872	-0.2
Balance of County	15,043	15,024	-0.1
Kern	908,107	907,476	-0.1
Arvin	19,592	19,505	-0.4
Bakersfield	407,491	408,373	0.2
California City	14,995	14,827	-1.1
Delano	50,782	51,727	1.9
Maricopa	1,019	1,011	-0.8
McFarland	13,861	13,748	-0.8
Ridgecrest	28,083	27,885	-0.7
Shafter	20,436	21,318	4.3
Taft	7,014	6,975	-0.6
Tehachapi	12,406	11,960	-3.6
Wasco	26,582	26,622	0.2
Balance of County	305,846	303,525	-0.8
Kings	151,494	151,018	-0.3
Avenal	13,161	13,374	1.6
Corcoran	22,041	21,442	-2.7
Hanford	58,312	58,893	1.0
Lemoore	26,736	26,609	-0.5
Balance of County	31,244	30,700	-1.7
Lake	67,421	66,800	-0.9
Clearlake	16,545	16,364	-1.1
Lakeport	5,008	4,967	-0.8
Balance of County	45,868	45,469	-0.9
Lassen	29,533	28,275	-4.3
Susanville	12,803	11,593	-9.5
Balance of County	16,730	16,682	-0.3
Los Angeles	9,834,503	9,761,210	-0.7

Agoura Hills	19,776	19,770	0.0
Alhambra	81,609	81,303	-0.4
Arcadia	55,918	55,503	-0.7
Artesia	16,225	16,093	-0.8
Avalon	3,386	3,351	-1.0
Azusa	49,453	49,483	0.1
Baldwin Park	70,815	70,368	-0.6
Bell	33,612	33,370	-0.7
Bellflower	77,638	76,924	-0.9
Bell Gardens	38,774	38,447	-0.8
Beverly Hills	31,945	31,658	-0.9
Bradbury	886	889	0.3
Burbank	104,976	104,535	-0.4
Calabasas	23,037	22,808	-1.0
Carson	92,746	92,186	-0.6
Cerritos	48,402	47,887	-1.1
Claremont	37,034	36,759	-0.7
Commerce	12,163	12,036	-1.0
Compton	94,294	93,719	-0.6
Covina	50,690	50,350	-0.7
Cudahy	22,386	22,270	-0.5
Culver City	39,972	39,682	-0.7
Diamond Bar	53,935	53,381	-1.0
Downey	112,078	111,261	-0.7
Duarte	21,384	22,796	6.6
El Monte	107,279	106,377	-0.8
El Segundo	17,042	16,928	-0.7
Gardena	60,090	59,809	-0.5
Glendale	192,870	191,284	-0.8
Glendora	51,571	51,159	-0.8
Hawaiian Gardens	13,675	13,546	-0.9
Hawthorne	86,535	85,702	-1.0
Hermosa Beach	19,206	19,018	-1.0
Hidden Hills	1,745	1,731	-0.8
Huntington Park	53,783	53,281	-0.9
Industry	428	427	-0.2
Inglewood	106,928	106,248	-0.6
Irwindale	1,496	1,483	-0.9
La Canada Flintridge	20,060	19,930	-0.6
La Habra Heights	5,564	5,505	-1.1
Lakewood	80,900	80,154	-0.9
La Mirada	48,384	47,899	-1.0
Lancaster	174,590	173,376	-0.7
La Puente	37,594	37,356	-0.6
La Verne	32,344	32,056	-0.9
Lawndale	31,171	30,882	-0.9
Lomita	20,300	20,092	-1.0

Long Beach	460,245	458,222	-0.4
Los Angeles	3,802,725	3,766,109	-1.0
Lynwood	66,595	66,228	-0.6
Malibu	10,534	10,512	-0.2
Manhattan Beach	34,713	34,284	-1.2
Maywood	24,779	24,546	-0.9
Monrovia	37,772	37,539	-0.6
Montebello	61,804	61,645	-0.3
Monterey Park	59,824	59,288	-0.9
Norwalk	101,815	101,153	-0.7
Palmdale	167,015	165,917	-0.7
Palos Verdes Estates	13,052	12,935	-0.9
Paramount	52,557	52,178	-0.7
Pasadena	137,814	136,988	-0.6
Pico Rivera	61,446	60,975	-0.8
Pomona	149,908	149,721	-0.1
Rancho Palos Verdes	41,451	41,030	-1.0
Redondo Beach	69,078	68,407	-1.0
Rolling Hills	1,688	1,669	-1.1
Rolling Hills Estates	8,480	8,446	-0.4
Rosemead	50,109	50,022	-0.2
San Dimas	34,407	34,079	-1.0
San Fernando	23,533	23,487	-0.2
San Gabriel	38,690	38,466	-0.6
San Marino	12,282	12,206	-0.6
Santa Clarita	229,039	230,659	0.7
Santa Fe Springs	18,734	18,570	-0.9
Santa Monica	91,739	91,720	0.0
Sierra Madre	10,909	10,821	-0.8
Signal Hill	11,528	11,431	-0.8
South El Monte	19,627	19,461	-0.8
South Gate	93,355	92,628	-0.8
South Pasadena	26,428	26,273	-0.6
Temple City	36,010	35,813	-0.5
Torrance	144,327	143,057	-0.9
Vernon	207	205	-1.0
Walnut	27,721	27,553	-0.6
West Covina	107,642	107,893	0.2
West Hollywood	34,930	34,793	-0.4
Westlake Village	8,009	7,919	-1.1
Whittier	87,707	87,291	-0.5
Balance of County	1,007,586	997,999	-1.0
Madera	157,205	158,148	0.6
Chowchilla	18,758	18,844	0.5
Madera	65,582	65,540	-0.1
Balance of County	72,865	73,764	1.2
Marin	255,470	252,959	-1.0

Belvedere	2,078	2,045	-1.6
Corte Madera	9,967	9,885	-0.8
Fairfax	7,410	7,354	-0.8
Larkspur	12,728	12,571	-1.2
Mill Valley	13,817	13,664	-1.1
Novato	51,936	51,392	-1.0
Ross	2,280	2,267	-0.6
San Anselmo	12,515	12,405	-0.9
San Rafael	60,237	59,681	-0.9
Sausalito	6,955	6,865	-1.3
Tiburon	8,903	8,798	-1.2
Balance of County	66,644	66,032	-0.9
Mariposa	16,984	16,935	-0.3
Mendocino	89,629	89,164	-0.5
Fort Bragg	7,080	7,014	-0.9
Point Arena	444	439	-1.1
Ukiah	16,052	15,929	-0.8
Willits	4,906	4,858	-1.0
Balance of County	61,147	60,924	-0.4
Merced	284,130	285,337	0.4
Atwater	31,629	31,418	-0.7
Dos Palos	5,697	5,640	-1.0
Gustine	5,985	5,945	-0.7
Livingston	14,352	14,257	-0.7
Los Banos	46,827	47,347	1.1
Merced	88,657	90,116	1.6
Balance of County	90,983	90,614	-0.4
Modoc	8,573	8,527	-0.5
Alturas	2,678	2,651	-1.0
Balance of County	5,895	5,876	-0.3
Mono	13,160	13,156	0.0
Mammoth Lakes	7,267	7,273	0.1
Balance of County	5,893	5,883	-0.2
Monterey	433,964	430,368	-0.8
Carmel-by-the-Sea	3,048	3,033	-0.5
Del Rey Oaks	1,545	1,540	-0.3
Gonzales	8,351	8,300	-0.6
Greenfield	19,693	19,917	1.1
King City	13,323	13,817	3.7
Marina	21,527	22,068	2.5
Monterey	28,079	26,845	-4.4
Pacific Grove	14,765	14,741	-0.2
Salinas	159,745	159,475	-0.2
Sand City	373	376	0.8
Seaside	32,115	29,790	-7.2
Soledad	26,566	26,230	-1.3
Balance of County	104,834	104,236	-0.6

Napa	135,941	134,637	-1.0
American Canyon	21,631	21,338	-1.4
Calistoga	5,162	5,127	-0.7
Napa	77,533	76,821	-0.9
St Helena	5,380	5,355	-0.5
Yountville	2,819	2,778	-1.5
Balance of County	23,416	23,218	-0.8
Nevada	100,973	100,720	-0.3
Grass Valley	13,474	13,488	0.1
Nevada City	3,256	3,342	2.6
Truckee	16,693	16,676	-0.1
Balance of County	67,550	67,214	-0.5
Orange	3,151,946	3,137,164	-0.5
Aliso Viejo	51,016	50,766	-0.5
Anaheim	335,946	328,580	-2.2
Brea	46,947	48,184	2.6
Buena Park	83,359	83,517	0.2
Costa Mesa	111,649	111,183	-0.4
Cypress	49,877	49,818	-0.1
Dana Point	33,009	33,155	0.4
Fountain Valley	56,976	56,987	0.0
Fullerton	143,013	142,873	-0.1
Garden Grove	171,195	171,183	0.0
Huntington Beach	196,469	195,714	-0.4
Irvine	305,688	303,051	-0.9
Laguna Beach	22,506	22,445	-0.3
Laguna Hills	30,667	30,525	-0.5
Laguna Niguel	65,010	64,702	-0.5
Laguna Woods	17,536	17,450	-0.5
La Habra	62,037	61,835	-0.3
Lake Forest	86,614	87,127	0.6
La Palma	15,402	15,332	-0.5
Los Alamitos	11,894	12,129	2.0
Mission Viejo	92,118	91,846	-0.3
Newport Beach	83,653	83,411	-0.3
Orange	138,155	139,063	0.7
Placentia	51,327	52,507	2.3
Rancho Santa Margarita	47,300	47,066	-0.5
San Clemente	63,431	63,237	-0.3
San Juan Capistrano	34,869	35,089	0.6
Santa Ana	304,258	299,630	-1.5
Seal Beach	24,871	24,647	-0.9
Stanton	38,986	39,084	0.3
Tustin	79,696	79,558	-0.2
Villa Park	5,791	5,790	0.0
Westminster	90,660	90,498	-0.2
Yorba Linda	67,284	67,068	-0.3

Balance of County	132,737	132,114	-0.5
Placer	409,441	410,305	0.2
Auburn	13,596	13,365	-1.7
Colfax	2,038	2,016	-1.1
Lincoln	51,199	52,313	2.2
Loomis	6,715	6,607	-1.6
Rocklin	71,655	71,179	-0.7
Roseville	151,450	152,928	1.0
Balance of County	112,788	111,897	-0.8
Plumas	19,232	18,996	-1.2
Portola	2,129	2,094	-1.6
Balance of County	17,103	16,902	-1.2
Riverside	2,430,976	2,439,234	0.3
Banning	30,856	31,250	1.3
Beaumont	54,349	56,590	4.1
Blythe	17,417	17,265	-0.9
Calimesa	10,950	10,962	0.1
Canyon Lake	11,003	10,949	-0.5
Cathedral City	51,621	51,433	-0.4
Coachella	41,935	42,462	1.3
Corona	157,139	157,005	-0.1
Desert Hot Springs	32,389	32,608	0.7
Eastvale	69,978	69,514	-0.7
Hemet	89,170	89,918	0.8
Indian Wells	4,785	4,774	-0.2
Indio	89,789	90,837	1.2
Jurupa Valley	105,154	104,983	-0.2
Lake Elsinore	71,989	71,973	0.0
La Quinta	37,562	37,979	1.1
Menifee	107,411	110,034	2.4
Moreno Valley	208,302	208,289	0.0
Murrieta	110,592	109,998	-0.5
Norco	25,035	25,037	0.0
Palm Desert	50,626	50,615	0.0
Palm Springs	44,165	44,092	-0.2
Perris	78,474	78,948	0.6
Rancho Mirage	16,854	17,012	0.9
Riverside	314,818	313,676	-0.4
San Jacinto	54,303	54,103	-0.4
Temecula	109,468	108,899	-0.5
Wildomar	36,438	36,336	-0.3
Balance of County	398,404	401,693	0.8
Sacramento	1,573,366	1,572,453	-0.1
Citrus Heights	86,152	85,837	-0.4
Elk Grove	176,621	177,005	0.2
Folsom	84,438	85,498	1.3
Galt	25,185	25,557	1.5

Isleton	766	759	-0.9
Rancho Cordova	80,156	81,117	1.2
Sacramento	516,958	518,161	0.2
Balance of County	603,090	598,519	-0.8
San Benito	65,543	65,666	0.2
Hollister	42,631	42,891	0.6
San Juan Bautista	2,043	2,022	-1.0
Balance of County	20,869	20,753	-0.6
San Bernardino	2,180,777	2,182,056	0.1
Adelanto	36,420	36,656	0.6
Apple Valley	75,277	74,996	-0.4
Barstow	25,115	24,918	-0.8
Big Bear Lake	4,935	4,914	-0.4
Chino	92,334	93,137	0.9
Chino Hills	77,601	77,058	-0.7
Colton	53,513	53,154	-0.7
Fontana	212,616	213,851	0.6
Grand Terrace	12,908	12,814	-0.7
Hesperia	99,855	100,041	0.2
Highland	56,283	55,984	-0.5
Loma Linda	25,233	25,228	0.0
Montclair	37,688	37,494	-0.5
Needles	4,793	4,756	-0.8
Ontario	178,682	180,717	1.1
Rancho Cucamonga	174,090	173,545	-0.3
Redlands	72,259	71,972	-0.4
Rialto	103,406	102,985	-0.4
San Bernardino	220,514	223,230	1.2
Twentynine Palms	27,600	25,929	-6.1
Upland	78,771	78,376	-0.5
Victorville	136,153	137,193	0.8
Yucaipa	54,242	53,991	-0.5
Yucca Valley	21,712	21,635	-0.4
Balance of County	298,777	297,482	-0.4
San Diego	3,275,435	3,269,755	-0.2
Carlsbad	114,865	114,549	-0.3
Chula Vista	274,077	274,784	0.3
Coronado	22,007	22,150	0.6
Del Mar	3,903	3,903	0.0
El Cajon	105,266	104,619	-0.6
Encinitas	61,283	61,085	-0.3
Escondido	150,059	149,799	-0.2
Imperial Beach	25,976	25,864	-0.4
La Mesa	60,240	60,418	0.3
Lemon Grove	27,089	27,420	1.2
National City	61,302	60,974	-0.5
Oceanside	171,766	171,063	-0.4

Poway	48,504	48,483	0.0
San Diego	1,372,829	1,368,395	-0.3
San Marcos	93,829	94,530	0.7
Santee	58,709	59,227	0.9
Solana Beach	12,778	12,784	0.0
Vista	99,978	99,835	-0.1
Balance of County	510,975	509,873	-0.2
San Francisco	837,036	831,703	-0.6
San Joaquin	782,811	786,145	0.4
Escalon	7,338	7,264	-1.0
Lathrop	31,575	35,080	11.1
Lodi	66,305	66,293	0.0
Manteca	86,784	88,803	2.3
Ripon	15,921	15,769	-1.0
Stockton	321,911	319,731	-0.7
Tracy	94,830	95,615	0.8
Balance of County	158,147	157,590	-0.4
San Luis Obispo	279,751	278,348	-0.5
Arroyo Grande	18,140	17,922	-1.2
Atascadero	30,301	30,206	-0.3
El Paso de Robles	31,009	30,692	-1.0
Grover Beach	12,623	12,467	-1.2
Morro Bay	10,415	10,275	-1.3
Pismo Beach	7,958	7,865	-1.2
San Luis Obispo	47,247	47,788	1.1
Balance of County	122,058	121,133	-0.8
San Mateo	740,821	737,644	-0.4
Atherton	6,710	6,678	-0.5
Belmont	27,030	26,793	-0.9
Brisbane	4,672	4,648	-0.5
Burlingame	30,069	30,136	0.2
Colma	1,371	1,359	-0.9
Daly City	102,040	101,471	-0.6
East Palo Alto	28,776	28,586	-0.7
Foster City	32,852	32,703	-0.5
Half Moon Bay	11,313	11,226	-0.8
Hillsborough	10,984	10,962	-0.2
Menlo Park	32,755	32,478	-0.8
Millbrae	22,468	22,487	0.1
Pacifica	37,236	37,082	-0.4
Portola Valley	4,270	4,247	-0.5
Redwood City	81,753	81,495	-0.3
San Bruno	42,340	42,054	-0.7
San Carlos	29,762	29,496	-0.9
San Mateo	103,651	103,318	-0.3
South San Francisco	64,325	64,323	0.0
Woodside	5,143	5,128	-0.3

Balance of County	61,301	60,974	-0.5
Santa Barbara	443,156	440,557	-0.6
Buellton	5,007	4,944	-1.3
Carpinteria	12,866	12,711	-1.2
Goleta	32,375	32,442	0.2
Guadalupe	8,467	8,515	0.6
Lompoc	43,733	43,493	-0.5
Santa Barbara	86,279	85,418	-1.0
Santa Maria	109,617	109,477	-0.1
Solvang	5,694	5,669	-0.4
Balance of County	139,118	137,888	-0.9
Santa Clara	1,890,967	1,886,079	-0.3
Campbell	43,092	42,713	-0.9
Cupertino	59,673	59,154	-0.9
Gilroy	59,709	60,078	0.6
Los Altos	31,257	31,021	-0.8
Los Altos Hills	8,414	8,380	-0.4
Los Gatos	33,167	33,102	-0.2
Milpitas	80,862	81,067	0.3
Monte Sereno	3,481	3,519	1.1
Morgan Hill	46,201	45,892	-0.7
Mountain View	83,856	83,601	-0.3
Palo Alto	67,693	67,287	-0.6
San Jose	963,745	959,256	-0.5
Santa Clara	130,462	132,476	1.5
Saratoga	30,758	30,567	-0.6
Sunnyvale	156,364	156,317	0.0
Balance of County	92,233	91,649	-0.6
Santa Cruz	264,912	262,051	-1.1
Capitola	9,753	9,625	-1.3
Santa Cruz	63,454	63,224	-0.4
Scotts Valley	12,010	11,859	-1.3
Watsonville	50,490	49,876	-1.2
Balance of County	129,205	127,467	-1.3
Shasta	180,651	179,436	-0.7
Anderson	11,133	11,027	-1.0
Redding	93,058	92,465	-0.6
Shasta Lake	10,302	10,217	-0.8
Balance of County	66,158	65,727	-0.7
Sierra	3,212	3,193	-0.6
Loyalton	751	744	-0.9
Balance of County	2,461	2,449	-0.5
Siskiyou	43,640	43,548	-0.2
Dorris	843	839	-0.5
Dunsmuir	1,672	1,663	-0.5
Etna	671	668	-0.4
Fort Jones	681	678	-0.4

Montague	1,208	1,203	-0.4
Mount Shasta	3,188	3,215	0.8
Tulelake	882	878	-0.5
Weed	2,815	2,693	-4.3
Yreka	7,732	7,825	1.2
Balance of County	23,948	23,886	-0.3
Solano	445,881	443,749	-0.5
Benicia	26,500	26,180	-1.2
Dixon	18,977	19,018	0.2
Fairfield	119,054	119,526	0.4
Rio Vista	9,916	9,988	0.7
Suisun City	28,809	28,471	-1.2
Vacaville	101,240	100,806	-0.4
Vallejo	123,154	121,658	-1.2
Balance of County	18,231	18,102	-0.7
Sonoma	480,623	478,174	-0.5
Cloverdale	8,869	8,787	-0.9
Cotati	7,410	7,360	-0.7
Healdsburg	10,993	10,914	-0.7
Petaluma	58,552	58,321	-0.4
Rohnert Park	43,701	43,693	0.0
Santa Rosa	175,351	174,523	-0.5
Sebastopol	7,433	7,348	-1.1
Sonoma	10,804	10,677	-1.2
Windsor	25,836	25,560	-1.1
Balance of County	131,674	130,991	-0.5
Stanislaus	548,719	545,939	-0.5
Ceres	48,207	47,729	-1.0
Hughson	7,497	7,565	0.9
Modesto	217,699	216,995	-0.3
Newman	12,162	12,040	-1.0
Oakdale	23,241	22,980	-1.1
Patterson	24,142	24,317	0.7
Riverbank	24,670	24,695	0.1
Turlock	71,214	70,856	-0.5
Waterford	8,932	9,042	1.2
Balance of County	110,955	109,720	-1.1
Sutter	99,090	98,952	-0.1
Live Oak	9,389	9,515	1.3
Yuba City	69,623	69,478	-0.2
Balance of County	20,078	19,959	-0.6
Tehama	64,907	64,271	-1.0
Corning	8,084	7,993	-1.1
Red Bluff	14,653	14,439	-1.5
Tehama	430	425	-1.2
Balance of County	41,740	41,414	-0.8
Trinity	15,967	15,939	-0.2

Tulare	474,507	475,064	0.1
Dinuba	25,222	25,469	1.0
Exeter	10,251	10,184	-0.7
Farmersville	10,221	10,151	-0.7
Lindsay	12,557	12,474	-0.7
Porterville	62,654	62,588	-0.1
Tulare	69,457	69,677	0.3
Visalia	142,066	143,031	0.7
Woodlake	7,647	7,711	0.8
Balance of County	134,432	133,779	-0.5
Tuolumne	54,465	54,590	0.2
Sonora	5,053	5,067	0.3
Balance of County	49,412	49,523	0.2
Ventura	831,533	825,653	-0.7
Camarillo	69,925	69,309	-0.9
Fillmore	16,454	16,899	2.7
Moorpark	35,380	35,151	-0.6
Ojai	7,568	7,493	-1.0
Oxnard	199,839	197,477	-1.2
Port Hueneme	21,552	21,356	-0.9
San Buenaventura	107,505	107,341	-0.2
Santa Paula	31,145	31,423	0.9
Simi Valley	124,333	124,174	-0.1
Thousand Oaks	124,439	122,967	-1.2
Balance of County	93,393	92,063	-1.4
Yolo	221,639	220,880	-0.3
Davis	64,814	64,097	-1.1
West Sacramento	53,071	54,187	2.1
Winters	7,464	7,534	0.9
Woodland	60,299	59,881	-0.7
Balance of County	35,991	35,181	-2.3
Yuba	82,193	82,677	0.6
Marysville	12,749	12,606	-1.1
Wheatland	3,645	3,811	4.6
Balance of County	65,799	66,260	0.7

Department of Finance

Demographic Research Unit

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For more information:

<https://dof.ca.gov/forecasting/demographics/estimates-e1/>

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[About the Data](#)
E-1: City/County Population Estimates with Annual Percent Change
January 1, 2021 and 2022

State/County/City	Total Population		Percent
	1/1/2021	1/1/2022	Change
California	39,303,157	39,185,605	-0.3
Alameda	1,662,370	1,651,979	-0.6
Alameda	78,262	77,784	-0.6
Albany	20,542	21,648	5.4
Berkeley	121,269	124,563	2.7
Dublin	73,209	72,932	-0.4
Emeryville	12,617	12,497	-1.0
Fremont	228,872	229,476	0.3
Hayward	161,744	160,591	-0.7
Livermore	87,388	86,149	-1.4
Newark	47,157	47,229	0.2
Oakland	430,100	424,464	-1.3
Piedmont	11,138	10,977	-1.4
Pleasanton	78,924	77,609	-1.7
San Leandro	89,926	88,404	-1.7
Union City	69,301	68,150	-1.7
Balance of County	151,921	149,506	-1.6
Alpine	1,195	1,200	0.4
Amador	40,287	40,297	0.0
Amador	193	191	-1.0
Ione	8,722	8,888	1.9
Jackson	5,028	5,028	0.0
Plymouth	1,056	1,045	-1.0
Sutter Creek	2,640	2,620	-0.8
Balance of County	22,648	22,525	-0.5
Butte	206,640	201,608	-2.4
Biggs	1,974	1,939	-1.8
Chico	102,359	102,892	0.5
Gridley	7,413	7,205	-2.8
Oroville	20,119	18,863	-6.2
Paradise	6,137	7,705	25.5
Balance of County	68,638	63,004	-8.2
Calaveras	45,250	45,049	-0.4
Angels City	3,641	3,623	-0.5
Balance of County	41,609	41,426	-0.4
Colusa	21,773	21,807	0.2
Colusa	6,356	6,383	0.4
Williams	5,530	5,563	0.6
Balance of County	9,887	9,861	-0.3
Contra Costa	1,161,324	1,156,555	-0.4
Antioch	115,142	115,074	-0.1
Brentwood	64,224	64,342	0.2
Clayton	10,964	10,863	-0.9
Concord	124,755	123,634	-0.9

Danville	43,373	43,352	0.0
El Cerrito	25,671	25,650	-0.1
Hercules	26,357	26,091	-1.0
Lafayette	25,217	25,064	-0.6
Martinez	37,195	36,908	-0.8
Moraga	17,206	17,105	-0.6
Oakley	43,627	44,533	2.1
Orinda	19,496	19,478	-0.1
Pinole	18,819	18,628	-1.0
Pittsburg	75,788	75,156	-0.8
Pleasant Hill	34,335	34,026	-0.9
Richmond	114,643	114,489	-0.1
San Pablo	31,793	31,510	-0.9
San Ramon	84,226	83,820	-0.5
Walnut Creek	70,566	69,891	-1.0
Balance of County	177,927	176,941	-0.6
Del Norte	27,593	27,218	-1.4
Crescent City	6,320	6,060	-4.1
Balance of County	21,273	21,158	-0.5
El Dorado	191,054	190,465	-0.3
Placerville	10,636	10,646	0.1
South Lake Tahoe	21,508	21,199	-1.4
Balance of County	158,910	158,620	-0.2
Fresno	1,009,231	1,011,273	0.2
Clovis	121,667	123,665	1.6
Coalinga	17,520	17,277	-1.4
Firebaugh	8,164	8,439	3.4
Fowler	6,863	6,962	1.4
Fresno	542,720	543,660	0.2
Huron	6,176	6,170	-0.1
Kerman	16,074	16,639	3.5
Kingsburg	12,533	12,506	-0.2
Mendota	12,499	12,440	-0.5
Orange Cove	9,553	9,497	-0.6
Parlier	14,553	14,497	-0.4
Reedley	24,929	24,982	0.2
Sanger	26,558	26,304	-1.0
San Joaquin	3,674	3,639	-1.0
Selma	24,702	24,522	-0.7
Balance of County	161,046	160,074	-0.6
Glenn	28,788	28,750	-0.1
Orland	8,319	8,267	-0.6
Willows	6,345	6,427	1.3
Balance of County	14,124	14,056	-0.5
Humboldt	135,553	135,168	-0.3
Arcata	17,633	18,059	2.4
Blue Lake	1,165	1,151	-1.2
Eureka	27,134	26,768	-1.3
Ferndale	1,376	1,367	-0.7

Fortuna	12,523	12,432	-0.7
Rio Dell	3,380	3,342	-1.1
Trinidad	300	296	-1.3
Balance of County	72,042	71,753	-0.4
Imperial	179,488	179,329	-0.1
Brawley	26,648	26,952	1.1
Calexico	38,906	38,711	-0.5
Calipatria	6,465	6,367	-1.5
El Centro	44,871	44,508	-0.8
Holtville	5,504	5,565	1.1
Imperial	20,755	21,513	3.7
Westmorland	2,017	2,004	-0.6
Balance of County	34,322	33,709	-1.8
Inyo	18,982	18,978	0.0
Bishop	3,868	3,869	0.0
Balance of County	15,114	15,109	0.0
Kern	907,324	909,813	0.3
Arvin	19,833	19,639	-1.0
Bakersfield	406,129	408,865	0.7
California City	14,942	14,952	0.1
Delano	50,045	51,258	2.4
Maricopa	1,028	1,018	-1.0
McFarland	14,034	13,902	-0.9
Ridgecrest	28,059	28,061	0.0
Shafter	19,950	20,486	2.7
Taft	7,355	7,011	-4.7
Tehachapi	12,260	12,375	0.9
Wasco	25,235	26,689	5.8
Balance of County	308,454	305,557	-0.9
Kings	151,059	152,023	0.6
Avenal	12,750	13,186	3.4
Corcoran	20,807	22,047	6.0
Hanford	58,544	58,299	-0.4
Lemoore	27,225	27,058	-0.6
Balance of County	31,733	31,433	-0.9
Lake	67,651	67,407	-0.4
Clearlake	16,671	16,509	-1.0
Lakeport	4,898	4,999	2.1
Balance of County	46,082	45,899	-0.4
Lassen	31,132	30,274	-2.8
Susanville	14,514	13,212	-9.0
Balance of County	16,618	17,062	2.7
Los Angeles	9,931,338	9,861,224	-0.7
Agoura Hills	19,975	19,771	-1.0
Alhambra	82,182	81,834	-0.4
Arcadia	56,240	55,934	-0.5
Artesia	16,347	16,226	-0.7
Avalon	3,428	3,394	-1.0
Azusa	50,191	49,704	-1.0

Baldwin Park	71,455	70,855	-0.8
Bell	33,962	33,624	-1.0
Bellflower	78,107	77,359	-1.0
Bell Gardens	39,265	38,861	-1.0
Beverly Hills	32,565	32,265	-0.9
Bradbury	914	904	-1.1
Burbank	106,268	105,451	-0.8
Calabasas	23,151	22,926	-1.0
Carson	92,912	92,362	-0.6
Cerritos	49,163	48,634	-1.1
Claremont	37,364	37,072	-0.8
Commerce	12,273	12,140	-1.1
Compton	95,261	94,233	-1.1
Covina	50,933	50,449	-1.0
Cudahy	22,526	22,318	-0.9
Culver City	40,330	40,135	-0.5
Diamond Bar	54,782	54,204	-1.1
Downey	113,525	112,584	-0.8
Duarte	21,473	21,258	-1.0
El Monte	108,728	107,706	-0.9
El Segundo	17,244	17,084	-0.9
Gardena	60,382	59,947	-0.7
Glendale	194,618	193,116	-0.8
Glendora	52,316	51,821	-0.9
Hawaiian Gardens	13,755	13,619	-1.0
Hawthorne	87,722	86,841	-1.0
Hermosa Beach	19,382	19,171	-1.1
Hidden Hills	1,736	1,738	0.1
Huntington Park	54,519	53,942	-1.1
Industry	440	438	-0.5
Inglewood	107,143	106,481	-0.6
Irwindale	1,482	1,490	0.5
La Canada Flintridge	20,291	20,081	-1.0
La Habra Heights	5,655	5,594	-1.1
Lakewood	81,681	80,876	-1.0
La Mirada	49,074	48,696	-0.8
Lancaster	176,166	175,164	-0.6
La Puente	37,626	37,587	-0.1
La Verne	32,608	32,304	-0.9
Lawndale	31,638	31,301	-1.1
Lomita	20,851	20,633	-1.0
Long Beach	459,757	460,682	0.2
Los Angeles	3,853,323	3,819,538	-0.9
Lynwood	67,260	66,723	-0.8
Malibu	10,739	10,686	-0.5
Manhattan Beach	35,357	34,902	-1.3
Maywood	25,033	24,814	-0.9
Monrovia	37,809	37,563	-0.7
Montebello	62,180	61,622	-0.9

Monterey Park	60,814	60,207	-1.0
Norwalk	102,356	101,645	-0.7
Palmdale	168,895	167,398	-0.9
Palos Verdes Estates	13,116	12,980	-1.0
Paramount	53,009	52,477	-1.0
Pasadena	139,029	138,310	-0.5
Pico Rivera	61,827	61,442	-0.6
Pomona	148,879	149,766	0.6
Rancho Palos Verdes	41,878	41,468	-1.0
Redondo Beach	69,742	68,972	-1.1
Rolling Hills	1,703	1,684	-1.1
Rolling Hills Estates	8,283	8,289	0.1
Rosemead	50,823	50,511	-0.6
San Dimas	34,651	34,352	-0.9
San Fernando	23,520	23,519	0.0
San Gabriel	39,250	38,845	-1.0
San Marino	12,334	12,257	-0.6
Santa Clarita	228,084	228,835	0.3
Santa Fe Springs	18,568	18,763	1.1
Santa Monica	93,242	92,408	-0.9
Sierra Madre	10,959	10,865	-0.9
Signal Hill	11,702	11,597	-0.9
South El Monte	19,532	19,668	0.7
South Gate	92,783	93,259	0.5
South Pasadena	26,849	26,580	-1.0
Temple City	36,497	36,262	-0.6
Torrance	145,876	144,433	-1.0
Vernon	210	208	-1.0
Walnut	28,344	28,094	-0.9
West Covina	109,290	108,243	-1.0
West Hollywood	35,553	35,399	-0.4
Westlake Village	8,121	8,043	-1.0
Whittier	87,886	87,931	0.1
Balance of County	1,016,626	1,009,857	-0.7
Madera	156,385	157,396	0.6
Chowchilla	18,412	18,851	2.4
Madera	66,299	65,843	-0.7
Balance of County	71,674	72,702	1.4
Marin	259,512	257,135	-0.9
Belvedere	2,103	2,080	-1.1
Corte Madera	10,147	10,028	-1.2
Fairfax	7,496	7,418	-1.0
Larkspur	12,963	12,797	-1.3
Mill Valley	14,002	13,850	-1.1
Novato	53,008	52,441	-1.1
Ross	2,330	2,301	-1.2
San Anselmo	12,772	12,645	-1.0
San Rafael	61,179	60,560	-1.0
Sausalito	7,159	7,072	-1.2

Tiburon	9,065	8,956	-1.2
Balance of County	67,288	66,987	-0.4
Mariposa	17,066	17,045	-0.1
Mendocino	90,669	89,999	-0.7
Fort Bragg	7,064	7,153	1.3
Point Arena	446	443	-0.7
Ukiah	16,228	16,080	-0.9
Willits	4,959	4,920	-0.8
Balance of County	61,972	61,403	-0.9
Merced	281,874	284,338	0.9
Atwater	32,019	31,652	-1.1
Dos Palos	5,835	5,715	-2.1
Gustine	6,098	5,981	-1.9
Livingston	14,340	14,410	0.5
Los Banos	46,168	46,639	1.0
Merced	88,200	89,058	1.0
Balance of County	89,214	90,883	1.9
Modoc	8,606	8,690	1.0
Alturas	2,699	2,726	1.0
Balance of County	5,907	5,964	1.0
Mono	13,299	13,379	0.6
Mammoth Lakes	7,324	7,365	0.6
Balance of County	5,975	6,014	0.7
Monterey	435,721	433,716	-0.5
Carmel-by-the-Sea	3,095	3,041	-1.7
Del Rey Oaks	1,558	1,539	-1.2
Gonzales	8,492	8,340	-1.8
Greenfield	18,705	19,634	5.0
King City	13,476	13,331	-1.1
Marina	21,271	21,457	0.9
Monterey	28,347	28,082	-0.9
Pacific Grove	14,942	14,761	-1.2
Salinas	161,777	159,932	-1.1
Sand City	378	372	-1.6
Seaside	31,113	32,068	3.1
Soledad	26,316	26,308	0.0
Balance of County	106,251	104,851	-1.3
Napa	137,518	136,179	-1.0
American Canyon	21,566	21,658	0.4
Calistoga	5,283	5,199	-1.6
Napa	78,246	77,480	-1.0
St Helena	5,521	5,437	-1.5
Yountville	2,942	2,829	-3.8
Balance of County	23,960	23,576	-1.6
Nevada	101,919	101,242	-0.7
Grass Valley	13,670	13,617	-0.4
Nevada City	3,386	3,334	-1.5
Truckee	17,035	17,100	0.4
Balance of County	67,828	67,191	-0.9

Orange	3,169,542	3,162,245	-0.2
Aliso Viejo	51,233	50,782	-0.9
Anaheim	344,604	341,245	-1.0
Brea	47,097	46,872	-0.5
Buena Park	83,968	83,430	-0.6
Costa Mesa	112,183	111,394	-0.7
Cypress	50,029	49,810	-0.4
Dana Point	33,053	32,943	-0.3
Fountain Valley	57,068	56,564	-0.9
Fullerton	141,974	142,732	0.5
Garden Grove	171,284	170,526	-0.4
Huntington Beach	197,616	196,100	-0.8
Irvine	301,254	310,250	3.0
Laguna Beach	22,862	22,706	-0.7
Laguna Hills	31,017	30,750	-0.9
Laguna Niguel	64,885	64,316	-0.9
Laguna Woods	17,670	17,514	-0.9
La Habra	62,317	61,792	-0.8
Lake Forest	86,406	86,775	0.4
La Palma	15,463	15,332	-0.8
Los Alamitos	11,895	11,873	-0.2
Mission Viejo	93,171	92,515	-0.7
Newport Beach	84,459	83,727	-0.9
Orange	137,534	137,676	0.1
Placentia	51,522	51,204	-0.6
Rancho Santa Margarita	47,703	47,279	-0.9
San Clemente	63,877	63,380	-0.8
San Juan Capistrano	34,907	34,798	-0.3
Santa Ana	311,340	308,459	-0.9
Seal Beach	25,002	24,846	-0.6
Stanton	38,284	39,275	2.6
Tustin	80,157	79,535	-0.8
Villa Park	5,834	5,782	-0.9
Westminster	90,812	90,393	-0.5
Yorba Linda	67,760	67,233	-0.8
Balance of County	133,302	132,437	-0.6
Placer	407,517	409,025	0.4
Auburn	13,795	13,608	-1.4
Colfax	2,016	2,042	1.3
Lincoln	50,422	51,252	1.6
Loomis	6,833	6,739	-1.4
Rocklin	71,644	71,663	0.0
Roseville	148,794	151,034	1.5
Balance of County	114,013	112,687	-1.2
Plumas	19,574	18,942	-3.2
Portola	2,027	2,042	0.7
Balance of County	17,547	16,900	-3.7
Riverside	2,424,587	2,435,525	0.5
Banning	30,629	30,877	0.8

Beaumont	54,313	54,690	0.7
Blythe	17,470	17,505	0.2
Calimesa	10,544	10,899	3.4
Canyon Lake	11,147	11,056	-0.8
Cathedral City	51,898	51,840	-0.1
Coachella	42,178	42,158	0.0
Corona	156,901	156,778	-0.1
Desert Hot Springs	32,546	32,569	0.1
Eastvale	70,444	69,929	-0.7
Hemet	89,823	89,646	-0.2
Indian Wells	4,771	4,762	-0.2
Indio	88,862	89,137	0.3
Jurupa Valley	105,415	105,384	0.0
Lake Elsinore	70,891	71,615	1.0
La Quinta	37,949	37,860	-0.2
Menifee	103,617	106,627	2.9
Moreno Valley	209,603	209,407	-0.1
Murrieta	111,671	111,183	-0.4
Norco	24,563	24,909	1.4
Palm Desert	50,976	50,889	-0.2
Palm Springs	44,570	44,397	-0.4
Perris	79,327	78,890	-0.6
Rancho Mirage	16,650	16,804	0.9
Riverside	312,789	317,847	1.6
San Jacinto	54,503	54,593	0.2
Temecula	110,394	109,925	-0.4
Wildomar	36,928	36,632	-0.8
Balance of County	393,215	396,717	0.9
Sacramento	1,580,624	1,576,618	-0.3
Citrus Heights	87,245	86,367	-1.0
Elk Grove	176,769	176,972	0.1
Folsom	83,075	84,592	1.8
Galt	25,383	25,239	-0.6
Isleton	790	780	-1.3
Rancho Cordova	79,536	80,359	1.0
Sacramento	518,322	518,037	-0.1
Balance of County	609,504	604,272	-0.9
San Benito	64,769	65,479	1.1
Hollister	41,919	42,554	1.5
San Juan Bautista	2,120	2,093	-1.3
Balance of County	20,730	20,832	0.5
San Bernardino	2,182,343	2,187,665	0.2
Adelanto	36,569	36,357	-0.6
Apple Valley	76,160	75,628	-0.7
Barstow	25,405	25,202	-0.8
Big Bear Lake	5,054	5,041	-0.3
Chino	89,824	91,998	2.4
Chino Hills	78,437	77,964	-0.6
Colton	53,853	53,617	-0.4

Fontana	209,889	212,809	1.4
Grand Terrace	13,131	13,042	-0.7
Hesperia	100,225	100,324	0.1
Highland	56,915	56,546	-0.6
Loma Linda	25,310	25,349	0.2
Montclair	38,052	37,846	-0.5
Needles	4,915	4,876	-0.8
Ontario	176,689	179,516	1.6
Rancho Cucamonga	174,484	174,476	0.0
Redlands	72,933	72,585	-0.5
Rialto	104,050	103,954	-0.1
San Bernardino	222,024	220,840	-0.5
Twentynine Palms	27,486	27,685	0.7
Upland	78,891	79,139	0.3
Victorville	134,700	136,561	1.4
Yucaipa	54,830	54,494	-0.6
Yucca Valley	21,846	21,813	-0.2
Balance of County	300,671	300,003	-0.2
San Diego	3,288,503	3,287,306	0.0
Carlsbad	115,680	115,585	-0.1
Chula Vista	276,922	276,785	0.0
Coronado	22,611	22,277	-1.5
Del Mar	3,957	3,929	-0.7
El Cajon	106,447	105,638	-0.8
Encinitas	61,724	61,515	-0.3
Escondido	151,389	150,679	-0.5
Imperial Beach	26,448	26,243	-0.8
La Mesa	60,608	60,472	-0.2
Lemon Grove	27,422	27,242	-0.7
National City	61,755	61,471	-0.5
Oceanside	173,932	173,048	-0.5
Poway	48,850	48,759	-0.2
San Diego	1,371,832	1,374,790	0.2
San Marcos	92,958	93,585	0.7
Santee	59,146	59,015	-0.2
Solana Beach	12,909	12,812	-0.8
Vista	99,536	100,291	0.8
Balance of County	514,377	513,170	-0.2
San Francisco	849,475	842,754	-0.8
San Joaquin	782,372	784,298	0.2
Escalon	7,439	7,362	-1.0
Lathrop	29,384	31,331	6.6
Lodi	66,145	66,570	0.6
Manteca	84,995	86,859	2.2
Ripon	16,162	15,979	-1.1
Stockton	323,884	322,489	-0.4
Tracy	93,624	94,538	1.0
Balance of County	160,739	159,170	-1.0
San Luis Obispo	279,710	280,721	0.4

Arroyo Grande	18,533	18,294	-1.3
Atascadero	30,823	30,480	-1.1
El Paso de Robles	31,659	31,176	-1.5
Grover Beach	12,879	12,707	-1.3
Morro Bay	10,638	10,466	-1.6
Pismo Beach	8,095	7,981	-1.4
San Luis Obispo	47,541	47,653	0.2
Balance of County	119,542	121,964	2.0
San Mateo	751,596	744,662	-0.9
Atherton	6,806	6,718	-1.3
Belmont	27,587	27,203	-1.4
Brisbane	4,789	4,721	-1.4
Burlingame	30,699	30,283	-1.4
Colma	1,391	1,370	-1.5
Daly City	103,930	102,875	-1.0
East Palo Alto	29,423	28,963	-1.6
Foster City	33,325	33,056	-0.8
Half Moon Bay	11,462	11,308	-1.3
Hillsborough	11,110	11,018	-0.8
Menlo Park	33,509	33,034	-1.4
Millbrae	22,807	22,512	-1.3
Pacifica	38,088	37,533	-1.5
Portola Valley	4,355	4,289	-1.5
Redwood City	81,771	82,344	0.7
San Bruno	43,169	42,656	-1.2
San Carlos	30,207	29,837	-1.2
San Mateo	104,719	103,779	-0.9
South San Francisco	65,090	64,492	-0.9
Woodside	5,271	5,212	-1.1
Balance of County	62,088	61,459	-1.0
Santa Barbara	443,674	445,164	0.3
Buellton	5,185	5,055	-2.5
Carpinteria	13,267	12,963	-2.3
Goleta	33,315	32,591	-2.2
Guadalupe	8,622	8,544	-0.9
Lompoc	44,044	43,845	-0.5
Santa Barbara	88,499	86,591	-2.2
Santa Maria	110,969	109,910	-1.0
Solvang	5,858	5,709	-2.5
Balance of County	133,915	139,956	4.5
Santa Clara	1,907,693	1,894,783	-0.7
Campbell	43,086	42,833	-0.6
Cupertino	59,884	59,610	-0.5
Gilroy	59,396	59,269	-0.2
Los Altos	31,651	31,526	-0.4
Los Altos Hills	8,414	8,400	-0.2
Los Gatos	33,193	33,062	-0.4
Milpitas	80,287	80,839	0.7
Monte Sereno	3,458	3,488	0.9

Morgan Hill	46,626	46,451	-0.4
Mountain View	83,128	83,864	0.9
Palo Alto	67,422	67,473	0.1
San Jose	991,144	976,482	-1.5
Santa Clara	129,122	130,127	0.8
Saratoga	30,772	30,667	-0.3
Sunnyvale	155,326	156,234	0.6
Balance of County	84,784	84,458	-0.4
Santa Cruz	266,553	266,564	0.0
Capitola	10,112	9,794	-3.1
Santa Cruz	57,594	64,075	11.3
Scotts Valley	12,407	12,049	-2.9
Watsonville	52,147	50,669	-2.8
Balance of County	134,293	129,977	-3.2
Shasta	182,020	180,531	-0.8
Anderson	11,181	11,088	-0.8
Redding	93,879	92,963	-1.0
Shasta Lake	10,318	10,237	-0.8
Balance of County	66,642	66,243	-0.6
Sierra	3,225	3,229	0.1
Loyalton	737	737	0.0
Balance of County	2,488	2,492	0.2
Siskiyou	43,931	43,830	-0.2
Dorris	859	847	-1.4
Dunsmuir	1,705	1,681	-1.4
Etna	684	674	-1.5
Fort Jones	694	684	-1.4
Montague	1,232	1,215	-1.4
Mount Shasta	3,247	3,204	-1.3
Tulelake	899	886	-1.4
Weed	2,826	2,828	0.1
Yreka	7,777	7,772	-0.1
Balance of County	24,008	24,039	0.1
Solano	449,964	447,241	-0.6
Benicia	26,995	26,656	-1.3
Dixon	19,094	19,083	-0.1
Fairfield	120,421	119,897	-0.4
Rio Vista	9,961	9,925	-0.4
Suisun City	29,266	28,896	-1.3
Vacaville	101,286	101,257	0.0
Vallejo	124,410	123,190	-1.0
Balance of County	18,531	18,337	-1.0
Sonoma	484,674	482,404	-0.5
Cloverdale	9,029	8,905	-1.4
Cotati	7,512	7,397	-1.5
Healdsburg	11,174	11,030	-1.3
Petaluma	59,756	58,945	-1.4
Rohnert Park	44,287	43,998	-0.7
Santa Rosa	177,396	175,775	-0.9

Sebastopol	7,520	7,489	-0.4
Sonoma	10,755	10,779	0.2
Windsor	26,134	25,942	-0.7
Balance of County	131,111	132,144	0.8
Stanislaus	551,737	549,466	-0.4
Ceres	48,762	48,386	-0.8
Hughson	7,495	7,495	0.0
Modesto	218,745	217,880	-0.4
Newman	12,326	12,244	-0.7
Oakdale	23,110	23,071	-0.2
Patterson	23,839	24,370	2.2
Riverbank	24,735	24,583	-0.6
Turlock	71,734	71,531	-0.3
Waterford	8,944	8,872	-0.8
Balance of County	112,047	111,034	-0.9
Sutter	98,908	99,145	0.2
Live Oak	9,191	9,394	2.2
Yuba City	69,614	69,663	0.1
Balance of County	20,103	20,088	-0.1
Tehama	65,374	65,052	-0.5
Corning	8,157	8,100	-0.7
Red Bluff	14,698	14,605	-0.6
Tehama	427	424	-0.7
Balance of County	42,092	41,923	-0.4
Trinity	16,050	16,023	-0.2
Tulare	474,032	475,014	0.2
Dinuba	24,872	25,127	1.0
Exeter	10,305	10,257	-0.5
Farmersville	10,308	10,239	-0.7
Lindsay	12,624	12,566	-0.5
Porterville	62,515	62,345	-0.3
Tulare	69,229	69,462	0.3
Visalia	141,279	142,091	0.6
Woodlake	7,513	7,648	1.8
Balance of County	135,387	135,279	-0.1
Tuolumne	54,791	55,291	0.9
Sonora	5,121	5,144	0.4
Balance of County	49,670	50,147	1.0
Ventura	840,093	833,652	-0.8
Camarillo	70,739	70,171	-0.8
Fillmore	16,681	16,469	-1.3
Moorpark	35,821	35,399	-1.2
Ojai	7,523	7,466	-0.8
Oxnard	200,480	200,050	-0.2
Port Hueneme	22,188	21,599	-2.7
San Buenaventura	109,821	108,231	-1.4
Santa Paula	30,629	30,892	0.9
Simi Valley	126,478	124,985	-1.2
Thousand Oaks	125,995	124,592	-1.1

Balance of County	93,738	93,798	0.1
Yolo	217,237	221,165	1.8
Davis	66,687	64,869	-2.7
West Sacramento	53,776	52,837	-1.7
Winters	7,399	7,422	0.3
Woodland	60,999	60,137	-1.4
Balance of County	28,376	35,900	26.5
Yuba	81,988	82,275	0.4
Marysville	13,003	12,824	-1.4
Wheatland	3,708	3,664	-1.2
Balance of County	65,277	65,787	0.8

Department of Finance

Demographic Research Unit

Phone: (916) 323-4086

For more information: <http://www.dof.ca.gov/research/demographic/reports/estimates/e-1/view.php>

Released on May 2, 2022



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Status and Review of Local Drought Emergency

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 May 16, 2023, 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. On March 24, 2023, due to atmospheric river storms during the month of March 2023, Governor Newsom issued Executive Order N-5-23 that ended the requirement that the state's largest water providers (including the City of Porterville) put in place "Level 2" of water storage contingency plans (the City of Porterville is currently in "Level 4"), as well as ended the voluntary fifteen percent (15%) water conservation target.

At its meeting on January 17, 2023, the Council considered an emergency request from the County of Tulare for assistance to Self-Help Enterprises, Inc. (SHE) in the provision of source water for the Emergency Tank Program that serves 389 residences across Tulare County where domestic wells have run dry due to continued drought. The County had been providing source water from its well at the Bob Wiley Detention Facility, north of Visalia, but the recent

rainfall had caused damage and the temporary closure of the access road to the well. The Council acted to grant the County's request for emergency assistance and provide source water to SHE to continue the Emergency Tank Program, to be reviewed at its next regular meeting on February 7, 2023. On January 20, 2023, SHE began taking City water for delivery. The County later reported that the access road had been repaired and that the County source well was accessible again to SHE beginning on February 1, 2023. According to the City water meter report, approximately 111,500 gallons of water was accessed by SHE, with a corresponding cost of \$350. At Council's direction, City staff has also been in contact and coordinating with the Eastern Tule Groundwater Sustainability Agency (ETGSA) in regard to source water from the ETGSA crossing over into other GSA territories and other Sub-basins (e.g. Kaweah) and addressing any potential impacts, although it is important to note that the same has been happening from the County well that is located in the Kaweah Sub-basin.

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. Governor Newsom Executive Order N-5-23: March 24, 2023
 9. 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

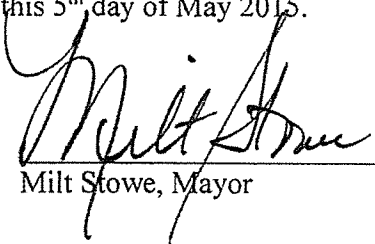
WHEREAS: the long-term ramifications of the current drought will have a significant impact on the city of Porterville and potentially pose a danger to the health and welfare of its residents; and

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

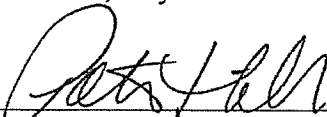
BE IT FURTHER RESOLVED: that a copy of this resolution be forwarded to the State Director of the Office of Emergency Services.

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 and title 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

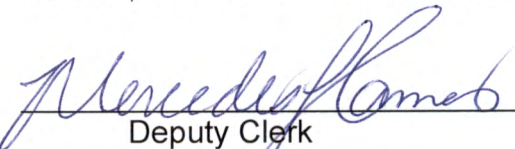
ABSTAIN: NONE

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

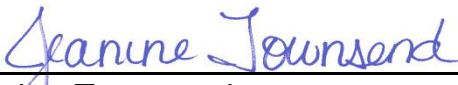
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on January 4, 2022.

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

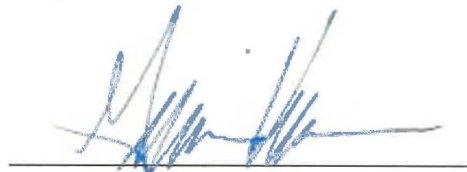
Groundwater Management Grant Program occurring on open and working lands to replenish and store water in groundwater basins that will help mitigate groundwater conditions impacted by drought, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Department of Water 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

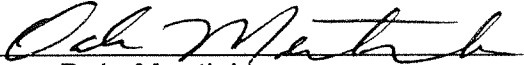
OAL Matter Type: Emergency (E)

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 3:18

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

State Water Resources Control Board

AGENCY FILE NUMBER (If any)

ENDORSED - FILED
in the office of the Secretary of State
of the State of California

JUN 10 2022

2:06 PM

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)
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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 23
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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)
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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

Digitally signed by Eric Oppenheimer
Date: 2022.06.06 14:24:44 -0700

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

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-5-23

WHEREAS on April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, I proclaimed States of Emergency to exist due to drought conditions; and

WHEREAS the multi-year nature of the current drought, which began three years after the record-setting drought of 2012-2016, continues to have significant, immediate impacts on communities across California 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 March 3, 2023, snow survey conducted by the Department of Water Resources and partner agencies found that most regions of the Sierra Nevada are above average for snow water content, and some regions are nearing record amounts of snow, and snow and rain has fallen across many regions of the state since then, with more precipitation forecasted; and

WHEREAS improved conditions have helped rehabilitate surface water supplies, but have not abated the severe drought conditions that remain in some parts of the State, including the Klamath River basin and the Colorado River basin, and many groundwater basins throughout the State remain depleted from overreliance and successive multi-year droughts; and

WHEREAS continued action by the State is needed to address ongoing consequences of the drought emergency, including groundwater supply shortages, domestic well failures, and drought-related harm to native fishes in the Klamath River and Clear Lake watersheds; and

WHEREAS the drought emergency has required a dynamic and flexible response from the State, and several provisions in my prior Proclamations and Orders have been terminated or superseded already, specifically Paragraphs 4 and 8 of my State of Emergency Proclamation dated April 21, 2021, Paragraphs 2, 4, and 7 of my State of Emergency Proclamation dated May 10, 2021, Paragraphs 3, 4, 5, 6, and 10 of my State of Emergency Proclamation dated July 8, 2021, and Paragraph 9 of Executive Order N-7-22; and

WHEREAS improved conditions warrant an even more targeted State response to the ongoing drought emergency and certain provisions in my State of Emergency Proclamations dated April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, and in Executive Orders N-10-21, N-7-22, and N-3-23 provide authority that is no longer needed to mitigate the effects of the drought conditions or direct actions by state agencies, departments, and boards that have already been completed; and

WHEREAS notwithstanding the rescission of certain emergency authorities for emergency drinking water action, state agencies have existing legal authority and funding to continue expedited work to advance the human right to water, and state agencies will continue all ongoing drought resilience planning work, including through coordination with local agencies and tribes; and

WHEREAS next winter's hydrology is uncertain and the most efficient way to preserve the State's improved surface water supplies is for Californians to continue their ongoing efforts to make conservation a way of life; 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 Order 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 State of Emergency Proclamations dated April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, and Executive Orders N-7-22 (March 28, 2022), N-3-23 (February 13, 2023), and N-4-23 (March 10, 2023), remain in full force and effect, except as modified by those Proclamations and Orders and herein. State agencies shall continue to implement all directions from those Proclamations and Orders and accelerate implementation where feasible.
2. The following provisions of my State of Emergency Proclamation dated April 21, 2021, are terminated:
 - a. Paragraph 2;
 - b. Paragraphs 5-7; and
 - c. Paragraphs 9-14.
3. The following provisions of my State of Emergency Proclamation dated May 10, 2021, are terminated:
 - a. Paragraph 1;
 - b. Paragraph 3;
 - c. Paragraph 5; and
 - d. Paragraphs 9-10.
4. The following provisions of my State of Emergency Proclamation dated July 8, 2021, are terminated:
 - a. Paragraph 2;
 - b. Paragraphs 7-8, except those portions of paragraph 7 withdrawing provisions of prior orders;
 - c. Paragraphs 11-12.

5. The following provisions of my State of Emergency Proclamation dated October 19, 2021, are terminated:

- a. Paragraph 2;
- b. Paragraphs 4-5;
- c. Paragraph 8; and
- d. Paragraph 10.

6. The following provisions of Executive Order N-10-21 are terminated:

- a. Paragraph 1; and
- b. Paragraph 3

7. The following provisions of Executive Order N-7-22 are terminated:

- a. Paragraphs 1-3;
- b. Paragraph 6; and
- c. Paragraphs 14-15.

8. The following provisions of Executive Order N-3-23 are terminated:

- a. Paragraph 1; and
- b. Paragraph 3, except those portions of the paragraph withdrawing provisions of prior orders.

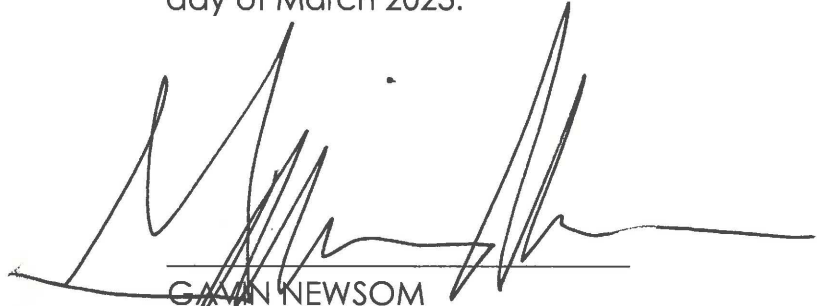
9. Paragraph 6 of my State of Emergency Proclamation dated May 10, 2021, and Paragraph 9 of my State of Emergency Proclamation dated July 8, 2021, are withdrawn and replaced with the following text:

To ensure critical instream flows for species protection in the Klamath River and Clear Lake watersheds, the State Water Resources Control Board (Water Board) and Department of Fish and Wildlife shall evaluate the minimum instream flows and other actions needed to protect salmon, steelhead, the Clear Lake Hitch, and other native fishes in critical streams systems in these watersheds and work with water users, tribes, and other parties on voluntary measures to implement those actions. To the extent voluntary actions are not sufficient, the Water Board, in coordination with the Department of Fish and Wildlife, shall consider emergency regulations to establish minimum instream flows to mitigate the effects of the drought conditions. For purposes of state agencies carrying out or approving any actions contemplated by this paragraph, Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division are suspended. Nothing in this Paragraph affects or limits the validity of actions already taken in the Klamath and Clear Lake watersheds or ongoing under Paragraph 6 of my State of Emergency Proclamation dated May 10, 2021, or Paragraph 9 of my State of Emergency Proclamation dated July 8, 2021.

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 24th day of March 2023.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, PH.D.
Secretary of State



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

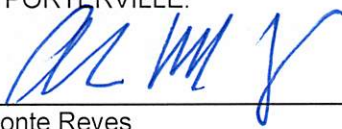
Each party may change its contact upon written notice to the other party. While Party Contacts are contacts for day-to-day communications regarding Project work, the Recipient must provide official communications and notices to the Division's Deputy Director.

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.

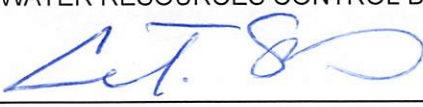
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

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 – JUNE 6, 2023

SUBJECT: Public Hearing to Consider Amendments to Series 200 of the Porterville Development Ordinance

SOURCE: Community Development

COMMENT: The PO (Professional Office) zone district exists to support development of offices and research and development, along with limited retail and support uses. Personal services, including such uses as salons, tailors, and self-service laundries, fall within the “service” aspect of business operation as opposed to the retail aspect. Currently, Development Ordinance Table 204.02 allows these types of activities, but only as an accessory or secondary use to a primary office use and sets a maximum floor area of 5,000 square feet for personal services. Property owners and prospective businesspersons have expressed interest in personal service activities but have abandoned those interests due to the difficulty and impracticality of establishing a primary office use simply to facilitate operation of a secondary services use.

To promote personal service uses and reduce vacancy and underutilization of properties within the PO district, the draft Ordinance would amend Development Ordinance Sections 204.01 to clarify the intent of the PO zone district and PMC Section 204.02 to both remove the requirement for a primary office use on the site and remove the floor area cap.

Pursuant to State and local environmental regulations, the proposed modifications serve to provide greater clarity to uses as identified in the Porterville 2030 General Plan, and the proposed Ordinance is an implementation measure of the policies, goals, and objectives of the Plan. The Environmental Coordinator made a determination on the basis of substantial evidence that, since the amendment would not result in a new type of permitted use or in uses containing a greater floor area than already permissible, it can be shown with certainty that there is no possibility that the proposed text amendment could have a significant effect on the environment.

RECOMMENDATION: That the City Council:

1. Find that proposed draft Ordinance amendments serve to implement the policies, goals, and objectives of the General Plan and said amendments do not have the potential to have a significant effect on the environment; and
2. Introduces and waives the first reading of the draft Ordinance.

ATTACHMENTS: 1. Draft Ordinance

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Assistant City Manager

Final Approver: John Lollis, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING SECTIONS 204.01 AND 204.02 OF THE PORTERVILLE DEVELOPMENT
ORDINANCE REGARDING THE PO (PROFESSIONAL OFFICE) ZONE DISTRICT

WHEREAS: On June 6, 2023 the City Council at its regularly scheduled meeting held a public hearing to consider amendments to the Porterville Development Ordinance; and

WHEREAS: The purpose of the proposed amendments is to recognize the value and importance of and to accommodate personal services businesses, including but not limited to salons and barber shops, self-services laundries, seamstresses and tailors, and similar businesses by removing a barrier to their operation in the PO district, to wit, the requirement that those personal services only be operated as an accessory use to an established professional office use; and

WHEREAS: Pursuant to State and local environmental regulations, the proposed modifications serve to provide greater clarity to uses as identified in the Porterville 2030 General Plan, and the proposed ordinance is an implementation measure of the policies, goals, and objectives of the Plan. The Environmental Coordinator made a determination on the basis of substantial evidence that, since the amendment would not result in a new type of permitted use or in uses containing a greater floor area than already permissible, it can be shown with certainty that there is no possibility that the proposed text amendment could have a significant effect on the environment.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Porterville as follows:

SECTION 1: The proposed text amendment is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

SECTION 2: Section 204.01, Purpose, of Chapter 21 of the Porterville Municipal Code is hereby amended as follows:

SECTION 204.01, Purpose

The specific purposes of the “Employment” Districts are to:

- A. Provide appropriate areas of the city where employment uses can locate and operate without significant conflicts with other land uses.
- B. Strengthen the city’s economic base and provide employment opportunities for residents of the city.
- C. Ensure the provision of services and facilities needed to accommodate planned population densities.

Additional purposes of each “Employment” District:

PO Professional Office. To allow for areas of office complex development, including professional and medical offices, **personal services**, as well as research and development

activities, ~~S~~small restaurants, support services, and convenience retail. The maximum FAR is 0.50.

IP Industrial Park. To provide areas for a mix of light industrial, secondary office, bulk retail, and service uses. This district allows for uses such as, warehouse, personal storage (mini-storage), distribution centers, research and development, wholesale, and office space with limited customer access. This district also allows for other uses, such as commercial recreation, small-scale retail, and service uses serving local employees and visitors are permitted as secondary uses. The maximum FAR is 0.40.

IG General Industrial. To provide areas for businesses that have potential to create adverse visual, noise, or other impacts to adjoining public and residential properties. This district allows for uses such as, warehousing, manufacturing, food processing, distribution, with support commercial services and ancillary office space. No retail uses are allowed. The maximum FAR is 0.60.

IA Airport Industrial. To provide areas for the Municipal Airport and for related businesses that have the potential to create adverse visual, noise, or other impacts to adjoining public and residential properties. Small-scale retail and service uses serving local employees and visitors are permitted as secondary uses. This designation allows for a maximum FAR of 0.60.

SECTION 3: Table 204.02, Land Use Regulations – Downtown Districts, of Section 204.02 of Chapter 21 of the Porterville Municipal Code is hereby amended as follows:

Use Classification	PO	IP	IG	IA	Additional Regulations
Public and semi-public uses:					
Colleges and trade schools, public or private	C	P	-	-	
Correctional facility	-	P	P	-	
Cultural institutions	P	-	-	-	
Day care centers	P	P(1)	-	-	
Elderly and long-term care	P	-	-	-	
Instructional services	P	P	-	P	
Residential care facilities, general	C	-	-	-	Section 301.15 , “Residential Care Facilities, General”
Schools, public or private	P	-	-	-	
Commercial uses:					
Aircraft sales, services, and storage	-	-	-	P	
Animal care, sales and services:	See sub-classifications below				
Kennels	-	M	M	-	
Veterinary services	-	P	P	-	
Automobile/vehicle sales and services:	See sub-classifications below				

Automobile/vehicle service and repair, major	-	P	P	-	Section 301.04 , “Automobile/Vehicle Service And Repair”
Automobile/vehicle service and repair, minor	-	P	P	-	Section 301.04 , “Automobile/Vehicle Service And Repair”
Automobile/vehicle washing	-	P	P	-	Section 301.05 , “Auto Service Stations And Car Washing”
Large vehicle and equipment sales, service, and rental	-	C	P	-	
Service station	-	C	C	-	Section 301.05 , “Auto Service Stations And Car Washing”
Towing and impound	-	C	P	-	Section 300.09 , “Outdoor Storage”
Banks and financial institutions:	See sub-classifications below				
Banks and credit unions	P	P(1)	P(1)	P(1)	
Check cashing businesses	P	-	-	-	
Building materials and services	-	P	P	-	
Business services	P	P(1)	P(1)	-	
Cannabis dispensary	-	-	-	P	Municipal Code chapter 15, article VII
Commercial entertainment and recreation:	See sub-classifications below				
Large-scale	-	C	C	C	Section 301.02 , “Alcoholic Beverage Sales”
Small scale	-	C	-	-	Section 301.02 , “Alcoholic Beverage Sales”
Eating, drinking, and smoking establishments:	See sub-classifications below				
Coffee shops/cafes	P(2)	P(1)	P(1)	P	Section 300.08 , “Outdoor Seating”
Restaurants	P(2)	P(1)	P(1)	P	Sections 300.08 , “Outdoor Seating”; and 301.02 , “Alcoholic Beverage Sales”
Food and beverage retail sales	P(2)	P(1)	P(1)	-	Section 301.02 , “Alcoholic Beverage Sales”
Funeral parlors and mortuaries	-	P	P	-	
Hotels and motels	-	C	C	-	
Bed and breakfasts	P(10)	-	-	-	
Light fleet based services	-	P	P	-	
Maintenance and repair services	-	P	P	-	
Medical facilities:	See sub-classifications below				
Hospital	P	-	-	-	
Medical clinic	P	-	-	-	
Professional/medical	P	-	-	-	
Offices:	See sub-classifications below				
General offices	P	P	P	P	

Walk-in clientele	P	-	-	-	
Parking, public or private	P(3)	P	P	-	
Personal services	P(2)	P(1)	-	-	
Retail sales	P(2)	P(2)	P(2)	-	
Salvage and wrecking:	-	C	C	C	Section 300.09 , “Outdoor Storage”
Salvage and wrecking conducted wholly within a building	-	P	P	P	Section 300.09 , “Outdoor Storage”
Sexually oriented business	-	P	P	-	Section 301.17 , “Sexually Oriented Businesses”
Wholesaling and distribution	-	P	P	P	
Industrial uses:					
Construction and material yards	-	P	P	-	Section 300.09 , “Outdoor Storage”
Handicraft/custom manufacturing	-	P	P	P	
Industry, general:	-	P	P	P	
Alcohol manufacture	-	C(4)	C	-	
Hazardous waste management facilities	-	C(6)	C	-	
Manufacture, processing, or treatment of materials which may be obnoxious, offensive or hazardous to health and safety of persons and property	-	-	C	-	
Industry, limited	-	P	P	P	
Recycling facilities:	See sub-classifications below				
Recycling collection facility	-	-	P	-	Section 301.14 , “Recycling Facilities”
Recycling processing facility	-	-	P	-	Section 301.14 , “Recycling Facilities”
Warehousing and storage:	See sub-classifications below				
Chemical, mineral, and explosives storage	-	C	C	C	
Indoor warehousing and storage	-	P	P	P	
Personal storage	-	P	P	P	Section 301.13 , “Personal Storage Facilities”
Transportation, communication, and utilities uses:					
Communication facilities:	See sub-classifications below				
Antenna and transmission towers, camouflage facilities	P(7)	P(7)	P(7)	P(7)	Section 301.20 , “Telecommunication Facilities”
Antenna and transmission towers, non-camouflage facilities	M(7)	M(7)	M(7)	M(7)	Section 301.20 , “Telecommunication Facilities”

Broadcasting facility	-	P	P	P	Section 301.20 , “Telecommunication Facilities”
Call center	P(2)	P	P	-	
Freight/truck terminals and warehouses	-	P	P	P	
Heliports	-	C	C	C	
Transportation passenger terminals	-	P	P	P	
Utilities, major:	-	P	P	P	
Renewable energy facility		C	C	C	
Solid waste collection, treatment, and disposal	-	-	P	C	
Utilities, minor	P	P	P	P	
Agricultural and extractive uses:					
Crop cultivation, commercial	M	P	P	M	Section 301.06 , “Crop Cultivation”
Crop cultivation, non-commercial	-	P	P	-	
Mining and quarrying	-	-	C(6)	-	
Other applicable types:					
Accessory uses and structures	P	P	P	P	Section 301.01 , “Accessory Uses And Structures”
Additional uses	-	-	-	P(9)	
Caretaker unit	-	P(8)	P(8)	-	
Nonconforming use	Chapter 307, “Nonconforming Uses, Structures, And Lots”				
Temporary use	Section 301.21 , “Temporary Uses”				

Notes:

Specific Limitations:

- (1) Permitted only as an accessory use that supports industrial uses, business and office parks, and corporate offices.
- (2) Permitted only as an accessory to a primary office and limited to establishments with a gross floor area less than 5,000 square feet in size.
- (3) Limited to parking areas for exclusive use of occupants, employees and patrons of the uses, buildings, stores, and businesses located in that zone.
- (4) Alcohol manufacture must be located more than 500 feet from the nearest residential, or commercial zoning designation as shown on the Official Zoning Map.
- (5) On-site hazardous waste management facilities must be accessory and incidental to a primary use.
- (6) In areas designated as Mineral Resource Zones in the General Plan
- (7) Prohibited within 300 feet of any R district except as detailed in [301.20E](#).
- (8) For agricultural employees, when located on farms or ranches containing more than 10 acres. Such dwellings shall be a permanent structure.

(9) Additional uses may be allowed with City Council approval of a Conditional Use Permit.

(10) Limited to no more than two rooms in a dwelling rented to not more than four persons. Meals may not be provided to more than four boarders.

SECTION 4: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED, AND ADOPTED this 20th day of June, 2023.

By: _____
Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Consideration of an Ordinance Approving a Development Agreement between the City of Porterville and Cannabis Express, Inc.

SOURCE: Community Development

COMMENT: At its meeting on November 1, 2022, in accordance with an approved Request for Proposals along with recommendations provided by the Cannabis Ad Hoc Committee, the City Council selected to begin negotiations of a development agreement with Bloom Farms. Bloom Farms is proposing a cannabis dispensary to be located at 200 North Main Street. Subsequent to the Council decision to direct staff to begin negotiations of a development agreement with Bloom Farms, the owner of Bloom Farms, Darin Garrett, notified staff that he had received a letter from another company that utilized the same name requesting that Mr. Garrett refrain from using the name Bloom Farms. Accordingly, Mr. Garrett has changed the name of the proposed cannabis retail dispensary to Cannabis Express, Inc.

Porterville Municipal Code Chapter 15, Article VII outlines the local regulations for cannabis dispensaries. The project went before the Project Review Committee on February 8, 2023. The project site is zoned DR-N (Downtown Retail North of Olive Avenue), in which cannabis dispensaries are permitted subject to the aforementioned regulations. The project is located in the Downtown District, so any exterior changes to the facility must comply with the Downtown Design Guidelines.

The Cannabis Ad Hoc Committee conducted meetings with the applicant in negotiation of the draft development agreement. The draft development agreement includes provisions for term of operation, operational guidelines, community relations and employment. It has an initial term of fifteen (15) years with an option to extend the agreement for an additional five (5) years. The operator is to comply with California cannabis laws and regulations and only transact business with other legally permitted persons and entities. The operator is required to coordinate and cooperate with the City and any other owners or operators of commercial cannabis dispensaries located within the City of Porterville in the establishment and implementation of a public outreach and education program.

The operator will also be required to coordinate and cooperate with the City and other operators of commercial cannabis facilities located within the City of Porterville in the Council's establishment and implementation, and the owners' funding of a community benefits program which could include such items as senior citizen programs, City beautification efforts, funding for enforcement

against illegal cannabis operations, public safety, housing programs, economic development, infrastructure, capital improvements, including expansion and/or improvement to existing facilities or other physical improvements that provide a benefit to the community, support of holiday and special community events, and support of local public service, public safety, and special social and community organizations. The operator has agreed, as a business expense, to pay the City the yearly sum of \$30,000.00 or one percent (1%) of operator's annual gross receipts, whichever amount is greater, from the commercial operation on the premises. All projects under the community benefits program must be approved by the City and may also be implemented by the City. The designated Community Relations Liaison for Cannabis Express, Inc. is Darren Garrett. The community benefits program is in addition to the cannabis business tax as adopted by Ordinance No. 1875, and Porterville Municipal Code Chapter 22, Article VI, which requires every person engaged in a Commercial Cannabis Business in the City to pay an annual Commercial Cannabis Business tax at a rate established by Resolution of the Council, but no more than ten percent (10%) of annual gross receipts. Resolution No. 99-2020, adopted by the Council at its meeting on December 15, 2020, has currently set the rate at seven percent (7%) of annual gross receipts per fiscal year.

The operator has agreed to make a good faith effort to recruit, hire, and train city residents for employment by the operator and will work with local recruitment sources, including the Employment Connection, to identify qualified individuals who are city (or city area) residents, advertise for qualified city residents in trade papers and newspapers of general circulation in the area, and to recruit and employ city residents as a part of its workforce. The operator commits to a local annual hiring goal of fifty percent (50%) of total operational jobs for permanent and apprentice employees.

The operator has agreed to provide a historical/artistic feature as a component of its project, to be located at or near the project site. The artistic feature will be subject to review by the City Cannabis Ad Hoc Committee and the City's Arts Commission, and the approval of the Council prior to the commencement of work on the feature. Work on the feature must be commenced within two years of the opening of the business.

On April 17, 2023, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 New Construction or Conversion of Small Structures, as the project is a conversion of an existing structure from one use to another in conjunction with minor changes to the facility.

RECOMMENDATION:

That the City Council:

1. Conduct a Public Hearing and consider public testimony;
2. Find the proposed project exempt from CEQA under CEQA Guidelines Section 15303; and

3. Approve the draft Ordinance; give first reading by title only, and order the Ordinance to print.

ATTACHMENTS:

1. Draft Ordinance
2. Draft Commercial Cannabis Dispensary Development Agreement
3. Locator Map
4. Site, Floor and Elevation Plans
5. Draft Indemnification Agreement

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Assistant City Manager

Final Approver: John Lollis, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING A DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF PORTERVILLE AND CANNABIS EXPRESS, INC. RELATING TO THE
DEVELOPMENT OF A RETAIL CANNABIS DISPENSARY

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the California State Legislature adopted Government Code Sections 65864 et seq. (the “Development Agreement Statute”) which authorizes cities to enter in agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and

WHEREAS, in accordance with the Development Agreement Statute, the City of Porterville (“City”) has enacted regulations to implement procedures for the processing and approval of development agreements; and

WHEREAS, Pursuant to Chapter 15, Article VII, Section 15-87, subsection C. of the Porterville Municipal Code, no approval for a Cannabis Business Regulatory Permit may be granted unless the City Council, prior to or concurrently with such approval, also approves a Development Agreement, setting forth the terms and conditions under which the commercial cannabis business will operate in addition to the requirements of Article VII of Chapter 15, all other local ordinances and regulations, State law, and such other requirements as may be promulgated by the City in order to protect and promote the public health, safety, and welfare; and

WHEREAS, in accordance with Chapter 15, Article VII of the Porterville Municipal Code, the City of Porterville awarded, via a Request for Proposals process, an opportunity to Cannabis Express, Inc. (“Developer”) to negotiate a Development Agreement and apply for a Cannabis Business Regulatory Permit for the establishment of a Retail Cannabis Dispensary; and

WHEREAS, the City and Developer have duly met, negotiated, and agreed upon the terms and conditions for said operation of the commercial cannabis business, to be operated at 200 North Main Street, Porterville, California;

WHEREAS, the Development Agreement will assure the City, its residents, and the Developer that the Development will proceed as proposed and that the public improvements and other amenities and funding obligations will be accomplished as proposed; and

WHEREAS, pursuant to Government Code Section 65867 and the City’s Development Agreement regulations, the City Council on June 6, 2023, held a duly noticed public hearing concerning whether to adopt the Development Agreement, during which public hearing the Council received comments from City staff, the Developer, and members of the public.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE HEREBY ORDAINS as follows:

SECTION 1. This Ordinance incorporates, and by this reference makes a part hereof, the Development Agreement attached hereto as Exhibit A, subject to the provisions of Section 5 hereof.

SECTION 2. This Ordinance is adopted under the authority of California Government Code Section 65854 et seq., and pursuant to the City's Development Agreement regulations.

SECTION 3. In accordance with the City's Development Agreement regulations, the City Council hereby finds and determines, as follows:

- (a) The Development Agreement is consistent with the objectives, policies, general land uses, and programs specified in the General Plan, in that it establishes certain development rights, obligations, and conditions for the implementation of the subject property;
- (b) The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the general plan designations that will apply to the subject property;
- (c) The Development Agreement is in conformity with public convenience, general welfare, and good land use practice;
- (d) The Development Agreement will not be detrimental to the public health, safety, and general welfare; and
- (e) The Development Agreement will not adversely affect the order development of property or preservation of property values.

SECTION 4. The foregoing findings and determinations are based upon the following:

- (a) The Recitals set forth in this Ordinance, which are deemed true and correct;
- (b) The City's General Plan, and any applicable amendments thereto.
- (c) All City staff reports (and all other public reports and documents) prepared for the City Council, related to the Development Agreement, and other actions relating to the subject property;
- (d) All documentary and oral evidence received at the public hearing or submitted to the City during the comment period relating to the Development Agreement, and other actions relating to the subject property; and
- (e) All other matters of common knowledge to the City Council, including but not limited to the City's fiscal and financial status, City general ordinances, policies and regulations.

SECTION 5. The City Council hereby approves the Development Agreement, attached hereto as Exhibit A, subject to such minor, conforming and clarifying changes

consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney prior to execution thereof, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto, as approved by the City Council.

SECTION 6. CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) [there is no possibility the activity in question may have a significant affirmative effect on the environment]. In addition to the foregoing general exemption, the City Council further finds that the ordinance is categorically exempt from review under CEQA Guidelines section 15303 [conversion of an existing structure from one use to another in conjunction with minor changes to the facility]. The City Manager is hereby directed to ensure that a Notice of Exemption is filed pursuant to CEQA Guidelines Section 15062.

SECTION 7. Upon the effective date of this Ordinance as provided in Section 11 hereof, the Mayor and City Clerk are hereby authorized and directed to execute the Development Agreement on behalf of the City of Porterville.

SECTION 8. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Development Agreement pursuant to the terms of the Agreement.

SECTION 9. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Porterville hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

SECTION 10.CONSTRUCTION. The City Council intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent.

SECTION 11.EFFECTIVE DATE. The foregoing ordinance shall take effect thirty (30) days from the date of the passage and adoption. Prior to the expiration of fifteen (15) days from the enactment hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code Section 36933(c)(1) and a summary shall be published once in the Porterville Recorder, a newspaper printed and published in the City of Porterville, State of California, together with the names of the Council members voting for and against the same.

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PASSED, APPROVED AND ADOPTED this _____ day of June, 2023.

By: _____
Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk

RECORDING REQUESTED BY
City of Porterville
AND WHEN RECORDED MAIL TO:
City of Porterville
291 N. Main Street
Porterville, CA 93257
Attention: City Manager

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SPACE ABOVE THIS LINE FOR RECORDER'S USE
Recording Fee Exempt per Government Code §6103

COMMERCIAL CANNABIS DISPENSARY DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND
CANNABIS EXPRESS, INC.

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this ___ day of June, 2023, (the "Execution Date"), by and between the **CITY OF PORTERVILLE**, a California municipal corporation ("City") and **CANNABIS EXPRESS, INC.** ("Owner"). City and Owner are sometimes referenced together herein as the "Parties." In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party." The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this Agreement:

RECITALS

WHEREAS, the State of California enacted California Government Code Sections 65864 et seq. ("Development Agreement Statutes") to authorize municipalities to enter into development agreements with those having legal or equitable interests in real property to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development in connection with the development of real property within their jurisdiction;

WHEREAS, the purpose of the Development Agreement Statutes is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations, to vest certain rights in the Owner, and to meet certain public purposes of the local government;

WHEREAS, the City has adopted Municipal Code Article 609, establishing the procedures and requirements for the consideration of development agreements with the City;

WHEREAS, Owners currently hold legal or equitable interest in real property considered in this Agreement which has a development area approximately **3,850** square feet located at 200 North Main Street, City of Porterville, State of California (the "Site"). The Site includes Assessor's Parcel Number: 253-182-001, and is more fully

described in Exhibit A and shown on the map in Exhibit B. Both exhibits being attached hereto and incorporated herein by this reference;

WHEREAS, presently, the owner and CEO of Cannabis Express, Inc., Darin Garrett, owns the site/real property for the purpose of commercial cannabis related activities, specifically the development and operation of a commercial cannabis dispensary. Such Commercial Cannabis facilities shall operate in accordance with all applicable provisions of Business and Professions Code §§26000-26231.2; California Health and Safety Code Safety Code §§ 11357-11362.9 and 11362.7- 11362.85; Revenue and Taxation Code §§ 34010-34021.5; Vehicle Code §§ 2429.7 and 23222; Water Code §§ 1831, 1847, and 13276; the City of Porterville Municipal Code as it applies to such facilities (collectively the “Applicable Cannabis Laws”), and all Resolutions and procedures adopted or authorized by the City in accordance with those laws and regulations. Prior to operating a commercial dispensary Owner shall be required to obtain a Commercial Cannabis Permit from the City, and all related permits and licenses prior to the operation of same, pursuant to Chapter 15, Article VII and Chapter 21, Article 609 of the Porterville Municipal Code.

WHEREAS, Owner has obtained or will obtain a California State License issued, pursuant to Applicable Cannabis Laws, to operate a commercial storefront dispensary at the Site. The definition of “Property Owner” hereunder shall mean and refer to the fee simple owner of the property. The definition of “Owner” hereunder shall mean and refer to any authorized tenant of the Site to the extent such party holds or is covered by a Commercial Cannabis Permit;

WHEREAS, Owner has applied to this City for a Commercial Cannabis Permit (*hereinafter* “CCP”) to conduct Commercial Cannabis Activities. No such activities are allowed or authorized without a Development Agreement, a Commercial Cannabis Permit, and all requirements pursuant to the above-referenced City regulations.

WHEREAS, Owner presently intends to develop and open a commercial storefront dispensary on the Site consistent with the Applicable Cannabis Laws and Project Approvals (known as the “Project”).

WHEREAS, the Project will consist of: one commercial building totaling approximately 3,850 square feet.

WHEREAS, in 2019, Ordinance Nos. 1853 and 1854 came into effect authorizing specified Commercial Cannabis Activities within the City of Porterville, in strict compliance with related State of California laws, regulations and policies, under specified conditions and provisions;

WHEREAS, all procedures of the California Environmental Quality Act (“CEQA”), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied;

WHEREAS, the City has given public notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to California Government Code §65867. The City has found that the provisions of this Agreement and its purposes are consistent with the objectives, policies, general land uses and programs specified in City's General Plan, zoning code and municipal ordinances;

WHEREAS, the City, in entering into this Agreement, acknowledges that certain City obligations hereby assumed shall survive beyond the terms of the present Council members, that this Agreement will serve to bind City and future Councils to the obligations hereby undertaken, and that this Agreement shall limit the future exercise of certain governmental and proprietary powers of City. By approving this Agreement, the Council has elected to exercise certain governmental powers at the time of entering into this Agreement rather than defer its actions to some undetermined future date. The terms and conditions of this Agreement have undergone extensive review by City and the Council and have been found to be fair, just and reasonable. City has concluded that the pursuit of the Project will serve the best interests of its citizens and that the public health, safety and welfare are best served by entering into this obligation. Owner(s) has represented to City that it would not consider or engage in the Project absent City approving this Agreement;

WHEREAS, the City agrees that Owner's land use entitlements for the Project shall vest for the term of this Agreement as described below;

WHEREAS, in conjunction with the City's applicable ordinances and resolutions, the Zoning Administrator of the City reviewed, considered and recommended environmental clearance and recommended approval of the execution of this Agreement to the City Council. The Zoning Administrator found the Project: consistent with the objectives, policies, general land uses and programs specified in the general plan; compatible with the uses authorized in the City's zoning laws; in conformity with the public necessity, public convenience, general welfare and good land use practices; will not be detrimental to the health, safety and general welfare of the city; will not adversely affect the orderly development of property or the preservation of property values; and will have a positive fiscal impact on the City;

WHEREAS, after conducting a duly noticed hearing on INSERT DATE, in conjunction with the City's applicable ordinances and resolutions, and after independent review and consideration, the City Council approved the execution of this Agreement. The City Council found the Project: consistent with the objectives, policies, general land uses and programs specified in the general plan; compatible with the uses authorized in the City's zoning laws; in conformity with good land use practices; will not be detrimental to the health, safety and general welfare of the City; and is in the best interest of the City of Porterville and its residents.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal

sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Government Code and Municipal Code Required Elements

- Description of Property. Land situated in the City of Porterville, County of Tulare, State of California; whose street address is 200 North Main Street, City of Porterville, State of California (the "Site"). The Site includes Assessor's Parcel Number: 253-182-001.
- Owner and Other Person with Legal or Equitable Interest.

Owner: Darin Garrett
Nature of Interest: *Owner*

If Owner is not the fee simple owner of the Site, check box below:

[X] Owner represents and warrants that the property owner has consented in writing to the execution and recordation of this Agreement against the Site. See attached Landlord Consent agreement, incorporated herein by this reference (Exhibit A).

- Permitted Uses. The subject property may be used for commercial storefront cannabis dispensary as presently authorized under City Chapter 15, Article VII of the Porterville Municipal Code, §§ 15-85 through 15-105 and Chapter 21, Section 301.23, and 609.01 through 609.11, and for any other use as authorized under applicable provisions of the Porterville Municipal Code.
- Zoning. Owner shall guarantee that such activities outlined in Owner's Commercial Cannabis Permit Application ("Application") conducted pursuant to this Agreement and under the Commercial Cannabis Permit shall comply with the City's municipal code, including the above-referenced zoning regulations and any and all development and construction requirements contained therein. Owner shall not conduct any business under this Agreement or under the Commercial Cannabis Permit without having obtained all necessary permits, licenses, and approvals from the City and State of California.
- Reservation or Dedication of Land for Public Purposes. If needed, sufficient roadway, sidewalk, and utility easements shall be reserved or dedicated to City for such purposes.

2. Term

This Agreement shall commence on the date the Ordinance approving this Agreement goes into effect (the "Effective Date") and it shall end **fifteen (15)** years from the starting date, and it shall remain in full force and effect so long as the subject property has been developed and is used for a commercial cannabis

facility as authorized under City Ordinance Nos. 1853 and 1854; provided, however, that such use must be commenced and begin operating within two (2) years of the Effective Date, and said operations/use is not abandoned for a period of more than ninety (90) days. This Agreement shall be extended for up to 1 additional **5-year** period following the expiration of the initial **fifteen (15)** year term upon the occurrence of all of the following:

(i) The Owner shall give written notice to the City no later than one hundred twenty (120) days before the expiration of the initial fifteen year term that the Owner desires to extend this Agreement for an additional **5-year** period;

(ii) The Owner shows adequate evidence to the City that it has a legal and/or equitable interest in the Property and/or will have such interests for the duration of the extended term of the Agreement;

(iii) The Owner shall deposit all fees required by the City necessary for processing the extension request and drafting necessary documentation;

(iv) The Owner shall be in compliance with all provisions of Ordinance Nos. 1853 and 1854, and all terms imposed by the City-issued Commercial Cannabis Permit; and

(v) The Owner shall not be in default of any provision of any agreement between City and Owner relative to the development of the Property or of any condition of approval imposed upon any entitlement granted by the City relative to the development of the Property for which Owner has been given a written notice to cure by the City and for which Owner has not cured or commenced to cure such default within thirty (30) days, if and as provided by such agreement or condition of approval.

3. **General Business/Store and Offices** – The facility will maintain hours of operation consistent with Section 15-87.L. of the Municipal Code, with generally a minimum of eight employees per shift. The parties may agree to a different number if warranted by the business volume.
4. **Parking/Loading Access.** The proposed project is located in Downtown Parking District 1 Zone A, which does not require parking spaces for businesses within it, if the building is three (3) floors or less. The project complies with the CALGreen Tier 1 by incorporating storm water pollution prevention measures, installing energy- and water-efficient equipment, and planting native and drought-tolerant landscaping at the front of the property.
5. **Security:** The project will secure the facility against unauthorized entry by installing security lights on the exterior of the building to illuminate the side areas and parking area, installing commercial-grade locks, installing an alarm and video

surveillance system, establishing procedures for identifying authorized persons, establish inventory controls, and install a secure surveillance vault to maintain the integrity of records. Further, the project shall have a separately secured, limited access area, where all persons must be at least 21 years of age and have a business reason for entering the area; non-employees with authorized access must be escorted, and an access log must be maintained. In addition, the applicant will engage a licensed security company to provide an operational security plan in compliance with applicable City Regulations and policies.

6. Owner's Site and Floor Plans

- Owner's site plan and floor plan for the facility are attached hereto as Exhibit B and incorporated into the Application.
- A preliminary landscape plan shall be prepared and reviewed and approved by the City Manager, the Community Development Director, the Engineering and Project Management Director, and/or their respective designees. A final landscape plan shall be prepared and submitted in conjunction with building and site improvement plans prior to issuance of building permits for construction activities.
- An exterior signage plan shall be prepared and reviewed and approved by the appropriate City staff in accordance with the procedures and requirements of the Porterville Municipal Code. **Owner agrees that it will not use the words "Cannabis" or "Marijuana" (or any forms or derivatives of the words) in the business name signage.**

7. Facility Operations

- Standard Operating Procedures. Owner is a lawful entity that will only transact business with other legally permitted persons and entities under the California Cannabis Laws. Prior to operating a dispensary, Owner shall be required to obtain a Commercial Cannabis Permit, and all requirements pursuant to said permit, from the City pursuant to City Ordinance Nos. 1853 and 1854. Further, and notwithstanding anything to the contrary, Owner may operate such cannabis-related activities as permitted in accordance with California state laws and regulations, as may be amended, including without limitation, as long as such activity is not inconsistent with Ordinance Nos. 1853 and 1854, this Development Agreement, the City-issued Commercial Cannabis Permit, and the Porterville Municipal Code.

During the term of its CCP and the term of this Agreement, Owner shall lawfully operate in accordance with all state and local laws. Owner shall employ exemplary operating procedures to comply with state and local laws. Owner's facility shall employ safety and security measures for the safety and security of its

employees, visitors, vendors, and neighboring communities and properties.

Owner shall fully comply with the minimum Operating Standards regulating the proposed Commercial Cannabis Activity as set forth in Chapter 15, Article 7, Sections 15-85 through 15-105 of the Porterville Municipal Code, and those required by Ordinance No. 1853.

- Security Plan. Owner shall secure approval of its proposed security plan by the City prior to operating, and has attached its draft plan as Exhibit C. The security plan shall include, at a minimum and as appropriate, provisions for video surveillance, perimeter fencing and/or security, protection of the building(s) from vehicle intrusion, cash handling procedures, internal accounting controls, product handling and storage procedures, and a professionally monitored alarm system. Equipment and systems used for video surveillance and building alarms shall be approved by City. See Porterville Municipal Code Section 15-87, subsections (N) and (O), for minimum security requirements.

Video surveillance shall include, at a minimum, all site and facility entrances and access points, all spaces accessible by the public, all secured areas of the facility with restricted access, all interior spaces and rooms where cannabis products are handled, shipping and receiving areas, cash storage areas, and other areas necessary to protect the safety of employees and the public and to ensure cannabis products are received, handled, stored, and sold in compliance with applicable state and local laws and regulations. The video surveillance system shall be web-based with direct access provided to the City of Porterville Police Department upon request.

The security system shall also include sensors to detect entry and exit from all secure areas, panic buttons in appropriate locations, and a professionally monitored alarm system with glass breakage sensors and motion detectors.

Owner shall employ properly trained and licensed third-party security personnel to protect the welfare and safety of Owner and employees, and to ensure public safety to the neighboring community. Owner shall use security personnel during all hours of business operations. Security personnel may be armed so long as proper licensing and insurance requirements are followed and met by the third-party operator providing such security services.

Further, the project shall have a separately secured, limited access area, where all persons must be at least 21 years of age and have a business reason for entering the area; non-employees with authorized access must be escorted, and an access log must be maintained. The (nonlimited access) reception area shall be completely separated and secured from the dispensary operations, and shall be operated in conformity with all applicable laws and regulations, and by an employee at least 21 years of age, with concurrent monitoring by onsite security personnel.

- Fire Department Approval. Owner shall not operate any facility, and no permit, license, or other approval issued by City shall be valid unless and until the Porterville Fire Department has approved Owner's site plan, floor plan, safety plan, and any other plans that require its approval.
- Possession of Firearms. Except for licensed and bonded security personnel, no person employed or contracted by Owner shall be in possession of any firearm while on the premises or location without having first obtained a license from the appropriate state or local agency authorizing the person to be in possession of such firearm. Every such person in possession of a firearm while on the premises or location must provide the City Manager and the Porterville Police Department, ten (10) days before bringing the firearm onto the premises, with the following:
 - 1) A copy of the license issued to the person by the appropriate state or local agency authorizing him or her to possess such firearm;
 - 2) A copy of his or her law enforcement identification (if he or she is employed by a law enforcement agency);
 - 3) A copy of his or her California driver's license or California identification card; and
 - 4) Any other information reasonably required by the Porterville Police Department to show that the individual is in compliance with the provisions of all laws regarding the possession and use of a firearm.
- Identification Display. Each owner, manager, employee, and individual member engaged in the operation of the business shall at all times while engaged in the duties of his or her position wear in plain sight, on his or her person and at chest level, a valid identification badge, issued by Owner.
- Employee Background Checks and Procedures for Inventory Control to Prevent Non-Medical Diversion of Medical Cannabis. Only employees who receive the required background clearance pursuant to Section 15-89 of the Porterville Municipal Code shall be permitted to enter Owner's facility. Each employee will have to meet a criminal background investigation as required by the City, which at minimum shall include a LiveScan criminal history check, which City shall make a good faith effort to facilitate within a reasonable time following the issuance of a Commercial Cannabis Permit(s) or license(s) to Owner.

Owner shall take all necessary and reasonable steps to prevent the sale or distribution of any of its cannabis products to minors; prevent revenue from the sale or distribution of its cannabis and/or infused products from going to criminal enterprises, gangs and cartels; prevent the diversion of cannabis from California

to any other state; prevent state-authorized cannabis activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; prevent violence and the use of firearms in the sale of cannabis; discourage and educate against drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use; disavow growing cannabis on public lands that creates attendant public safety and environmental dangers posed by such illegal uses; and discourage and educate against cannabis possession or use on federal property.

- Point of Sale Tracking System. Owner shall maintain an inventory control and reporting system that accurately documents the cannabis products. The inventory control and reporting system shall comply with the track and trace program required by California Cannabis Law and regulations issued thereunder.

Owner shall employ an electronic point of donation/sale system approved by the State of California for all point of donations/sales tracking from seed or inception to product distribution to other licensed commercial cannabis facilities. Such approved system shall track all commercial cannabis products, each edible, harvested flower, and/or manufactured concentrate, as well as gross sales (by weight and sale). Owner's point of sale system shall have the capacity to produce historical transactional data in accordance with City's requirements.

- Record Keeping. Owner shall maintain records for all commercial cannabis and/or infused products. Owner shall comply with all record-keeping responsibilities that are set forth in Ordinance No. 1853, Section 15-87(O) of the Porterville Municipal Code, including complete and up-to-date records regarding the amount of commercial cannabis delivered and sold, and applicable State law.
- Commercial cannabis sales shall not create offensive odors; create excessive dust, heat, noise, smoke, traffic, or other impacts that are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; or be hazardous due to use or storage of materials, processes, products, or wastes.

Owner shall store its commercial cannabis and/or commercial cannabis products in a locked safe room with T-card identification access for management only. The safe room shall be constructed of fire-rate walls with numerous cameras installed to view all entries and exits from the safe room, as well as all other activities performed within Owner's facility. Owner will not conduct outdoor operations except as related to lawful delivery and transportation of commercial cannabis and infused products. Owner will not store commercial cannabis or related products in its delivery vehicle outside normal operating hours of the facility.

Any excess or contaminated product will be securely stored on-site until it is properly disposed. Disposal may include composting, incineration, land-fill disposal through the local waste management hauler, or other disposal

methodology in accordance with state and county health and safety codes and regulations.

- Description of Banking Plan. Owner shall seek to open a bank account under the name of Owner or its associated management company to provide transparency for funds received, operational costs, including payroll, tax payments to the state and federal governments. Should a bank account not be forthcoming, Owner shall implement other industry standard banking and/or other industry standard transactional mechanisms.
- Transportation and Delivery Plan. Owner shall comply with all state and local law regarding transportation and delivery, including the rules governing delivery service. Owner shall retain a list of names and cellular contact numbers for all employees engaged in transportation and/or delivery of commercial cannabis products and provide it to the applicable oversight authority, keeping the list current and up to date.

Owner will keep complete and up-to-date records documenting each delivery, including the amount/product(s) provided, the date and time provided, the name of the employee making the delivery, the name and address of the individual corporation to whom delivery is made, and the amount of the related sale/monetary transaction.

8. Community Relations, Employment, and Wages

- Public Outreach and Education Program. The Owner shall coordinate and cooperate with City and any other Owners of commercial cannabis dispensaries located within City of Porterville in the establishment and implementation of appropriate public outreach and education programs. The public outreach and education programs shall be approved by City.
- Community Benefits Program. The Owner shall coordinate and cooperate with the City and other Owners of commercial cannabis facilities located within the City of Porterville in the City Council's establishment and implementation, and the Owners' funding of a community benefits program which could include such items as senior citizen programs, City beautification efforts, funding for enforcement against illegal cannabis operations, public safety, housing programs, economic development, infrastructure, capital improvements, including expansion and/or improvement to existing facilities or other physical improvements that provide a benefit to the community, support of holiday and special community events, and support of local public service, public safety, and special social and community organizations. This community benefits program may be implemented by the City. The City may invite public participation in the decision-making process for identifying and prioritizing community needs and benefits, and identifying appropriate projects to be funded by the entity implementing this community benefits program. All projects under the community

benefits program must be approved by the City.

Owner agrees, as a business expense, to pay the City the yearly sum of \$30,000.00 or 1% of Owner's annual gross receipts, whichever amount is greater, from the commercial operation on the Premises. Unless otherwise agreed to in writing by the parties the above amount shall be paid over the course of the calendar year on a quarterly basis, with payments due within 30 days of the end of each quarter. The first payment shall be due at within 30 days of the end of the first quarter for which the commercial operation at the Premises was operational and prorated to account for when during the quarter the opening occurred.

- Designation of Community Relations Liaison. At the time of this Agreement, Owner's day-to-day operations managers, **Darin Garrett and/or Maria Marrero**, will be responsible for community inquiries and complaints and on-site management during normal business hours.

- Interface with City of Porterville Police / Inspections. Owner's day-to-day operations manager, and/or the Owner's Community Relations Liaison, **Darin Garrett**, will interface with the Porterville Police Department's assigned designee to ensure its operation complies with state and local laws and regulations. The City Manager, or designee, or the Porterville Police Department's assigned designee acting at the City Manager's request and per his specific and limiting instructions, shall have the right to enter all Premises from time to time unannounced during hours of operation for the purpose of making reasonable inspections to observe and enforce compliance with this Agreement and state and local laws and regulations, without the requirement of a search warrant, subpoena, or court order, and subject to appropriate cost recovery fees set forth in this Agreement, or adopted by the City. See, Ordinance No. 1853, as well as Porterville Municipal Code Section 15-87, 15-96.

_____ Owner's Initials

- Local Recruitment, Hiring, and Training Programs. Owner is committed to making a good-faith effort to recruit, hire, and train City residents for employment by Owner. A good-faith effort means Owner shall take the following or similar actions to recruit and employ City residents: 1) Contact local recruitment sources, including the Employment Connection, to identify qualified individuals who are City (or City area) residents, 2) Advertise for qualified City residents in trade papers and newspapers of general circulation in the area, and 3) Develop a written plan to recruit and employ City residents as a part of the its workforce. The Owner commits to a local annual hiring goal of 50% of total operational jobs for permanent and apprentice employees. This goal shall apply horizontally, across all departments and managerial positions. The Owner shall not be penalized or deemed in default under this Agreement if it is unable to achieve such a goal.

"Local" is defined as within a 3-mile radius of the boundaries of the City's boundaries. The Owner shall contact and work with a job referral agency (e.g. the Employment Connection) assigned by the City Manager to implement a local hiring policy for permanent and apprentice employees. The purpose of the hiring policy is to facilitate the training and employment of local and disadvantaged job applicants for jobs within the City's jurisdiction, and 3-mile radius of City boundaries. Applicants for jobs shall not be disqualified from hiring solely on the basis of an arrest or conviction for a Cannabis-related crime that occurred prior to November 8, 2016, and could have been prosecuted as a misdemeanor or citation under current California law. The Owner shall report on compliance with the local hiring goals as part of its annual audit report.

9. Public Art Feature/Element. Owner agrees to provide a historical/artistic feature as a component of its project, located at or near the Property (for example, the completion of a mural located on the second story of the building along Putnam Avenue). The artistic feature will be subject to the review of the City Cannabis Ad Hoc Committee and City of Porterville Arts Commission, and the approval of the City Council, prior to the commencement of work on the feature. Work on the feature must be commenced within two years of the opening of the business.

10. Indemnification Agreement by each Cannabis Permittee

Pursuant to Ordinance Nos. 1853 and 1854, and including Porterville Municipal Code Section 15-87(T), to the fullest extent permitted by local, state and/or federal law, the City of Porterville shall not assume any liability whatsoever with respect to having issued a Commercial Cannabis Permit or executed a Development Agreement pursuant Ordinance No. 1853 and Chapter 609 of the Development Code, or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any Commercial Cannabis Permit and to the execution and approval of a Development Agreement, the Owner shall be required to meet all the conditions enumerated in Porterville Municipal Code Sections 15-85 through 15-105, before this Agreement may be executed, and before they can receive the Commercial Cannabis Permit. The City Manager shall require the Owner and Property Owner/each Commercial Cannabis Permittee to execute a separate Indemnification Agreement prepared by the City that fully indemnifies the City for all liabilities associated with the Commercial Cannabis Permit, the Commercial Cannabis Permittee's Commercial Cannabis Activities, and any action taken by the Cannabis Permittee, and/or arising out of Owner's or Property Owner's obligations under this Agreement. The Indemnification Agreement shall include the defense of the City and reimbursement of all fees, costs and expenses incurred by the City related to any action arising from this Agreement. Attached as Exhibit E, and incorporated herein by this reference, is true and correct copy of a fully executed Indemnification Agreement.

11. Fees, Costs, and Taxes

- **Permit Fees.** Owner agrees to pay all permit fees and charges authorized and referenced in Ordinance Nos. 1853 and 1854, all amounts adopted by City Council and as required by applicable laws and regulations, and any fees set forth in this Agreement. Permit application, processing, and renewal fees shall be due and payable at the time application is made or renewed.
- **Cannabis Business Tax.** Owner shall comply with all provisions of Ordinance No. 1875, and Porterville Municipal Code Chapter 22, Article VI, which requires every person engaged in a Commercial Cannabis Business in the City to pay an annual Commercial Cannabis Business tax at a rate established by resolution of the City Council, but no more than 10% of annual gross receipts. Resolution No. 99-2020, adopted by the City Council on December 15, 2020, has currently set the rate at 7% of annual gross receipts per fiscal year.

Copies of Tax Filings. Owner shall additionally provide the City with courtesy copies of each and every report Owner is required to provide to the County of Tulare or the State of California for sales, use, or other tax purposes at the time such filings are made.

12. Insurance

- **Insurance.** Owner shall require all persons doing work on the Project, including its contractors and subcontractors (collectively, "Owner" for purposes of this Article 6 only), to obtain and maintain insurance of the types and in the amounts described in this section and its subsections with carriers reasonably satisfactory to City.
- **General Liability Insurance.** Owner shall maintain commercial general liability insurance or equivalent form with a limit of not less than One Million Dollars (\$1,000,000) per claim and One Million Dollars (\$1,000,000) each occurrence. Such insurance shall also:
 - 1) Name City, its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives as "Additional Insureds" by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed additional insured.
 - 2) Be primary with respect to any insurance of self-insurance programs covering City, its officials, employees, agents, and representatives.
 - 3) Contain standard separation of insured provisions.
- **Automotive Liability Insurance.** Owner shall maintain business automobile liability insurance or equivalent form with a limit of not less than One Million Dollars (\$1,000,000) for each accident for the vehicles Owner operates in connection with its cannabis business. Such insurance shall include coverage for

owned, hired, and non-owned automobiles. Such insurance shall also:

- 1) Name City, and work in good faith with the City and the insurers to name additional insureds as deemed reasonably necessary. "Additional Insureds" by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed additional insureds;
 - 2) Be primary with respect to any insurance or self-insurance programs covering City, its officials, employees, agents, and representatives;
 - 3) Contain standard separation of insured provisions.
- Workers' Compensation Insurance. Owner shall take out and maintain during the term of this Agreement, workers' compensation insurance for all of Owner's employees employed at or on the Project, and in the event any of the work is subcontracted, Owner shall require any general contractor or subcontractor similarly to provide workers' compensation insurance for such contractor's or subcontractor's employees, unless such employees are covered by the protection afforded by Owner. In case any class of employee engaged in work on the Project is not protected under any workers' compensation law, Owner shall provide and shall cause each contractor and subcontractor to provide adequate insurance for the protection of employees not otherwise protected. Owner hereby indemnifies City for any damage resulting from failure of Owner, its agents, employees, contractors, or subcontractors to take out or maintain such insurance. Workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000) each accident shall be maintained.
 - Other Insurance Requirements. Owner shall do all of the following:
 - 1) Prior to taking any actions under this Agreement, furnish City with properly executed certificates of insurance that clearly evidenced all insurance required in this Article, including evidenced that such insurance will not be canceled, allowed to expire, or be materially reduced in coverage without thirty (30) days prior written notice to City.
 - 2) Provide to City, upon request, and within seven (7) calendar days of said request, certified copies of endorsements and policies, and properly executed certificates of insurance evidencing the insurance required herein.
 - 3) Replace or require the replacement of certificates, policies and endorsements for any insurance required herein expiring prior the termination of this Agreement.

4) Maintain all insurance required herein from the Effective Date of this Agreement to the earlier of the expiration of the term or the mutual written termination of this Agreement.

5) Place all insurance required herein with insurers licensed to do business in California with a current Best's Key Rating Guide reasonably acceptable to City.

13. Termination

- Termination Upon End of Term. This Agreement shall terminate upon the expiration of the term, unless it is terminated earlier pursuant to the terms of this Agreement. Upon termination of this Agreement, City shall record a notice of such termination and this Agreement shall be of no further force or effect except as otherwise set forth in this Agreement.
- Termination for Default. This Agreement may be terminated upon the Owner's default, in accordance with Section 16 below.
- Effect of Termination on Owner's Obligations. Termination of this Agreement shall eliminate any further obligation of Owner to comply with this Agreement, or some portion thereof, if such termination relates to only part of the Site or Project. Termination of this Agreement, in whole or in part, shall not, however, eliminate the rights of Owner to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.
- Effect of Termination on City's Obligations. Termination of this Agreement shall eliminate any further obligation of City to comply with this Agreement, or some portion thereof. Termination of this Agreement shall not, however, eliminate the rights of City to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.
- Survival After Termination. The rights and obligations of the Parties set forth in this Agreement which, by its express terms or nature and context is intended to survive termination of this Agreement, will survive any such termination.

14. Resources Efficiency

Owner shall endeavor to reduce its environmental impact when possible. The design of the facility shall include reasonable water and energy conservation measures in accordance with applicable State regulations.

15. Standard Conditions for Construction

During any on-site construction activities related to development of the project site and any buildings thereon, or renovation or remodeling of existing buildings, Owner shall comply with all state and local building and construction laws, regulations, and guidelines. The Project shall comply with the applicable parking standards established by the City for these particular cannabis activities.

16. Defaults and Remedies

- Remedies in general. It is acknowledged by the parties that City would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof, except as hereinafter expressly provided. Subject to extensions of time by mutual consent in writing, failure to delay by either party to perform any term or provision of this Agreement beyond a reasonable notice and cure period shall constitute a default and constitute grounds to terminate the Agreement and/or pursue available legal remedies. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) day notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured during any such thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. Notwithstanding the foregoing to the contrary, if the alleged default is of such a nature that it cannot be cured within thirty (30) days, the alleged defaulting party shall not be deemed in default as long as such party commences to cure such default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion.

After notice and expiration of the thirty (30) day period, the other party to this Agreement, at its option, may terminate this Agreement and/or institute legal proceedings pursuant to this Agreement.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement including but not limited to the termination of this Agreement, except that City shall not be liable in monetary damages, unless expressly provided for this Agreement, to Owner, to any mortgagee or lender, or to any successors in interest of Owner or mortgagee or lender, or to any other person, and Owner covenants on behalf of itself and all successors in interest to the Property or any portion thereof, not to sue for damages or claim any damages:

- 1) For any breach of this Agreement or for any cause of action which arises out of this Agreement; or
- 2) For the impairment or restriction of any right or interest conveyed or provided under, with, or pursuant to this Agreement, including, without limitation, any impairment or restriction which Owner characterizes as a

regulatory taking or inverse condemnation; or

3) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

Nothing contained herein shall modify or abridge Owner's rights or remedies (including its rights for damages, if any) resulting from the exercise by City of its power of eminent domain. Nothing contained herein shall modify or abridge Owner's rights or remedies (including its rights for damages, if any) resulting from bad faith intentional acts, the grossly negligent or malicious acts of City and its officials, officers, agents and employees. Nothing herein shall modify or abridge any defenses or immunities available to City and its employees pursuant to the Government Liability Act and all other applicable statutes and decisional law.

Except as set forth in the preceding paragraph relating to eminent domain, Owner's remedies shall be limited to those set forth in this Section.

Notwithstanding anything to the contrary contained herein, City covenants as provided in Civil Code Section 3300 not to sue for or claim any consequential damages or, in the event all or a portion of the Property is not developed, for lost profits or revenues which would have accrued to City as a result of the development of the Property.

- Specific Performance. The parties acknowledge that money damages and remedies at law are inadequate, and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties for the following reasons:

- 1) Except as provided in this Agreement, money damages are unavailable against City.

- 2) Due to the size, nature and scope of the Project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, Owner may be foreclosed from other choices it may have had to use the Property or portions thereof. Owner has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate Owner for such efforts; the parties acknowledge and agree that any injunctive relief may be ordered on an expedited, priority basis.

- Release. Except for those remedies set forth in this Agreement, Owner, for

itself, its successors and assignees, hereby releases City, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, based or asserted, pursuant to Article 1, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon City because it entered into this Agreement or because of the terms of this Agreement.

Owner acknowledges that it may have suffered, or may suffer, damages and other injuries that are unknown to it, or unknowable to it, at the time of its execution of this Agreement. Such fact notwithstanding, Owner agrees that the release provided in this Section shall apply to such unknown or unknowable claims and damages. Without limiting the generality of the foregoing, Owner acknowledges the provisions of California Civil Code Section 1542, which provide:

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

Owner hereby waives, to the maximum legal extent, the provisions of California Civil Code Section 1542 and all other statutes and judicial decisions of similar effect.

Owners' Initials

- Termination of Agreement for Default of City. Owner may terminate this Agreement in the event of a default by City in the performance of a material term of this Agreement and only after providing written notice to City of default setting forth the nature of the default and the actions, if any, required by City to cure such default and, where the default can be cured, City has failed to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such sixty (60) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such sixty (60) day period and to diligently proceed to complete such actions and cure such default. Notwithstanding anything to the contrary, in the event that Owner deem it is necessary and/or advisable to cease operations in Porterville, then Owner may terminate this Agreement, and such termination shall be effective upon the date of written notice to the City.
- Attorneys' Fees and Costs. In any action or proceeding between City and Owner brought to interpret or enforce this Agreement, or which in any way arises out of the existence of this Agreement or is based upon any term or provision contained herein, the “prevailing party” in such action or proceeding shall be entitled to recover from the non-prevailing party, in addition to all other relief to

which the prevailing party may be entitled pursuant to this Agreement, the prevailing party's reasonable attorneys' fees and litigation costs, in an amount to be determined by the court. The prevailing party shall be determined by the court in accordance with California Code of Civil Procedure Section 1032. Fees and costs recoverable pursuant to this Section include those incurred during any appeal from an underlying judgment and in the enforcement of any judgment rendered in any such action or proceeding.

- Owner Default. No building permit shall be issued or building permit application accepted for any structure on the Property after Owner is determined by City to be in default of the terms and conditions of this Agreement until such default thereafter is cured by Owner or is waived by City. If City terminates this Agreement because of Owner's default, then City shall retain any and all benefits, including money or land received by City hereunder.

17. Third Party Litigation

- General Plan Litigation. City has determined that this Agreement is consistent with its General Plan. Owner has reviewed the General Plan and concurs with City's determination.

City shall have no liability under this Agreement or otherwise for any failure of City to perform under this Agreement, or for the inability of Owner to develop the Property as contemplated by the **Agreement**, which failure to perform or inability to develop is as the result of a judicial determination that the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law, or that this Agreement or any of City's actions in adopting it were invalid, inadequate, or not in compliance with the law.

- Hold Harmless Agreement. To the fullest extent permitted by law, Owner hereby agrees to, and shall hold City, its elective and appointive boards, commissions, officers, agents, attorney's, contractors, consultants and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Owner or Owner's contractors, subcontractors, agents, or employees' operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Owner or any of Owner's contractors or subcontractors. Owner agrees to and shall defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damage caused, or alleged to have been caused, by reason of any of the aforesaid operations.

- Indemnification. To the fullest extent permitted by law, Owner shall defend,

indemnify, and hold harmless City and its elective and appointive boards, commissions, officers, agents, attorney's, contractors, consultants and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to the legality, validity or adequacy of any of the following: (i) this Agreement and the concurrent and subsequent permits, licenses and entitlements approved for the Project or Property; (ii) the environmental impact report, mitigated negative declaration or negative declaration, as the case may be, prepared in connection with the development of the Property; (iii) any claims based on or alleging inverse condemnation by any person or entity with an interest in the Property; and (iv) the proceedings undertaken in connection with the adoption or approval of any of the above. In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision of this Agreement or any portion thereof as set forth herein, the parties shall mutually cooperate with each other in defense of said action or proceeding. Notwithstanding the above, City, at its sole option, may tender the complete defense of any third-party challenge as described herein. In the event City elects to contract with special counsel to provide for such a defense, City shall meet and confer with Owner regarding the selection of counsel, and Owner shall pay all costs related to retention of such counsel. This Indemnification is provided in addition to that set forth in Section 7.

- **Environmental Contamination.** To the fullest extent permitted by law, Owner shall indemnify and hold City, its elective and appointive boards, commissions, officers, agents, attorney's, contractors, consultants and employees free and harmless from any liability, based or asserted, upon any act or omission of Owner, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors, excepting and acts or omissions of City as successor to any portions of the Property dedicated or transferred to City by Owner, for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including attorneys' fees, City, its officers, agents and employees in any action based or asserted upon any such alleged act or omission. City may in its discretion participate in the defense of any such claim, action or proceeding. This Indemnification is provided in addition to that set forth in Section 7.

The provisions of this Section do not apply to environmental conditions that predate Owner's ownership or control of the Property or applicable portion; provided, however, that the foregoing limitation shall not operate to bar, limit or modify any of Owner's statutory or equitable obligations as an owner or seller of the Property.

- City to Approve Counsel. With respect to this Section, City reserves the right to approve the attorney(s) which Owner selects, hires or otherwise engages to defend City hereunder, which approval shall not be unreasonably withheld.
- Accept Reasonable Good Faith Settlement. With respect to this Section, City shall not reject any reasonable good faith settlement. If City does reject a reasonable, good faith settlement that is acceptable to Owner, Owner may enter into a settlement of the action, as it relates to Owner, and City shall thereafter defend such action (including appeals) at its own cost and be solely responsible for any judgment rendered in connection with such action. This Section applies exclusively to settlements pertaining to monetary damages or damages which are remedial by the payment of monetary compensation. Owner and City expressly agree that this Section does not apply to any settlement that requires an exercise of City's police powers, limits City's exercise of its police powers, or affects the conduct of City's municipal operations.
- Survival. The provisions of this Section inclusive, shall survive the termination or expiration of the Agreement.

18. California Environmental Quality Act

Owner shall pay all fees and reimburse City for any and all costs incurred by City related to project review under the California Environmental Quality Act (CEQA), Public Resources Code, §§21000-21189.3, and the Guidelines for California Environmental Quality Act, California Code of Regulations, Title 14, §§15000-15387. If reasonably requested by City, Owner shall conduct and pay for any required CEQA reviews and analyses. The City has found that the proposed Project is Categorically Exempt from California Environmental Quality Act (CEQA) requirements under provisions of CEQA Guidelines **Section 15301** – Existing Facilities. This exemption applies to projects characterized as alterations to existing facilities meeting the conditions described in **Section 15301**.

19. Rules, Regulations, and Official Policies

Except as otherwise provided in this Agreement, the rules, regulations, and official policies of City governing permitted uses of the land, governing density, and governing the design, improvements, and construction standards and specifications applicable to the development of the Project subject of this Agreement, shall be those rules, regulations, and official policies of City in force at the time of the execution of this Agreement. This Agreement does not prevent City, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth herein, nor does this Agreement prevent City from denying or conditionally approving any subsequent development project application based on such existing or new rules, regulations, or policies.

20. Commercial Cannabis Permit Conditions of Approval

Owner shall comply with all conditions of approval of the City-issued Commercial Cannabis Permit.

21. Periodic Reviews

This Agreement shall be subject to annual review. Owner shall demonstrate good faith compliance with the terms of this Agreement. If, as a result of such periodic review, City finds and determines, based on substantial evidence, that Owner, or successor in interest thereto, has not complied in good faith with the terms or conditions of this Agreement, City may terminate or modify this Agreement (except no modification shall increase Owner's liability nor reduce Owner's rights), provided that City shall first provide Owner notice of its intent to terminate, with a detailed explanation as to why, and provide Owner the reasonable right to cure the same.

- **Periodic Review.** City Council shall review this Agreement annually, on or before each anniversary of the Effective Date, in order to ascertain Owner's good faith compliance with this Agreement. During the periodic review Owner shall be required to demonstrate good faith compliance with the terms of the Agreement, through submitting an annual monitoring report, records, or equivalent written materials to the Community Development Department. The Department will schedule a hearing on the periodic review of the Development Agreement on or following the anniversary of the Effective Date, but Owner has no obligation to compel such hearing, and no implication will be made to Owner's detriment if a hearing is not in fact held. Owner shall document any request for an extension of the term due to delays beyond the control of Owner (see Section 25, "Force Majeure").
- **Conditional Use Permit.** For all intents and purposes, the Commercial Cannabis Permit to be issued under this Agreement shall be treated as if it were a Conditional Use Permit issued to Owner for the establishment and operation of its business. The operation of the business at all times shall be required to comply with the terms of this Agreement.
- **Special Review.** City Council may order a special review of compliance with this Agreement at any time. The Community Development Director or his or her designee shall conduct such special review. During a special review, Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on Owner.
- **Review Hearing.** At the time and place set for the review hearing, Owner shall be given an opportunity to be heard. If City Council finds, based upon substantial evidence, that Owner has not complied in good faith with the terms or conditions of this Agreement, City Council may terminate this Agreement notwithstanding any other provision of this Agreement to the contrary, or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of City. The decision of City Council shall be final, subject

only to judicial review pursuant to Code of Civil Procedure Section 1094.5.

- **Certificate of Agreement Compliance.** If, after a periodic or special review, Owner is found to be in compliance with this Agreement, and if Owner requests it, City shall issue a Certificate of Agreement Compliance ("Certificate") to Owner stating that after the most recent periodic or special review, and based upon the information known or made known to the Planning Director and City Council, that (i) this Agreement remains in effect and (ii) Owner is not in default.

City shall not be bound by a Certificate if a default existed at the time of the periodic or special review, but was concealed from or otherwise not known to the Planning Director and City Council, regardless of whether the Certificate is relied upon by assignees or other transferees or Owner.

- **Failure to Conduct Review.** City's failure to conduct a periodic review of this Agreement shall not constitute a breach of this Agreement.

22. Assignment

Assignment by Owner. Owner shall not transfer, delegate, sublet or assign its interest, rights, duties, and obligations under this Agreement, unless and except for as specifically authorized in this Section. Any assignment, delegation, or subletting inconsistent with the terms and conditions of this Agreement shall be null and void.

Limited Assignment Authorization. During the term of this Agreement or the legal extension of this Agreement as authorized in Section 2 above, and solely in the event of Darin Garrett's death, or his complete and permanent physical or mental incapacity, this Agreement and its interests, rights, duties and obligations shall be solely assignable to Jacob Forrester Garrett, provided that Jacob Forrester Garrett holds an authorized position with Cannabis Express, Inc., and is eligible under, and has complied with (and continues to comply with) all applicable laws, regulations and license transfer requirements related to the operation of the business.

23. Operating Commercial Cannabis Facility

Any party to this Agreement, shall not operate a commercial cannabis facility authorized under the municipal code unless it is the holder of a valid applicable State Cannabis License and a Commercial Cannabis Permit issued by City in accordance with the procedures and requirements of Chapter 15, Article VII of the Porterville Municipal Code.

24. Notice

Any notice or communication required hereunder between City and Owner must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail,

If to City:	City of Porterville 291 North Main St. Porterville, CA 93257 Attention: City Manager
and	City Attorney, Porterville McCormick, Kabot & Lew 4010 S. Demaree Street Visalia, CA 93277
If to Owner:	Cannabis Express, Inc. c/o Darin A. Garrett, CEO 200 Main Street Porterville, CA 93257

- **Amendment or Cancellation.** This Agreement may be amended, or canceled in whole or in part, only by the written mutual consent of the parties to this Agreement or their successors in interest.
- **Waiver.** Waiver by City of any one or more of the terms or conditions of this Agreement shall not be construed as waiver of any other term or condition under this Agreement.
- **Enforcement/Reserved Powers.** Unless amended or canceled pursuant hereto, this Agreement shall be enforceable by any party hereto, or successor in interest thereto, notwithstanding any subsequent change in any applicable general or specific plan, zoning, subdivision or building regulation, or municipal code amendment adopted by City that conflicts with the terms of this Agreement. However, this Agreement is subject to the City's "Reserved Powers." For

purposes of this Agreement, "Reserved Powers" means the rights and authority excepted from this Agreement's restrictions on the City's police powers and which are instead reserved to the City. The Reserved Powers include the powers to enact regulations or take future discretionary actions after the Effective Date of this Agreement that: (1) are necessary to protect the public health and safety, and are generally applicable on a City-wide basis (except in the event of natural disasters as found by the City Council such as floods, earthquakes and similar acts of God); (2) are amendments to California Marijuana Laws or California Uniform Codes, as adopted by the City of Porterville, and/or the Porterville Municipal Code, as applicable, regarding the construction, engineering and design standards for private and public improvements to be constructed on the Site; (3) are necessary to comply with state or federal laws and regulations; or (4) involve sign and parking ordinances and guidelines, changes to the City's zoning laws, Specific Plan or the City's General Plan, whether adopted previous or subsequent to the Effective Date of this Agreement).

If any City ordinance, rule or regulation or addition to the Porterville Municipal Code is enacted or imposed by a citizen-sponsored initiative or referendum after the Effective Date that would conflict with this Agreement or an associated Commercial Cannabis Permit, business license or other authorizations and City approvals, or reduce development rights or assurances provided to the Owner in this Agreement, then such changes, additions or deletions to the Porterville Municipal Code shall not be applied to the Site or Project; provided, however, the parties acknowledge that the City's approval of this Agreement is a legislative action subject to referendum. The parties shall cooperate with each other and undertake such reasonable actions as may be appropriate to ensure this Agreement remains in full force and effect and is implemented in accordance with its terms and to the fullest extent permitted by state or federal law.

Notwithstanding anything to the contrary in this Agreement, site improvements contemplated by this Agreement shall be completed pursuant to the City's development standards and design guidelines.

- **Joint and Several Liability.** Cannabis Express Inc. shall be jointly and severally liable for any amount due under this Agreement, and any breach of this Agreement of failure to pay by one Party shall also constitute a breach of this Agreement by the other Party.
- **Severability.** If any part of this Agreement is found to conflict with applicable state laws or regulations, such part shall be inoperative, null, and void insofar as it conflicts with said laws or regulations, or modified or suspended as may be necessary to comply with such state laws or regulations, but the remainder of this Agreement shall continue to be in full force and effect.
- **Counterparts.** This Agreement may be executed in one or more

counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The execution of this Agreement may be by actual, facsimile, or electronic signature.

- Jurisdiction. The law governing this Agreement shall be that of the State of California. The parties agree that this Agreement is entered into and to be performed in Tulare County, California.
- Disclaimer. Despite California's commercial cannabis laws and the terms and conditions of this Agreement, or any Commercial Cannabis Permit issued pertaining to Owner or the property specified herein, California commercial cannabis possessors or business operators may still be subject to arrest by state or federal officers and prosecuted under state or federal law. The Federal Controlled Substances Act, 21 USC § 801, prohibits the manufacture, distribution, and possession of cannabis without any exemptions for medical use.
- Force Majeure. If delays are caused by unforeseen events beyond the control of Owner, such delays will entitle Owner to an extension of time as provided in this section. Such unforeseen events ("Force Majeure") shall mean war, insurrection, acts of God, local, state or national emergencies, strikes and other labor difficulties beyond the party's control, or any default by City hereunder, which Force Majeure event substantially interferes with the development, construction or operation of the Project.
- Constructive Notice and Acceptance. Every person who after the Effective Date and recording of this Agreement owns or acquires any right, title, or interest to any portion of the Site, is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Site, and all rights and interests of such person in the Site shall be subject to the terms, requirements, and provisions of this Agreement.
- Binding Effect of Agreement. The Parties agree that the Recitals above are true and correct and intend to be bound by same. Except as otherwise provided, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all authorized successors-in-interest of the Parties and constitute covenants which run with the Site. In order to provide constructive notice thereof, the City Clerk will record this Agreement with the Tulare County Recorder within the period required by Government Code Section 65868.5.
- Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this

Agreement. The only relationship between the City and the Owner is that of a government entity regulating the development of private property and the owner of such property.

- **Changes to Project.** The parties acknowledge that changes to the Project or Development Plans and related approvals may be appropriate and mutually desirable to carry out the intent and purpose of this Agreement. This Agreement shall not prevent the City from applying, with the consent or at the request of the Owner, *Subsequent Land Use Regulations* or *Subsequent Development Approvals* that do not directly conflict with the Project, Site or Development Plan authorized under this Agreement. The granting of one such change or request shall not obligate the City to grant other similar changes or requests. As used herein, "*Subsequent Development Approvals*" include, without limitation, all excavation, grading, building, construction, demolition, encroachment or street improvement permits, occupancy certificates, utility connection authorizations, or other non-discretionary permits or approvals necessary, convenient or appropriate for the Project. As used herein, "*Subsequent Land Use Regulations*" means ordinances, resolutions and codes adopted or approved by the City after the Effective Date of this Agreement governing the development and use of the land, including general plan amendments, zone changes, variances or conditional use permits affecting the permitted use of the land including density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions of reservation or Dedication of land for public purposes, and the design, improvement and construction and initial occupancy standards and specifications applicable to the Development of the Property.

- **Conflicting Federal or State Rules.** In the event that any conflicting federal or state laws or regulations, enacted after the Effective Date, prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, *this Agreement shall remain in full force and effect as to those provisions not affected*; and

- (i) **Notice of Conflict.** Either party, upon learning of any such matter, will provide the other party with written notice thereof and provide a copy of any such law, regulation or policy together with a statement of how any such matter conflicts with the provisions of this Agreement; and

- (ii) **Modification Conferences.** The parties shall, within thirty (30) days of the notice referenced to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law or regulation.

- (iii) **City Council Hearings.** In the event the City believes that an amendment to this Agreement is necessary due to the effect of any federal or state law or regulation, the proposed amendment shall be scheduled for hearing before the City Council. The City Council shall determine the exact

nature of the amendment necessitated by such federal or state law or regulation. Owner shall have the right to offer oral and written testimony at the hearing. Any modification ordered by the City Council pursuant to such hearing is subject to judicial review in accordance with California law.

(iv) City Cooperation. The City shall cooperate with Owner in securing any City permits, licenses or other authorizations that may be required as a result of any amendment resulting from actions initiated by the City. As required by this Agreement, Owner shall be responsible to pay all applicable fees in connection with securing of such permits, licenses or other authorizations.

Effective Date. "Effective Date" means the date on which all of the following are true: (i) thirty (30) days have elapsed since the second reading of the Ordinance adopting and approving this Development Agreement and (ii) all Exhibits to this Agreement are finalized, executed and notarized by all affected parties (if applicable) and attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner the Effective Date may not thereafter occur and this Agreement may not thereafter become effective.

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

CITY OF PORTERVILLE

OWNER
CANNABIS EXPRESS, Inc.

Martha A. Flores
Mayor

Name: Darin A. Garrett
Title: Chief Executive Officer

APPROVED AS TO FORM:

Julia Lew
City Attorney

APPROVED AS TO FORM:

_ Attorney for Owner

APPROVED AS TO FORM:

Attorney for Property Owner

Locator Map PRC 2023-007



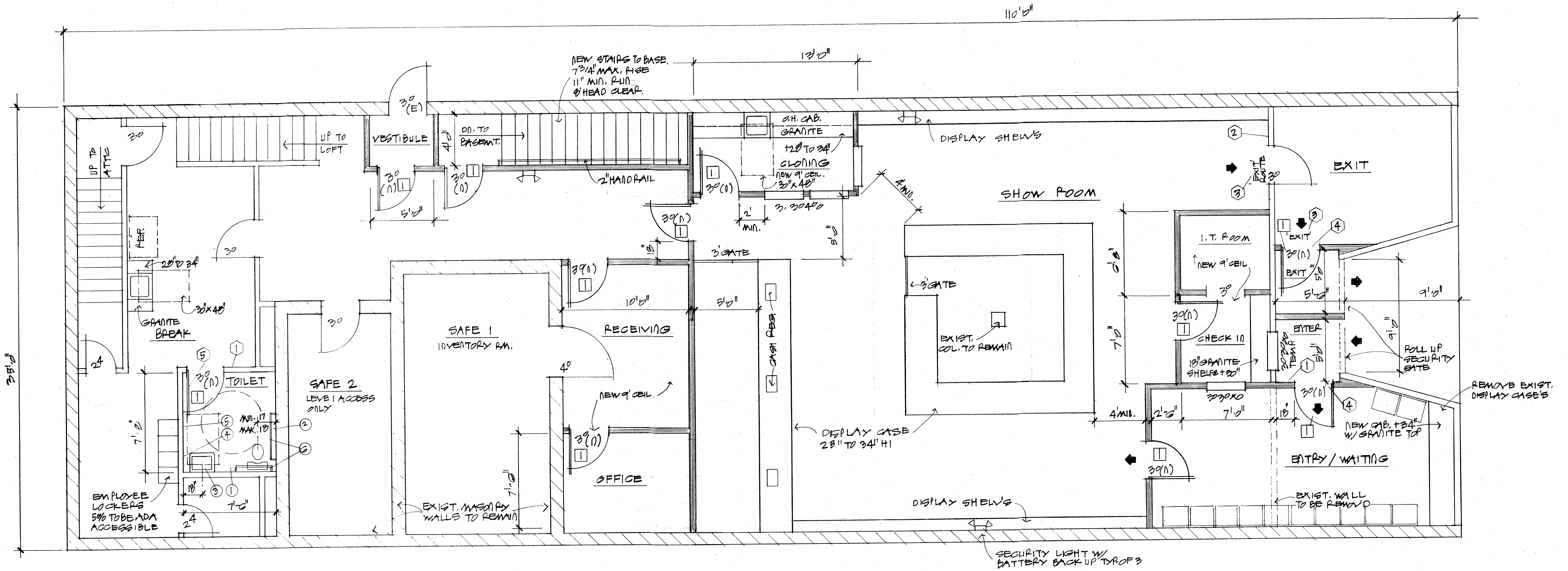
**PCCF Inc. Cannabis Dispensary
@ 200 N. Main St**

 Project Location

1 in = 200 feet



Date Printed: 2/1/2023 by the Community Development Department



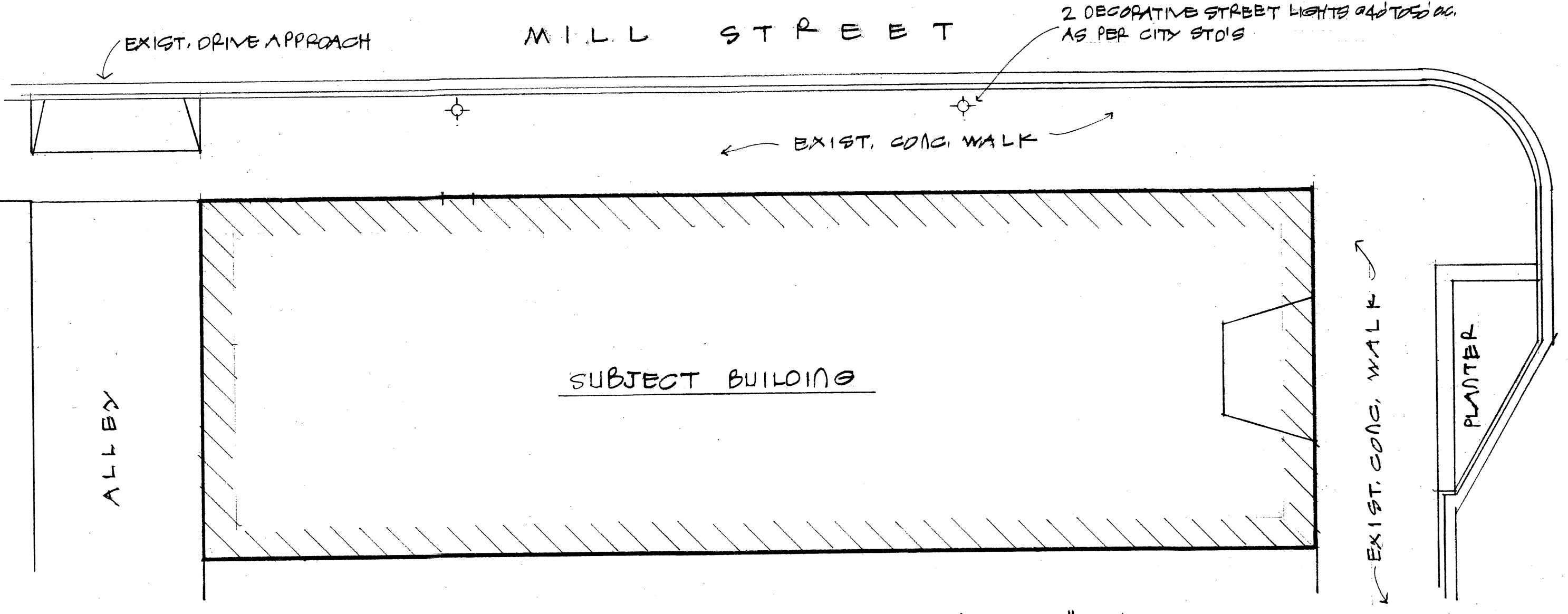
NOTE

- EXIST. LIGHTS, SWITCHES & OUTLETS TO REMAIN & MINOR MODIFICATIONS
- EXIST. ROOF MOUNTED MECH. EQUIP. & OUTLETS TO REMAIN & MINOR MODIFICATIONS
- NEW REST RM. WATER SUPPLY TO TIE INTO EXIST. REST ROOM
- EXIST. WATER HEATER TO REMAIN

FLOOR PLAN

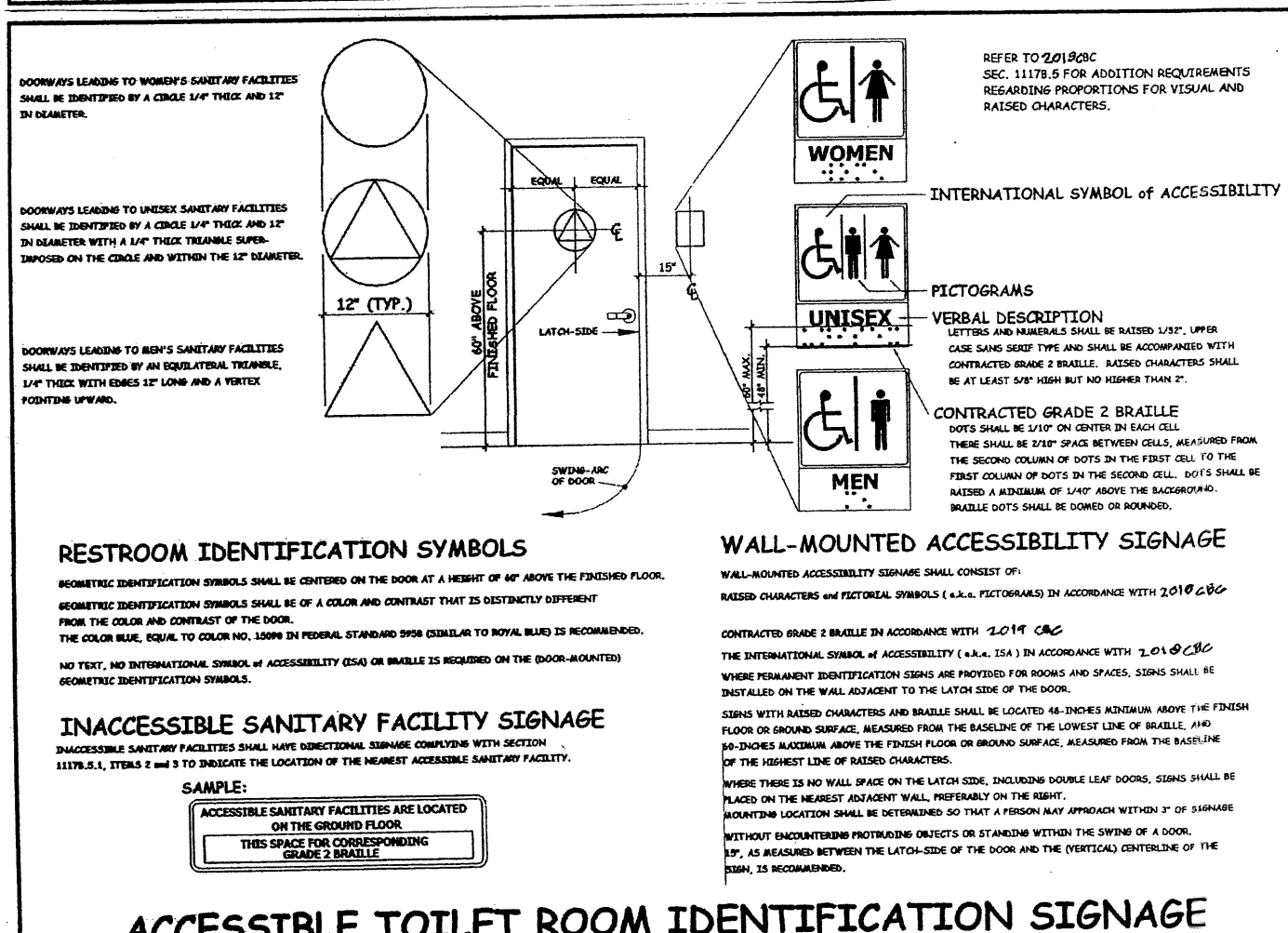
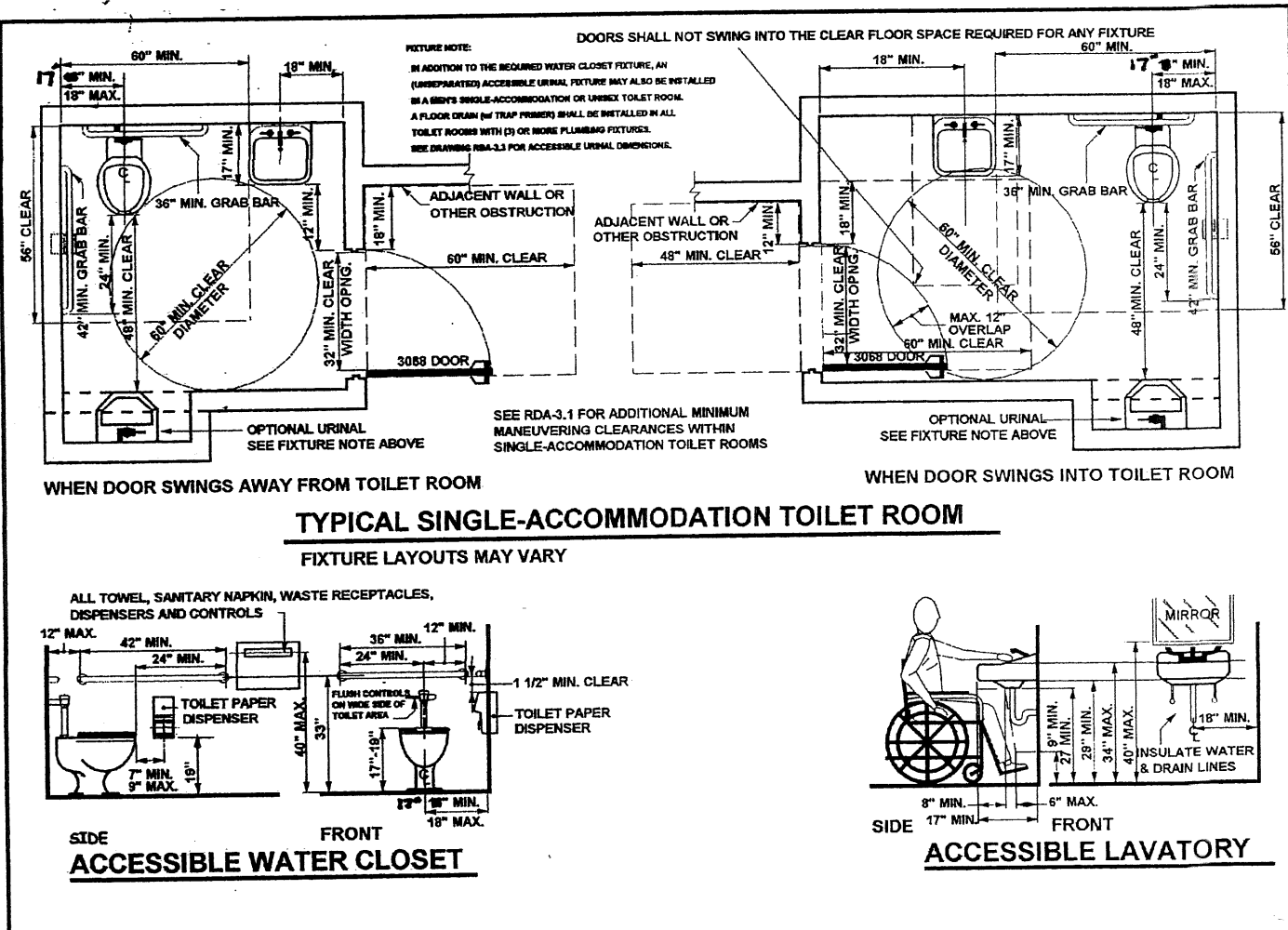
1/4" = 1'-0" 3850 S.F.

LEGEND	
---	EXIST. WALLS TO REMAIN
---	EXIST. WALLS TO BE REMOVED
---	NEW 2X WALLS W/ 1/2" GYP. BD. & ENAMEL PAINT
TYPE OF CONSTRUCTION	
---	NB
OCCUPANCY TYPE	
---	M 1/100 S.F. GROSS
OCCUPANT LOAD	
---	3850/20 = 50 OCCUPANTS



SITE PLAN

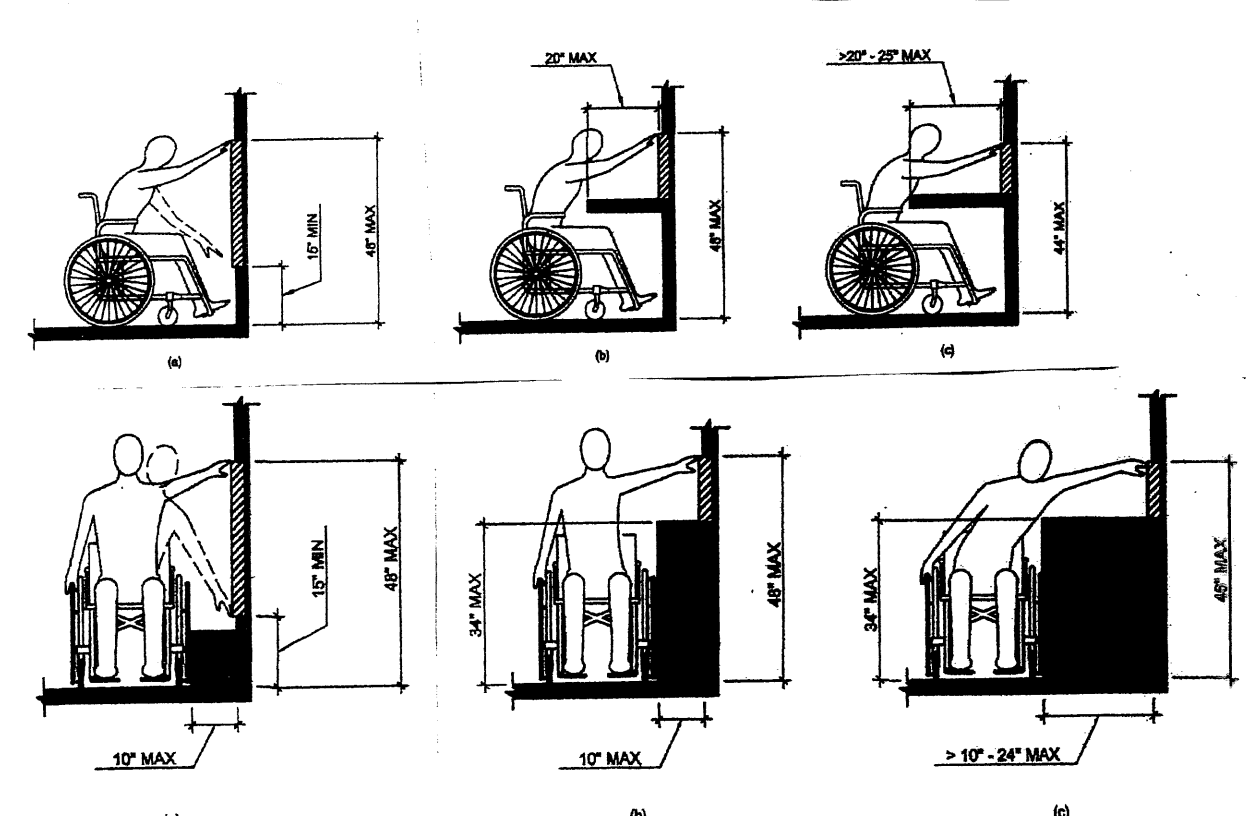
1" = 10'
APR 25/18/20
EXIST. 2016 DR-M (RETAIL-NORTH OF OLIVE)



- A.D.A. LEGEND
- ① 5'x8" HCP sign = 60" AFF
 - ② Tactile "EXIT" sign = 60" AFF
 - ③ Illuminated "EXIT" sign with battery backup
 - ④ Signage stating "This door to remain unlocked when building is occupied."
 - ⑤ HCP door sign = 60" AFF

- RESTROOM LEGEND
- ① Seat Cover Dispenser = 40" AFF to center
 - ② Toilet paper dispenser
 - ③ 2'x3' wall hung mirror
 - ④ Hand soap dispenser
 - ⑤ Paper towel dispenser
 - ⑥ Grab bars

- DOOR SCHEDULE
- ① 3'x6'8" solid core door 1 1/2" thick with hollow metal frame and lever type hardware
 - ② Door levers to be min. 30" AFF and max. 44" AFF
 - ③ Exterior doors shall have a max. opening force of 5 pounds, push or pull
 - ④ Bottom 10" of all doors shall have a smooth uninterrupted surface to allow wheel chair to open without creating a trap or hazardous condition



Notes

All work to comply with 2018 Building, Plumbing, Mechanical, Electrical and Green Codes

New Plumbing fixtures to meet water conservation Sec. 403 CPC

All new walls to be 2x studs with FTD all, double 2x top plate, and 1/2" gyp. bd. painted with enamel paint

Rest Rooms to be painted with enamel, 6" covered tile base and tile floor

All existing Lights, Switches, and Outlets to remain

All existing Mechanical Equipment and Ducting to remain

Exhaust Fans and High Efficiency Lights in Rest Rooms to be on Occupant Sensor Switches

Signs under separate permit

Applicant to verify existing restroom fixtures meet A.D.A. requirements

City to approve and review tactile A.D.A. signage prior to installation

All common use switches, receptacles, and thermostats to be located max. 48" from top of outlet box and min. 15" from bottom of outlet box to finish floor

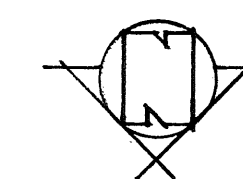
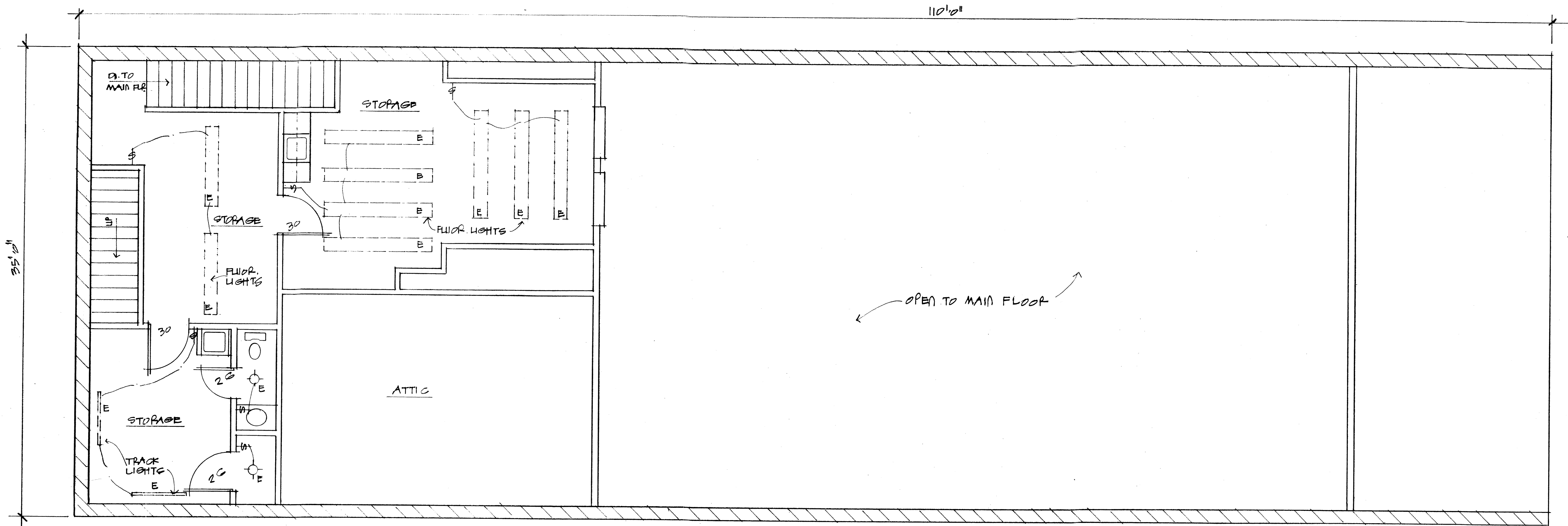
Temperature controls for bath sink to be max 110 degrees

Provide Knox Box verify location

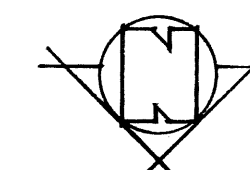
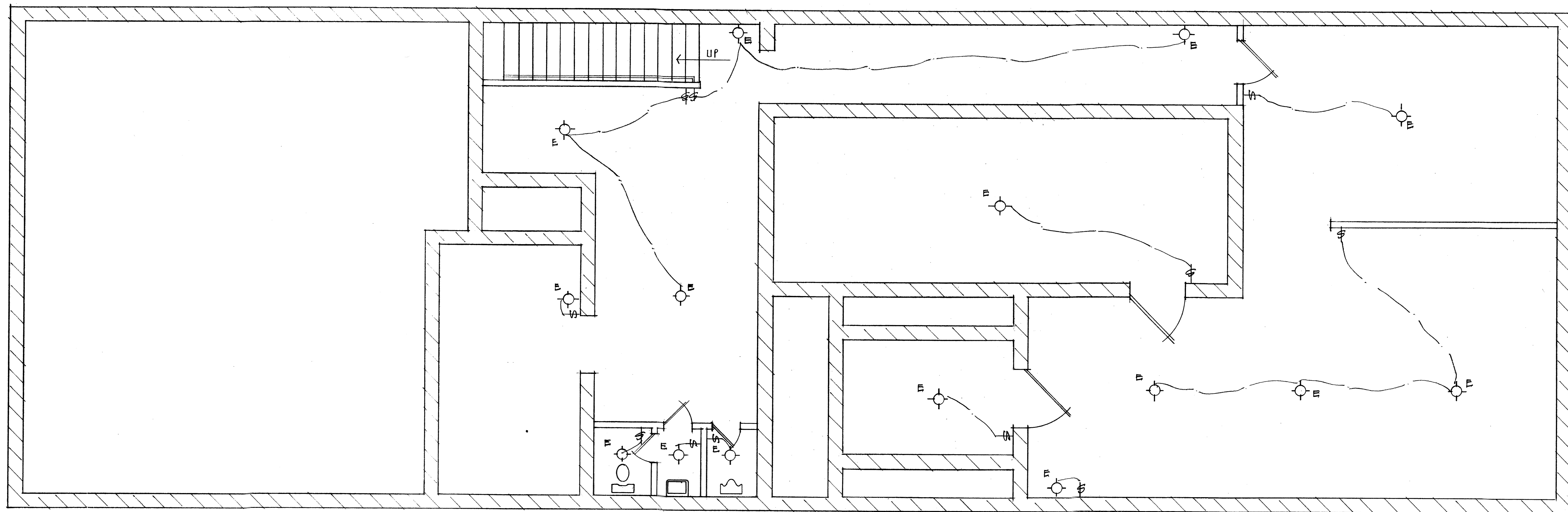
Provide Fire Extinguisher verify location

New lever type hardware at rest rooms to have privacy lock

All hardware on exterior doors shall comply with Chapter 10 of 2018 Cal Fire Code. Includes all locks, latches, bolt locks, and panic and fire exit hardware



LOFT PLAN 1/4" = 1'0"
± 8'-4" CEILING HT.



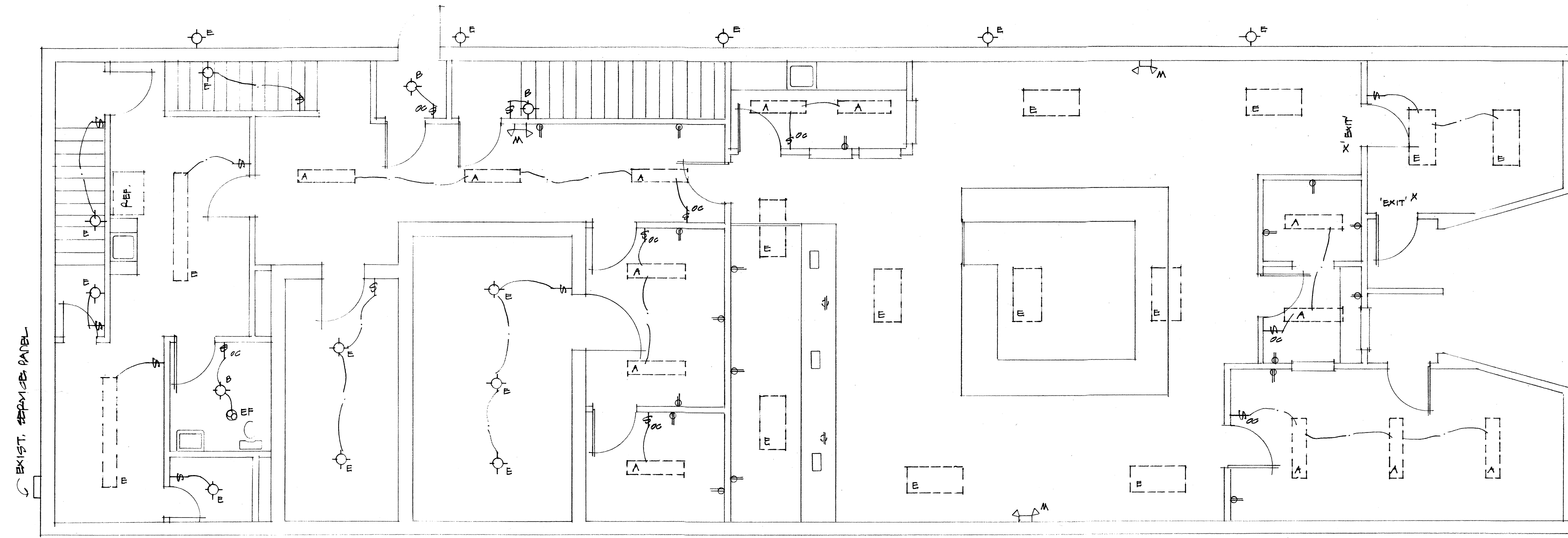
BASEMENT PLAN 1/4" = 1'0"
± 8' CEILING HT.

T.I. PLANS FOR:

DARREN GARRETT
200 N. MAIN STREET
'BLOOM'

GARY WEAVER DRAFTING
1210 LOTS WAY
704.4189
PORTERVILLE
CA 95759

GARY WEAVER DRAFTING
1210 LOTAS WAY FORTLEVILLE
704.4789

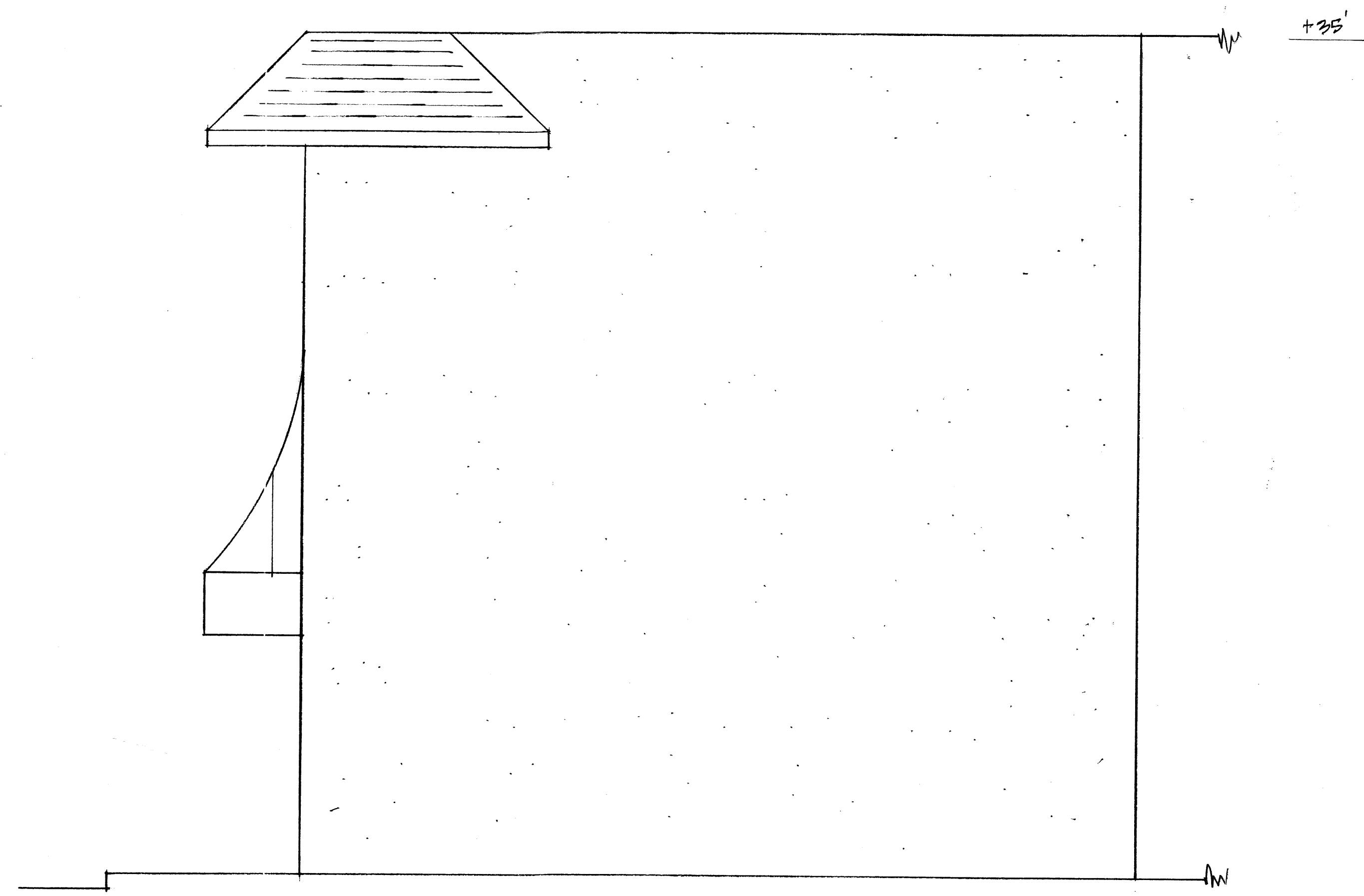


MAIN FLOOR ELECTRICAL PLAN 1/4"=1'-0"

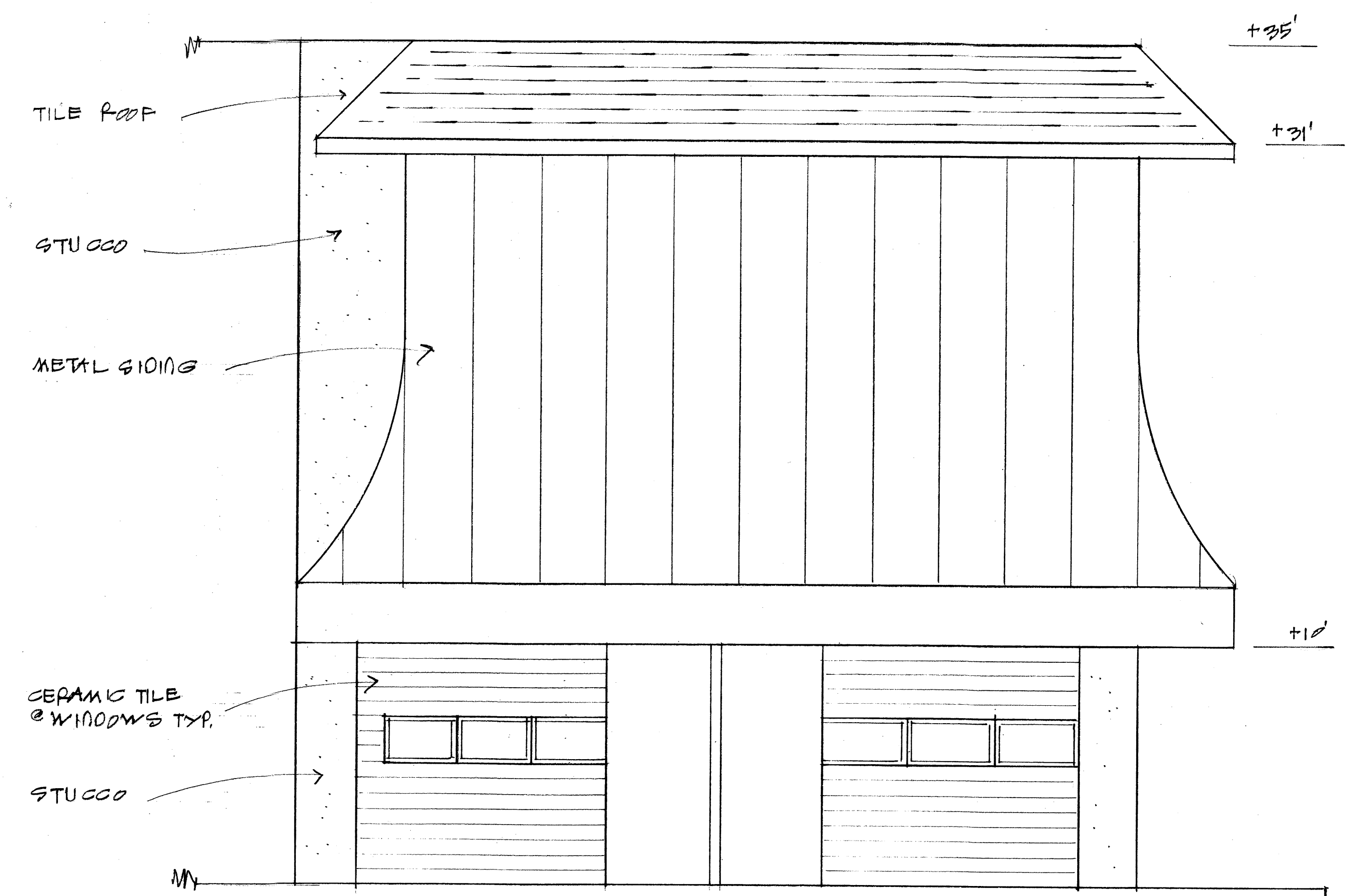
- LIGHTING SCHEDULE
- E EXISTING FIXTURE TO REMAIN
 - - - - - A NEW CEILING MOUNT LBO W/FP 800 LUMENS
 - NEW CEIL. OR WALL MOUNT 900 LUMENS
 - X EMERGENCY 'EXIT' SIGN W/ BATTERY BACKUP
 - M EMERGENCY WALL LIGHT W/ BATTERY BACK UP
 - OC OCCUPANT SENSOR SWITCH
 - EX EXHAUST FAN TO EXT. PROVIDE 5 AIR CHANGES PER HOUR

T.I. PLANS FOR

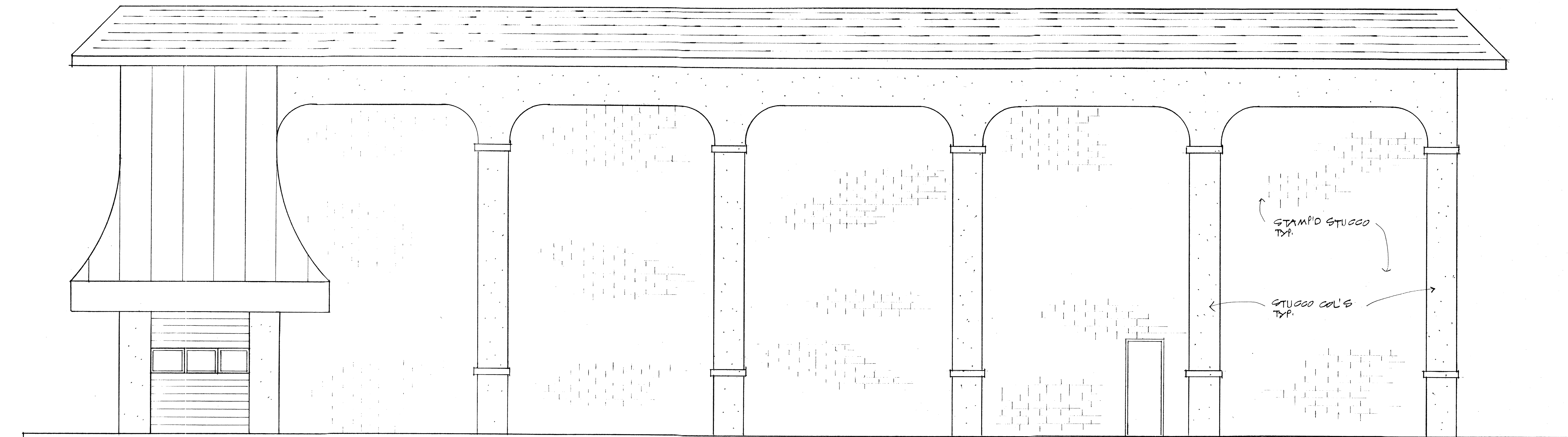
DARREN GARFETT
200 N. MAIN STREET
"BLOCK"



EAST ELEVATION 1/4"=1'-0"
(ALLEY)



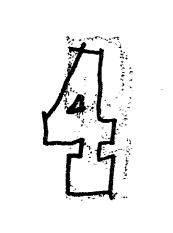
WEST ELEVATION
(MILL STREET)



SOUTH ELEVATION
(MILL STREET)

T.I. PLANS FOR:

DARREN GARRETT
200 N. MAIN STREET
'BLOOM'



CITY OF PORTERVILLE INDEMNIFICATION AGREEMENT CANNABIS BUSINESS DEVELOPMENT AGREEMENT AND OPERATING PERMIT

Pursuant to Ordinance Nos. 1853 and 1854, and including Porterville Municipal Code Section 15-87(T), to the fullest extent permitted by local, state, and/or federal law, the Owner(s) as specified in the Development Agreement between the City of Porterville and Owner(s) hereby agrees to hold harmless, indemnify and defend the City of Porterville, its officers, employees, agents, volunteers, and attorneys (hereinafter "City Indemnitees"):

1. From any claims, actions, proceedings, liabilities, or losses (hereinafter collectively referred to as "Claims") brought against the City Indemnitees:
 - a. To attack, set aside, void or annul any action or decision by City Staff, City Council or any other City Indemnitee related to the Project or Property.
 - b. To attack, set aside, void or annual any action taken to provide related environmental clearance under the California Environmental Quality Act (CEQA) by City Indemnitees.

The indemnification includes but is not limited to damages, fees, and/or costs awarded against the City, if any, and costs of suit, reasonable attorney's fees, and other costs, liabilities, expenses incurred in connections with such claims or proceedings whether incurred by the Owner(s), the City, and/or the parties initiating or bringing such Claim or proceeding.

2. From any Claims and liabilities related to the Commercial Cannabis Permit, the Permittee's commercial cannabis activities, any action taken by the Permittee, and/or arising out of the Owner's (or Owners') obligations under the Development Agreement executed between the City and Owner(s).

To the fullest extent permitted by law, Owner(s) agrees to hold harmless, indemnify, and defend the City Indemnitees from and against ANY and ALL Claims as set forth in Sections 1 and 2 above, regardless of any fault of City Indemnitees. If, due to the particular Claim, complete indemnification is not permitted by law, Owner(s) agree to hold harmless, indemnify and defend the City Indemnitees from and against all Claims, EXCEPT for such loss or damage arising from the sole negligence or willful misconduct of the City.

In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from the conditions are set forth above, Owner(s) shall provide a defense to the City Indemnitees, or at the City's option, reimburse the City Indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such Claims.

The indemnification and any defense obligations to the City, as set forth herein, shall continue and extend beyond the term of the Agreement and/or Permit, and shall remain in full force and effect

through all stages of litigation including appeals of any lower court judgments rendered in the proceeding.

OWNER(S)

Print Name

Date

Owner Signature

Print Name

Date

Owner Signature

Approved as to form:

Owner's Attorney

CITY OF PORTERVILLE

Martha A. Flores, Mayor

Date



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Consideration of Annexation 489 - East River Avenue and Plano Street

SOURCE: Community Development

BACKGROUND: On October 20, 2020, the Project Review Committee reviewed PRC 2020-039, a request for the annexation of approximately 0.62± acres in the general area of the southeast corner of River Avenue and Plano Street. No new development, Zone Change or General Plan Amendment is being proposed or requested.

COMMENT: The proposed annexation area contains three parcels (APNs 261-015-013, 261-015-015, 261-015-016) near the southeast corner of E. River Avenue and Plano Street, in which the applicant is requesting an annexation into the City in order to connect to water and City services. The subject area is developed with a commercial use and the water main needed to serve the parcel is pre-existing.

ANALYSIS: Resolution No. 19-2016, adopted by the City Council on April 19, 2016, established the procedures for properties not located within the city limits of the City of Porterville to request to connect to the City's water utility. The adopted policy and procedures include the procedures for extraterritorial service agreements and annexation as mechanisms to provide City water to properties outside of city limits. The parcels being considered for annexation are adjacent to the city limit line at Plano Street and River Avenue, have a pre-zoning and General Plan Designation of General and Service Commercial (CG), with the most recent use being a previously established commercial use that would be permitted in the CG zone district.

An extraterritorial services agreement is not applicable in this situation as the subject property doesn't meet the conditions of being a previously developed single family residential parcel under 24,999 square feet or a school developed by a State-funded school district. Additionally, City Council Resolution No. 19-2016 precludes commercial properties outside the city limits to request extraterritorial services; instead, such properties must request annexation in order for services to be provided. As such, applicants cannot request for extraterritorial service and only course of action is to request annexation into the corporate limits of the city.

Annexation of the proposed area follows the guiding policies of the 2030

General Plan Land Use Element. Specifically, LU-G-1 “promote a sustainable, balanced land use pattern that responds to existing needs and future needs of the City”. The annexation also following guiding policy LU-G-14 “Ensure availability of land and buildings to accommodate new industries and the expansion of existing businesses while accounting for market factors.”

ENVIRONMENTAL REVIEW: The project is exempt from review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15319, Annexation of Existing Facilities and Lots for Exempt Facilities.

RECOMMENDATION: That the City Council:
1) Find that the proposed project is exempt from CEQA under CEQA Guidelines Section 15319; and
2) Adopt the draft Resolution requesting that Tulare LAFCO initiate proceedings for annexation.

ATTACHMENTS:

1. Draft Resolution
2. Locator Map
3. Zoning Map
4. Annexation Map

Appropriated/Funded:

Review By:

Department Director:
Jason Ridenour, Assistant City Manager

Final Approver: John Lollis, City Manager

RESOLUTION NO. __-2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
REQUESTING THAT THE LOCAL AGENCY FORMATION COMMISSION TAKES
PROCEEDINGS FOR ANNEXATION 489

WHEREAS, the City of Porterville desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code, for Annexation 489; and

WHEREAS, the territory proposed to be annexed to the city totals approximately ±35 acres, is substantially developed, surrounded, and is inhabited, and a description of the external boundary of the territory is set forth in Exhibit A attached hereto and by this reference incorporated herein; and

WHEREAS: the Site is currently within the unincorporated area of Tulare County, abutting the city limits of the City of Porterville, and within the City's sphere of influence; and

WHEREAS: on May 27, 2023, a notice was published in *The Porterville Recorder* setting the date, time, and place of a public hearing for January 17, 2023 and similar notices were sent to owners of property within 300 feet of the Site and posted at City Hall and the City's website announcing the same; and

WHEREAS: at a regular meeting on June 6, 2023, the Porterville City Council did conduct a public hearing to consider the Project; and

WHEREAS, this proposal is made pursuant to Sections 56654 and 56375.3 of the California Government Code, inasmuch as

1. the subject territory does not exceed 150 acres in area
2. the territory is substantially developed or developing
3. the territory is not prime agricultural land as defined by Section 56064
4. the territory will benefit from the change of organization and properties within the territory will receive benefits in the form of utilities and services from the City of Porterville; and

WHEREAS, the reasons for this proposal are as follows:

1. To efficiently provide government services in a manner consistent with the City's Annexation and Municipal Services Objectives, Policies, and Procedures (Resolutions 74-2014, 75-2014, and 19-2016). In light of the City's and LAFCo's policies, any property within a qualified island is required to annex prior to provision of water.
2. To ensure the provision of services and facilities needed to accommodate planned population densities in the project area. By annexing previously developed county

islands, the City of Porterville will have a more proactive role in monitoring changes to urbanized land use in these areas and will be able to anticipate and coordinate development as areas experience infill development or modification to land uses.

WHEREAS, on 05/03/2023 the Environmental Coordinator made a determination that under CEQA

WHEREAS, the conditions of the proposed annexation are limited to compliance with the Porterville Municipal Code and Porterville General Plan.

NOW, THEREFORE, BE IT RESOLVED, this Resolution Application is hereby adopted and approved by the City Council of the City of Porterville. The Local Agency Formation Commission of Tulare County is hereby requested to take proceedings for the annexation as illustrated in Exhibit A, according to the terms and conditions stated above, and in the manner provided for by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and the detachment of the same area from County Service Area #1.

PASSED, APPROVED, AND ADOPTED this 6th day of June, 2023.

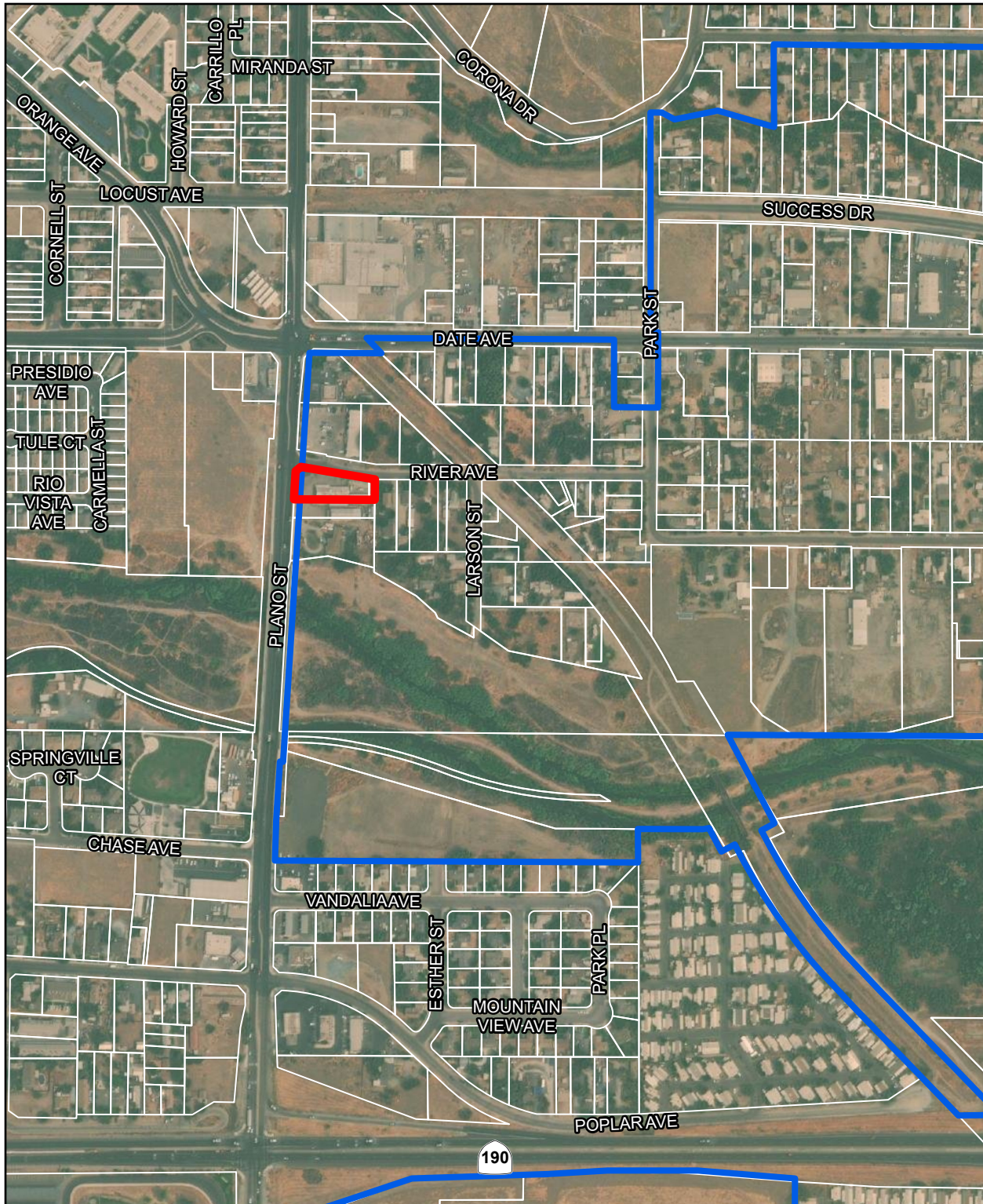
By: _____
Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

Locator Map

PRC 2020-039/Closed Session



ANX of 482 S Plano
Fmr. Gray's Air
Conditioning

 City Limits
 Project Location

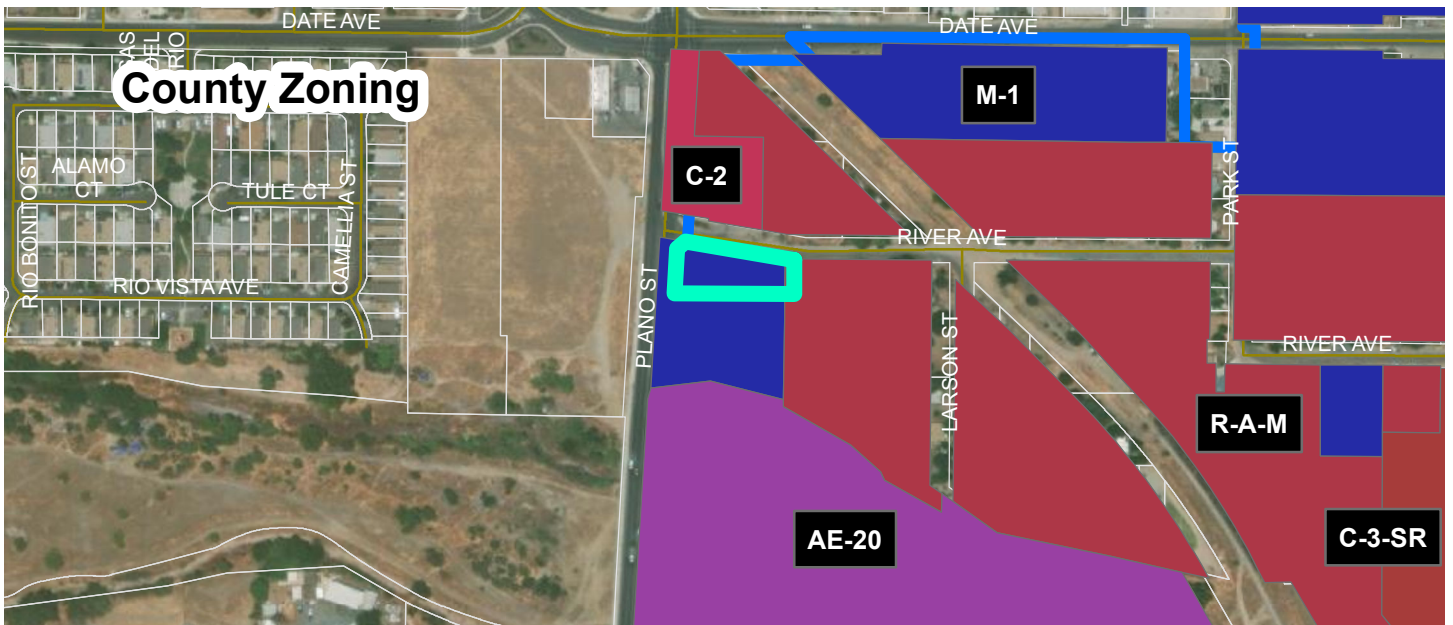
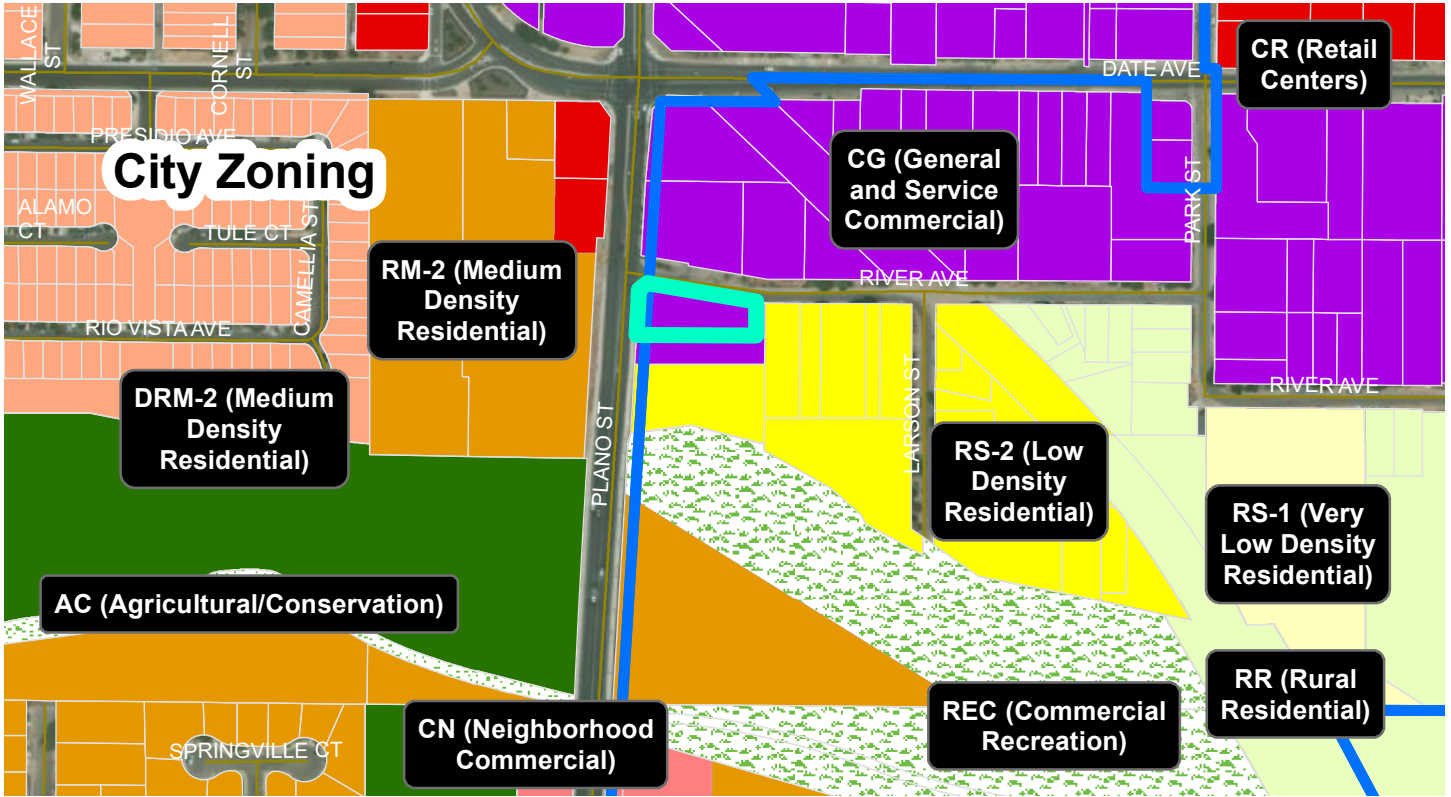
1 in = 500 feet



Date Printed: 7/2/2021 by the Community Development Department

ZONING

PRC 2020-039



**ANX of 482 S Plano
Frmmr. Gray's Air
Conditioning**

Legend



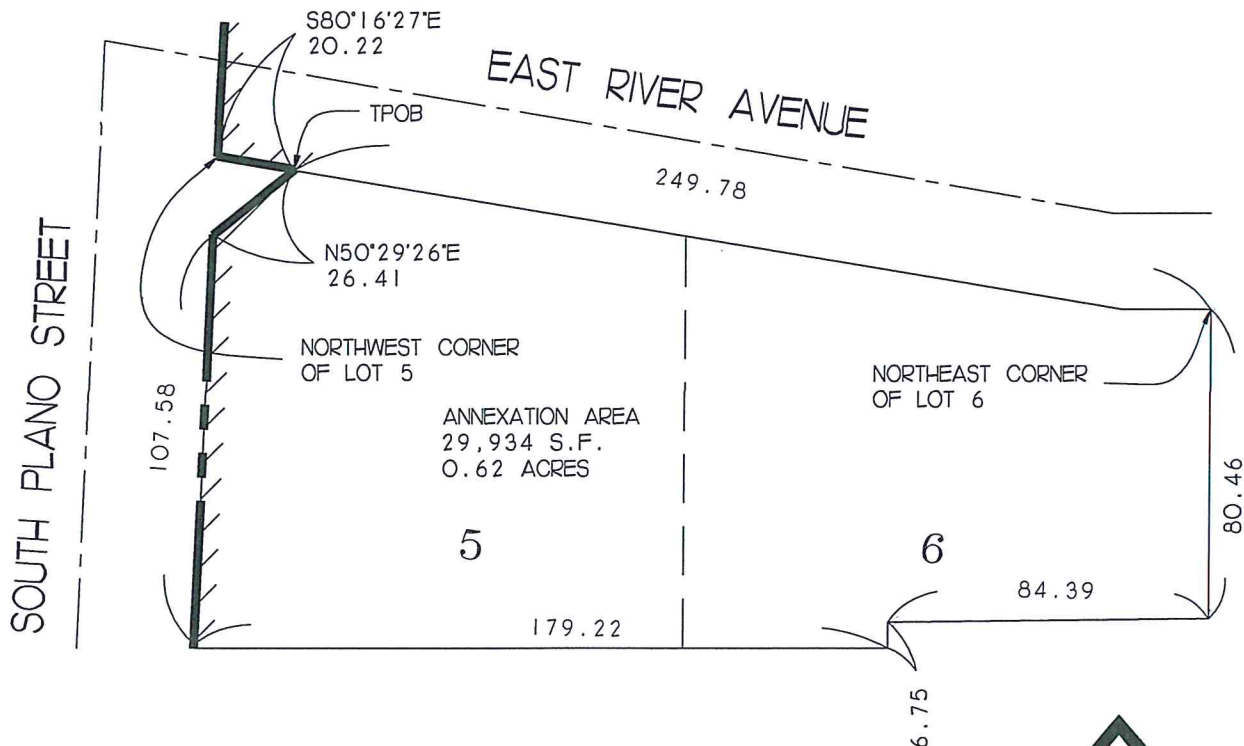
ANNEXATION NO: _____

A PORTION OF LOTS 5 AND 6 OF MONTE VISTA FLAT SUBDIVISION IN THE COUNTY OF TULARE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 11 OF MAPS AT PAGE 4, TULARE COUNTY RECORDS, LOCATED IN A PORTION OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 21 SOUTH, RANGE 27 EAST, MOUNT DIABLO BASE AND MERIDIAN.

OWNERS: RANDALL DEAN GRAY
THOMAS D GRAY
MICHAEL D GRAY
409 HEMLOCK AVENUE
PORTERVILLE, CA 93257
(559) 359-0993

BY: ROBERTS ENGINEERING
P.O. BOX 908
PORTERVILLE, CA. 93258

APNS: 261-015-013, 261-015-016
AND A PORTION OF 261-015-014



LEGEND

5 LOT NUMBER PER MONTE VISTA FLAT
RECORDED IN BOOK 11 OF MAPS AT PAGE 4, T.C.R.

CITY OF PORTERVILLE
TULARE COUNTY



0' 25' 50'

SCALE " 1" = 50'-0"

ALL DISTANCES ARE IN FEET
AND DECIMALS THEREOF



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Bid Results - Villa Street Reconstruction Project

SOURCE: Engineering and Project Management

COMMENT: On May 2, 2023, staff received five bids for the Villa Street Reconstruction Project between Olive Avenue and Henderson Avenue (excluding the Porter Slough Bridge crossing). The proposed project will consist of the removal and replacement of the existing asphalt and base and the installation of access compliant curb ramps. The existing water pipes, storm drain pipes, and sanitary pipes are to be removed and replaced, and purple pipe is to be installed along the stretch of road in order to prepare for the future use of reclaimed water throughout the city. This project also includes the installation of conduit for a fiber optic line, and the installation of video detection at the intersections of Villa Street and Olive Avenue, Villa Street and Putnam Avenue, and Villa Street and Morton Avenue.

The bids are as follows:

<u>Contractor</u>	<u>Bid Amount</u>
Dawson-Mauldin, LLC Selma, CA	\$10,087,972.40*
Teichert Construction Roseville, CA	\$11,220,156
Todd Companies Visalia, CA	\$12,796,269**
Granite Construction Company Fresno, CA	\$13,240,929
American Paving Co Fresno, CA	\$14,089,550.80

*Bid total discrepancy; contractor agreed to honor line item totals. **Bid total discrepancy

The Engineer's estimate of probable cost for construction is \$7,815,108.28. The lowest responsive bid is 29.08% above the Engineer's estimate. An additional \$1,008,797 is necessary for construction contingency (10%). It is anticipated that \$1,008,797 is required for construction management, quality control and inspection services (10%) for a total estimated project cost of \$12,105,566.40.

It is City Council's policy to reject all bids when the bid exceeds ten percent (10%) of the Engineer's Estimate. Although the possibility exists that the City will receive favorable bids if re-advertised, there are no guarantees that the City will receive less costly bids, and will likely necessitate a change in scope of the design of the project and/or an increase in the budget appropriation. The current

construction market, and the large number of repair projects in this area and throughout the State due to recent flooding, is leading to increased construction costs with equipment needs exceeding the inventory in the State. With all five bids received coming in significantly higher than the Engineer's Estimate, staff believes this is an indicator of what could truly be expected should Council elect to re-advertise the project. It is also likely that the heavy equipment needed to complete this project may not be available if rebid.

Funding for this project includes up to \$4,200,045.94 in Measure I funds, Road Maintenance Rehabilitation Account (SB1)/Special Gas Tax Funds in the amount of \$1,300,000, Water Replacement Funds in the amount of \$3,534,504, and \$1,000,000 in Sewer Revolving Funds. An additional appropriation of \$2,071,016.46 of Measure R Local funds is necessary to fully fund the project.

RECOMMENDATION:

That the City Council:

1. Reject all bids, and direct the Engineering and Project Management Director to re-advertise the project;
- OR
2. Award the Villa Street Reconstruction Project to Dawson-Mauldin, LLC in the amount of \$10,087,972.40;
3. Authorize progress payments up to ninety-five percent (95%) of the contract amount;
4. Authorize a ten percent (10%) contingency to cover unforeseen costs;
5. Authorize an additional ten percent (10%) for construction management, construction surveying, quality control and inspection services; and
6. Authorize an appropriation of \$2,071,016.46 in Measure R Local Funds to fully fund the project.

ATTACHMENTS:

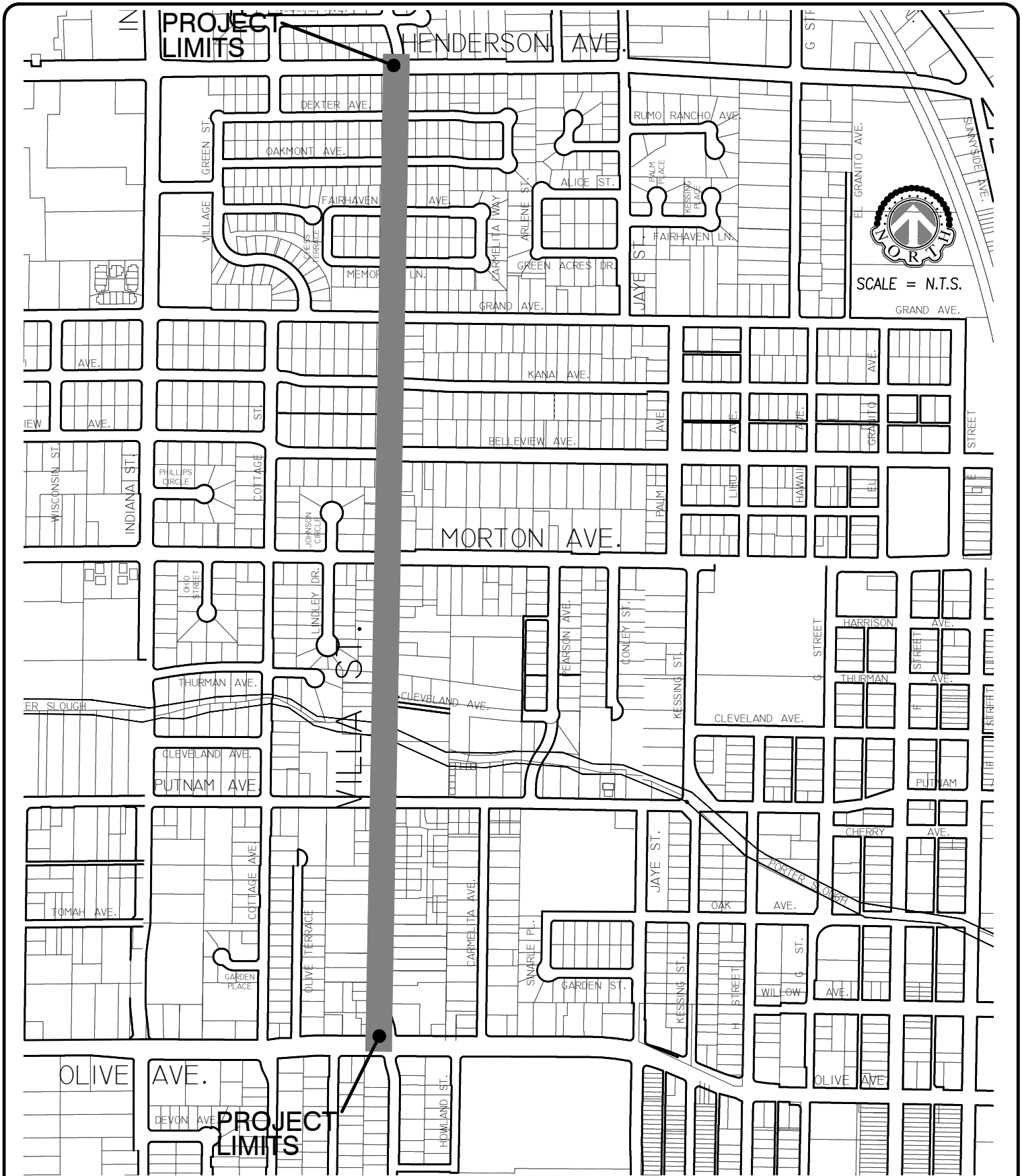
1. Locator Map

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager



CITY OF PORTERVILLE

ENGINEERING DIVISION

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

VILLA STREET RECONSTRUCTION PROJECT

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



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Consider Approval of Payment for Parts and Rental of Specialized Equipment to Repair the Flag Pole in the Grocery Outlet/Dollar Tree Center Shopping Mall

SOURCE: City Manager's Office

COMMENT: During Other Matters at its meeting on May 16, 2023, the City Council approved Council Member Meister's request to consider payment for the parts and rental of specialized equipment to repair the flag pole in the Grocery Outlet/Dollar Tree shopping mall as a Scheduled Matter at its meeting on June 6, 2023.

The annual recognition of national Flag Day on June 14th has a rich and storied tradition in the Porterville community, marked by a patriotic ceremony with the lowering of the previous year's American flag and the raising of a new flag on the large flag pole near the corner of Olive Avenue and D Street. The Smith family began the tradition of the lowering and the raising of the flag in 1982 when Smith's Market was the anchor of the retail center, and the tradition has carried on into its 42nd year at what is today the Grocery Outlet/Dollar Tree Center shopping mall, which is also home of the City's temporary library facility.

During the Flag Day Ceremony on June 14, 2021, the rigging for the flag pole broke, and the flag could not be lowered. City crews and equipment were able to remove the flag later that week, and a local contractor (Elevated Energy and Construction) was called to repair the flag pole. The local contractor donated the labor to repair the pole, however, costs were incurred for the parts and the rental of specialized equipment to repair the pole given its significant height.

The repair of the flag pole was made in time for the 2022 Flag Day Ceremony, however, the Flag Day Committee has apparently not yet paid the local contractor for the outstanding invoice from 2022.

As the Council will recall, at its meeting on May 2, 2023, a Flag Day Committee representative spoke in Oral Communications, seeking the City's assistance in ensuring the annual Flag Day Ceremony continues.

RECOMMENDATION: That the City Council:

1. Consider approval for payment of the invoice from Elevated Energy and Construction for \$2,562.75 for the parts and rental of specialized equipment to repair the flag pole in the Grocery Outlet/Dollar Tree Center shopping mall; and
2. If approved, that payment be made to Elevated Energy and

Construction from the City's "Special Purposes" Reserve Fund by adoption of the draft Resolution.

ATTACHMENTS:

1. Elevated Energy and Construction Invoice
2. Draft Resolution
3. Municipal Code Chapter 2, Article VI, 2-31: Reserve and Designated Funds

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager

Elevated Energy and Construction

Business Phone Number: (559) 756-3076

License# 1062641

Job:**Grocery Outlet****50 West Olive Ave****Porterville, Ca 93257****Approximate start date:** April 25, 2022**Approximate end date:** May 10, 2022**Job Description:**

- | | | | |
|----|---|--------------------------|-----------|
| 1. | Repair/replace rigging on flag pole | 4hrs labor x \$0.00 | 0.00 |
| 2. | Rental of 60' lift (Action Rental 10%off) | \$643.43 a day | \$643.43 |
| 3. | New truck and rigging cable (2½" pipe; 140' 3/16" steel cable)
Gettysburg flag works order: S74521 | | \$472.64 |
| 4. | Rental of 75' lift (Sunbelt) | \$1643.31 a day/delivery | \$1643.31 |
| 5. | New Flag 10'x15'
To be returned after flag day. | | \$196.64 |

Grand Total: **\$2759.38**

RE: Alvino Levario

RESOLUTION NO. ____-2023

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE
CITY COUNCIL'S SPECIAL PURPOSES RESERVE FUND
TO PAY FOR THE PARTS AND SPECIALIZED EQUIPMENT RENTAL
TO REPAIR THE FLAG DAY CEREMONY POLE

WHEREAS: The City of Porterville Municipal Code Section 2-31.6, established the Special Purposes Reserve Fund for the purpose of providing funds to support onetime city special events, projects, and/or purposes that support the community; and

WHEREAS: The annual Flag Day Ceremony has been held in the Porterville community on June 14th for the past forty-one (41) years in recognition of national Flag Day; and

WHEREAS: The Flag Day Committee does not have the fiscal resources to pay for the parts and rental of specialized equipment that was necessary to repair the traditional flag pole used to commemorate the community's Flag Day.

NOW, THEREFORE, BE IT RESOLVED:

1. That the City Council of the City of Porterville makes a finding that the Flag Day Ceremony in annual recognition of national Flag Day is a benefit to the community, and is within the intent and purpose of the Special Purposes Reserve Fund; and
2. That the City Council of the City of Porterville does hereby approve and authorize the expenditure of \$2,562.75 to Elevated Energy and Construction from the Special Purposes Reserve Fund in support of the Flag Day Ceremony and Flag Day Committee.

PASSED, APPROVED AND ADOPTED this 6th day of June, 2023.

Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

2-31: RESERVE AND DESIGNATED FUNDS:

2-31.1: "BUDGET STABILIZATION" RESERVE FUND:

It shall be the policy of the city of Porterville to establish reserve funds that shall be used for the purpose to mitigate, should it occur, onetime annual budget revenue shortfalls (actual revenues less than projected revenues) due to changes in the economic environment and/or actions by the county/state/federal government that have a material effect on the city's revenues; and/or expenditures that will result in future efficiencies and/or budgetary savings. The "budget stabilization" reserve fund shall be maintained at a minimum of fifteen percent (15%) of general fund annual budgeted operating expenditures (excluding onetime expenditures), and may only be appropriated by formal city council action with not less than four-fifths ($\frac{4}{5}$) of those voting in agreement. If the city council takes action due to making a finding(s) of material effects as stated above, it shall include findings of material effects as further specified in section 2-31.7 of this article. Should the fund's balance fall below ten percent (10%) of annual budgeted operating expenditures, then a plan will be established to replenish the fund to the required level within three (3) fiscal years. An initial balance shall be appropriated from the current unallocated reserve as of the date of adoption hereof in an amount equal to fifteen percent (15%) of the budgeted general fund expenditures for fiscal 2011-2012. (Ord. 1787, 4-3-2012)

2-31.2: "CATASTROPHIC/EMERGENCY" RESERVE FUND:

It shall be the policy of the city of Porterville to establish reserve funds that shall be used for the purpose to mitigate costs associated with unforeseen emergencies, including natural disasters or catastrophic events. Should unforeseen and unavoidable events occur that require the expenditure of city resources beyond those provided for in the annual budget, formal city council action with not less than four-fifths ($\frac{4}{5}$) of those voting in agreement, is required of a budget amendment confirming the nature of the emergency and authorizing the appropriation of reserve funds. The "catastrophic/emergency" reserve fund shall be maintained at a minimum of ten percent (10%) of general fund annual budgeted operating expenditures (less onetime expenditures). Should the fund's balance fall below ten percent (10%) of annual budgeted operating expenditures, then a plan will be established to replenish the fund to the required level within five (5) fiscal years. An initial balance shall be appropriated from the current unallocated reserve as of the date of adoption hereof in an amount equal to ten percent (10%) of the budgeted general fund expenditures for fiscal 2011-2012. (Ord. 1787, 4-3-2012)

2-31.3: "FACILITY DEFERRED MAINTENANCE/EQUIPMENT REPLACEMENT" DESIGNATED FUND:

It shall be the policy of the city of Porterville to establish designated funds that shall be used for the exclusive purpose of providing funds to support onetime city facility deferred maintenance and/or equipment replacement costs (excluding vehicles), such as, but not limited to, HVAC units, roofing, parking lot overlays, painting, plumbing, electrical, and doors/windows. The city council, by means of a resolution, may add, modify, or delete specific deferred maintenance or equipment replacement categories. The "facility deferred maintenance/equipment replacement" designated fund shall have no minimum balance, but shall accumulate funds until appropriated by formal city council action. The fund shall receive an allocation of one-third ($\frac{1}{3}$) of audited general fund unassigned fund balance (actual revenues more than actual expenditures). An initial balance shall be appropriated from the current unallocated reserve as of the date of adoption hereof in an amount equal to one-third ($\frac{1}{3}$) of the current unallocated reserve balance as of the date of adoption hereof after the funding of the budget stabilization reserve fund, the catastrophic/emergency reserve fund, and the initial funding of the special purpose reserve fund, have been deducted from the initial unallocated reserve fund balance. (Ord. 1787, 4-3-2012)

2-31.4: "CAPITAL CONSTRUCTION/IMPROVEMENT" DESIGNATED FUND:

It shall be the policy of the city of Porterville to establish designated funds that shall be used for the exclusive purpose of providing funds to support new capital construction and/or improvement projects as identified in the city's ten (10) year capital improvement plan. The "capital construction/improvement" designated fund shall have no minimum balance, but shall accumulate funds until appropriated by formal city council action. The fund shall receive an allocation of one-third ($\frac{1}{3}$) of audited general fund unassigned fund balance (actual revenues more than actual expenditures). An initial balance shall be appropriated from the current unallocated reserve as of the date of adoption hereof in an amount equal to one-third ($\frac{1}{3}$) of the current unallocated reserve balance as of the date of adoption hereof after the funding of the budget stabilization reserve fund, the

catastrophic/emergency reserve fund, and the initial funding of the special purpose reserve fund, have been deducted from the initial unallocated reserve fund balance. (Ord. 1787, 4-3-2012)

2-31.5: "INFRASTRUCTURE DEFERRED MAINTENANCE/IMPROVEMENT" DESIGNATED FUND:

It shall be the policy of the city of Porterville to establish designated funds that shall be used for the exclusive purpose of providing funds to support onetime city infrastructure deferred maintenance and/or improvement costs, such as, but not limited to, streets/alleys, bridges, sewer, water, storm drain, and curb/gutter/sidewalk. The city council, by means of a resolution, may add, modify, or delete specific infrastructure deferred maintenance/improvement categories. The "infrastructure deferred maintenance/improvement" designated fund shall have no minimum balance, but shall accumulate funds until appropriated by formal city council action. The fund shall receive an allocation of one-third ($\frac{1}{3}$) of audited general fund unassigned fund balance (actual revenues more than actual expenditures). An initial balance shall be appropriated from the current unallocated reserve as of the date of adoption hereof in an amount equal to one-third ($\frac{1}{3}$) of the current unallocated reserve balance as of the date of adoption hereof after the funding of the budget stabilization reserve fund, the catastrophic/emergency reserve fund, and the initial funding of the special purpose reserve fund, have been deducted from the initial unallocated reserve fund balance. (Ord. 1787, 4-3-2012)

2-31.6: "SPECIAL PURPOSES" RESERVE FUND:

It shall be the policy of the city of Porterville to establish reserve funds as a line item of the annual city council budget that shall be used for the purpose of providing funds to support onetime city special events, projects, and/or purposes that benefit the community. The "special purposes" reserve fund shall be maintained at a minimum of one hundred thousand dollars (\$100,000.00), and may only be appropriated by formal city council action with four-fifths ($\frac{4}{5}$) of those voting in agreement. Should the fund's balance fall below one hundred thousand dollars (\$100,000.00) in a fiscal year, then the general fund will replenish the fund to the minimum required level at the beginning of the following fiscal year. An initial balance in the amount of one hundred thousand dollars (\$100,000.00) shall be appropriated from the current unallocated reserve as of the date of adoption hereof. (Ord. 1787, 4-3-2012)

2-31.7: "FORMAL CITY COUNCIL ACTION" FOR APPROPRIATIONS:

For the purposes of sections 2-31.1 through 2-31.6 of this article, formal city council action shall require adoption of a resolution. Said resolution shall contain the basis for a finding (or findings) of materiality if required by any provision in this article. Additionally, said resolution shall include finding(s) that the appropriation is within the intent and purpose of the designated and reserve funds including, where appropriate, one or more findings that the purpose of the appropriation is within the defined purpose of the designated and reserve funds whether or not explicitly stated in this article. (Ord. 1787, 4-3-2012)



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Consideration of Proposed Fiscal Year 2023-2024 Budget Process and Setting of Date for Public Hearing

SOURCE: City Manager's Office

COMMENT: Consistent with the City Charter, the City Manager must submit for the City Council's consideration a proposed Budget for the 2023-2024 Fiscal Year. Section 51 of the City Charter provides that the City Manager shall provide not later than thirty (30) days before the end of the City's fiscal year, an estimate of expenditures and revenues of the City Departments for the ensuing year. The City Charter provides that "after duly considering the estimate and making such corrections or modifications thereto as shall seem advisable to it, the Council shall by resolution adopt a general budget and such resolution shall operate as an appropriation of funds to the amounts and for the purposes set forth in the budget so adopted." All spending authority from the current 2022-2023 Fiscal Year budget expires after June 30, 2023. Therefore, a new budget must be adopted which allows payroll to be paid and routine expenditures to be incurred effective July 1, 2023. The Charter is not specific as to the duration of the adoption, thus accordingly, consistent with past Council discussion, the Council may authorize a budget adoption period less than the full fiscal year.

Given the challenges encountered by staff this past March during the historic flood event that significantly interrupted the budget development process, staff recommended that the Council consider adopting a continuance of the 2022-2023 fiscal year budget for the first quarter of the 2023-2024 fiscal year (July - September), with the objective of formally adopting a refined 2023-2024 fiscal year budget prior to October 1, 2023. At its meeting on April 4, 2023, the Council acted to continue with the currently approved 2022-2023 fiscal year budget, and defer the adoption of the new 2023-2024 fiscal year budget until October 1, 2023. Staff is planning to present the preliminary 2023-2024 fiscal year budget to the Council at its meeting on September 5, 2023, and schedule a Public Hearing for the meeting of September 19, 2023, to consider adoption by the Council.

At its Special Meeting on May 23, 2023 in review and determination of its Priority Projects for the 2023-2024 Fiscal Year, the Council affirmed its twelve (12) Priority Projects, providing additional direction in several regards:

1. Interim and New Library Facilities: Continue pursuit of grants and other funding opportunities, including Assemblyman Mathis proposed State appropriation of \$15 million; Consider Captain Figueroa and Firefighter Jones Memorial Statue at the new Library entrance.

2. Street Improvements: Consider signal installation at Olive Avenue and Redwood Street as part of the Olive Avenue Bridge Widening and Gateway Project.
3. Tertiary Treatment: Continue pursuit of grant funding opportunities.
4. Community Recreation Center: Continue pursuit of grants and other funding opportunities.
5. New Animal Shelter Facility: Continue pursuit of grants and other funding opportunities.
6. Serious Accident Review Team (SART) Recommendations: None
7. Sports Complex Completion/Adult Baseball Field: Continue pursuit of grants and other funding opportunities.
8. Henry Street Park: None
9. Skate Park Shade Structure and Lighting: Consider installation of security nodes along Veterans Park Trail.
10. State Routes 65 and 190 Community Welcome Signs: None
11. Westwood Bridge Widening (Tule River): None
12. American Rescue Plan Act (ARPA) Funding: Appropriate estimated \$2 million in unallocated ARPA funds to improvements at the Navigation Center and homeless support services.

The Council provided additional direction to consider concrete and lighting improvements to the Zalud Park Trail system, as well as the development of a second City swimming pool complex and/or the installation of splash pads at City parks as designated community cooling centers.

RECOMMENDATION: That the City Council:
1. Consider the proposed Fiscal Year 2023-2024 Budget process, providing direction on any modification; and
2. Schedule a Public Hearing for June 20, 2023.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:

John Lollis, City Manager

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – JUNE 6, 2023

SUBJECT: Status and Review of Declaration of Local Flood Emergency

SOURCE: City Manager's Office

COMMENT: On March 13, 2023, Mayor Martha A. Flores in conjunction with the Acting City Manager Patrice Hildreth declared the existence of a local emergency within the City of Porterville. Said Declaration was made pursuant to Chapter 9 of the Porterville Municipal Code, and in response to the increasing threat to life and property in the city caused by a series of storm systems striking California and in particular the Porterville area, impacting Success Lake and significantly increasing flows of the Tule River. Pursuant to the California Emergency Services Act (California Government Code 8558 et seq.), emergency declarations must be ratified by the governing body within seven days of being declared. At its Special Meeting on March 17, 2023, the City Council acted to ratify the Declaration of Local Emergency. The Act also requires that the emergency declaration be renewed every sixty (60) days to remain in effect, which at its meeting on May 16, 2023, the Council reviewed and acted to renew the emergency declaration.

On March 10, 2023, due to the volume of water added to Success Lake from significant storm activity, Tulare County Sheriff Mike Boudreaux issued an Evacuation Warning for both the north and south sides of the Tule River, and the Tulare County Office of Emergency Services (TCOES) established a Temporary Evacuation Point (TEP) and Emergency Shelter in the gymnasium at Porterville College.

On March 15, 2023, due to the water level of Success Lake rising to the point of running over the spillway of the Richard L. Schafer Dam, Sheriff Boudreaux issued a Mandatory Evacuation Order for the residences, businesses and structures between Schafer Dam and Road 284, east of the city of Porterville. On March 18, 2023, due to water levels dropping on the Tule River, Sheriff Boudreaux reduced the Mandatory Evacuation Order back to an Evacuation Warning.

On March 15, 2023, due to rising flood waters, Sheriff Boudreaux issued a Mandatory Evacuation Order for the area between Olive Avenue (Avenue 152) to Avenue 144 and the Friant-Kern Canal and the Tule River and Westwood Street, west of the city of Porterville. On March 25, 2023, Sheriff Boudreaux reduced the Mandatory Evacuation Order back to an Evacuation Warning.

On March 15, 2023, due to rising water levels of the Tule River, City Public Works Department staff took extraordinary measures to protect the

neighborhood north of River Springs Drive, avoiding potentially catastrophic flooding of the area.

On March 16, 2023, due to the historic water levels and flows of the Tule River causing erosion to the river banks, Police Chief Jake Castellow issued a Mandatory Evacuation Order for eight residences along Rio Vista Avenue, providing information on the TEP and Emergency Shelter established at Porterville College. City Public Works Department staff took extraordinary measures over the next several days to mitigate and protect the river banks from affecting the residences. On March 24, 2023, Chief Castellow reduced the Mandatory Evacuation Order of the eight residences back to an Evacuation Warning.

On March 19, 2023, due to continued erosion of the banks of the Tule River and the performance of immediate necessary mitigation efforts by Public Works Department personnel, Chief Castellow issued a Mandatory Evacuation Order for both the north and south banks of the Tule River within City limits (not including permanent structures with a designated address), and provided information on the TEP and Emergency Shelter established at Porterville College. The Public Works Department continues to work diligently in shoring the banks of the Tule River.

To accommodate upcoming ceremonies and events in the gymnasium at Porterville College, the TEP and Emergency Shelter at the College closed at noon on April 11, 2023, and thirty (30) individuals were successfully transitioned to the new TEP at the Porterville Army National Guard Armory. A Special Meeting of the Council was scheduled for April 14, 2023, to consider a draft License agreement for the City's temporary use of the State facility. The American Red Cross continued to provide shelter services at the TEP, but transitioned out on May 5, 2023. With the authority granted to the City Attorney and City Manager at its meeting on April 18, 2023, the City and County drafted a Memorandum of Understanding in an effort to continue TEP shelter services until May 5, 2023, while the Mandatory Evacuation Order remained in place along the banks of the Tule River in city limits. On April 14, 2023, the County transmitted a letter to the California Governor's Office of Emergency Services (Cal OES), requesting continued financial support for the Armory TEP, which the County reported that Cal OES did not approve.

Given the lack of continued financial support by Cal OES, the County notified the City that it would discontinue its support of the Armory TEP at noon on May 5, 2023, and American Red Cross would vacate the facility as well, leaving the City alone to determine the function of the Armory TEP after noon on May 5th. The significant threat of local emergency continued to exist with the estimated over three hundred percent (300%) of normal snow pack in the Sierra Nevada mountains and the potential for a warm storm or heat wave this Spring to again inundate the Tule River, described as a "loaded locomotive at the top of the hill." Given the forecasts of potential widespread flooding damage to west Tulare County and significant portions of Kings County later this Spring and early Summer, Red Cross representatives strongly believe they

will be returning to the Armory TEP and other Tulare County locations (e.g. Porterville Developmental Center) to assist those displaced from homes due to flooding. Until such time that Cal OES makes the determination that emergency conditions again exist in Tulare County, the Council was left to determine if local emergency conditions existed to continue operating the Armory TEP, which expenditures would not be reimbursable given the lack of approval by Cal OES.

Given the continued mandatory evacuation order along the Tule River in city limits and the legal implications of the *Martin v. Boise* federal 9th Circuit Court of Appeals decision (2018), and the announced departure of the American Red Cross and County support at noon on May 5, 2023, City staff developed an operational plan for the Armory TEP, cognizant of the lack of federal and State reimbursement of costs. As of April 27, 2023, eighteen (18) individuals were receiving shelter services at the Armory TEP, with most individuals only at the facility in the evening. Given the limited daytime TEP population, and daily meal services provided at the nearby Porterville Welcome Center, staff recommended to limit the Armory TEP hours from 7:00 P.M. to 7:00 A.M. daily, providing temporary staffing of two individuals (including a security guard). Temporary staffing had been quoted at \$25 per hour, for a daily expense of \$600 (or \$18,000 per month). At its meeting on May 2, 2023, the Council authorized the continued operation of the Armory TEP for a 12-hour operational period over the evenings, and also directed that the Armory restrooms and shower facilities be used by the individuals at the TEP, which although not ADA-compliant, are not required for non-reimbursable shelter activities while under a Declaration of Local Emergency. The contract for the on-site mobile shower and portable restroom facilities that are ADA-compliant expired on May 11, 2023, which the rental cost was approximately \$18,000 per month. However, the City Attorney recommended maintaining a single ADA-portable restroom at the facility. Beginning at noon on May 5, 2023, the City assumed administrative and financial responsibility for the Armory, which has established operational hours of 8:00 P.M. to 8:00 A.M. and averaged up to twenty (20) individuals each evening (please see attached daily census).

On May 4, 2023, the City received an updated draft License agreement for the use of the Armory, proposing a 1-year lease for exclusive use by the City effective May 5, 2023, through May 4, 2024. The draft agreement proposes no fee for the use of the facility, but that the City assume responsibility for the facility's utilities. On Monday, May 8th, the last remaining Army personnel left the facility, with the City now having complete exclusive use of the facility. At its meeting on May 16, 2023, the Council approved the updated draft License agreement for the 1-year exclusive use of the Armory.

On March 31, 2023, Governor Newsom issued Executive Order N-6-23 to support Tulare Lake Basin flood response, which streamlines State preparation, response and recovery actions and supports local flood response efforts and assist in preparing communities for the impacts of snowmelt runoff in the months ahead.

On April 3, 2023, President Biden granted a Major Disaster Declaration for the State of California, triggering the release of Federal funds to help individuals and communities recover from Severe Winter Storms, Straight-line Winds, Flooding, Landslides and Mudslides that occurred February 21, 2023, and continuing. Monterey and Tulare counties were designated in the Major Disaster Declaration for both Individual and Public Assistance, as well as Hazard Mitigation.

On May 17, 2023, Governor Newsom issued Executive Order N-7-23 to support Tulare Lake Basin flood response, which extends flood diversion and groundwater recharge flexibilities implemented for the Tulare Lake Basin, including Kern River floodwater to be allowed into the California Aqueduct.

At its meeting on April 4, 2023, the Council approved Resolution No. 15-2023, which authorized the appropriation of funds from the Catastrophic/Emergency Reserve Fund for the costs associated with the response to the local emergency including personnel, equipment, services and other necessary expenditures. At its meeting on April 18, 2023, the Council approved two emergency expenditures that exceeded \$5,000 in their acquisition, which included additional Water Rescue Equipment for the Fire Department (\$6,417.70) and the 30-day rental of two mobile shower/restroom units (\$13,151) for the Armory TEP due to the facility's restrooms and showers not being compliant with the Americans with Disabilities Act (ADA). At its meeting on May 2, 2023, the Council approved two additional emergency expenditures that exceeded \$5,000 in their acquisition, which included a trailer-mounted 6" dewatering and sewage pump (\$77,396.67), and local trucking services of riprap material (\$5,436.00), both for the Public Works Department.

In support of two private personnel providing nightly security at the Armory as it continues to function as a temporary evacuation point and shelter, City staff has secured TopKnotch Security, Inc. as the security services provider. TopKnotch has provided an agreement for security services for approximately \$18,000 per month (2 personnel at \$25/hour for 12 hours per day for 30 days per month).

RECOMMENDATION: That the City Council:

1. Receive the report of status and review of the Declaration of Local Emergency and determine the need exists to continue said Declaration; and
2. Approve the agreement with TopKnotch Security, Inc. to provide nightly security at the Porterville Army National Guard Armory for \$18,000 per month.

ATTACHMENTS:

1. Declaration of Local Emergency - March 13, 2023
2. Resolution No. 11-2023
3. Rio Vista Avenue Mandatory Evacuation Order - March 16, 2023
4. Tule River Banks Mandatory Evacuation Order - March 19, 2023

5. Governor Newsom Executive Order N-6-23
6. Governor Newsom Executive Order N-7-23
7. Federal Disaster Declaration Fact Sheet - April 3, 2023
8. License to Use State Military Property - April 14, 2023
9. City and County Memorandum of Understanding for Shelter Support
10. County of Tulare CalOES Shelter Support Request Letter - April 14, 2023
11. Armory Temporary Evacuation Point and Shelter - Daily Census
12. License to Use State Military Property - May 16, 2023
13. Resolution No. 15-2023
14. Rescue Source & Rescue 3 Invoice: Water Rescue Equipment
15. Royal Restrooms Invoice: Mobile Shower-Restroom Units
16. Rain for Rent Pump Invoice
17. Mike Clark Trucking Invoice
18. TopKnotch Security, Inc. Agreement
19. Municipal Code Chapter 9 - Civil Defense and Disaster
20. California Government Code 8558

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager



DECLARATION OF LOCAL EMERGENCY

WHEREAS, severe winter storm systems have struck California and in particular, the Porterville area, beginning in late February and continuing into March bringing damaging winds and historic precipitation, including rainfall in the Southern Sierra Nevada mountains already impacted by above-normal snow levels; and

WHEREAS, it is forecasted that additional storms will continue to threaten the Porterville area, bringing additional rain, significantly impacting Lake Success which is above capacity, and significantly increasing flows in the Tule River; and

WHEREAS, under the provisions of the City Charter, I find that conditions of extreme peril to the safety of persons and property exist due to these storms; and

WHEREAS, I find that the conditions caused by these storms, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Porterville and may require the combined forces of mutual aid and/or unified command to appropriately respond.

NOW, THEREFORE, I, MARTHA A. FLORES, Mayor of the City of Porterville, in accordance with the authority vested in me by the Porterville City Charter, **HEREBY DELCARE A LOCAL EMERGENCY** to exist in the City of Porterville.

IT IS HEREBY ORDERED that the City's Emergency Management Team under the direction of Fire Chief/Incident Commander Bryan Cogburn has the authority to procure any and all resources deemed necessary in this event.

DECLARED, this 13th day of March, 2023.

Martha A. Flores, Mayor

ATTEST:

Patrice Hildreth, Chief Deputy City Clerk

RESOLUTION NO. 11 -2023

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE CONFIRMING THE EXISTENCE
OF A LOCAL EMERGENCY

WHEREAS, Chapter 9 of the Porterville Municipal Code of the City of Porterville provides for the ability to declare the existence or threatened existence of a local emergency when the City is affected or likely to be affected by a public calamity; and

WHEREAS, conditions of extreme peril to the safety of persons and property have arisen within the City of Porterville caused by severe winter storm systems striking California, and in particular the Porterville area, beginning in late February and continuing into March bringing damaging winds and historic precipitation, including rainfall in the Southern Sierra Nevada mountains already impacted by above-normal snow levels; and

WHEREAS, it is forecasted that additional storms will continue to threaten the Porterville area, bringing additional rain, significantly impacting Lake Success which is above capacity, and significantly increasing flows in the Tule River that create or will likely create conditions of extreme peril; and

WHEREAS, Mayor Martha A. Flores in conjunction with City Manager John Lollis did declare the existence of a local emergency within the City of Porterville on the 13th day of March, 2023, which is subject to ratification by the City Council within seven (7) days. A copy of said Declaration is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby find that the aforesaid conditions of extreme peril did warrant and necessitate the declaration of the existence of a local emergency; and

BE IT RESOLVED that said local emergency shall be deemed to continue to exist until termination is proclaimed by the City Council of the City of Porterville, State of California.

PASSED, APPROVED AND ADOPTED this 17th day of March, 2023.



Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk



By: Patrice Hildreth, Chief Deputy City Clerk



DECLARATION OF LOCAL EMERGENCY

WHEREAS, severe winter storm systems have struck California and in particular, the Porterville area, beginning in late February and continuing into March bringing damaging winds and historic precipitation, including rainfall in the Southern Sierra Nevada mountains already impacted by above-normal snow levels; and

WHEREAS, it is forecasted that additional storms will continue to threaten the Porterville area, bringing additional rain, significantly impacting Lake Success which is above capacity, and significantly increasing flows in the Tule River; and

WHEREAS, under the provisions of the City Charter, I find that conditions of extreme peril to the safety of persons and property exist due to these storms; and

WHEREAS, I find that the conditions caused by these storms, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Porterville and may require the combined forces of mutual aid and/or unified command to appropriately respond.

NOW, THEREFORE, I, MARTHA A. FLORES, Mayor of the City of Porterville, in accordance with the authority vested in me by the Porterville City Charter, **HEREBY DELCARE A LOCAL EMERGENCY** to exist in the City of Porterville.

IT IS HEREBY ORDERED that the City's Emergency Management Team under the direction of Fire Chief/Incident Commander Bryan Cogburn has the authority to procure any and all resources deemed necessary in this event.

DECLARED, this 13th day of March, 2023.

Martha A. Flores, Mayor

ATTEST:

Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at a meeting of the Porterville City Council duly called and held on the 17th day of March, 2023.

Said resolution was duly passed, approved, and adopted by the following vote:

Council:	FLORES	CARRILLO	WEYHRAUCH	BELTRAN	MEISTER
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					



JOHN D. LOLLIS, City Clerk

By: _____

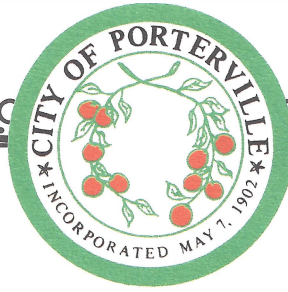
Fernando Gabriel-Moraga, Deputy City Clerk

Police Department

350 North "D" Street
Porterville, CA 93257
(559) 782-7400/FAX (559) 784-1070
www.PortervillePolice.com

Jake Castellow

Chief of Police



March 16th, 2023

This is a message from Tulare County & the City of Porterville. Due to the recent storm events, and the water levels in the Tule River, there is erosion to the bank of the river. An Evacuation order has been issued for all residences, businesses, and structures that are on the south side of Rio Vista Ave with the addresses of **191 Rio Vista Avenue, 201 Rio Vista Avenue, 211 Rio Vista Avenue, 221 Rio Vista Avenue, 231 Rio Vista Avenue, 241 Rio Vista Avenue, and 245 Rio Vista Avenue.**

An evacuation order, also known as a mandatory evacuation, means that all residents and visitors should **leave now** before the water causes unsafe conditions for the residence. If you are unable to evacuate and require assistance, please call 9-1-1. For additional resources or information, please call 2-1-1. Please refer to the map on the Tulare County website, emergencies page, at TulareCounty.CA.gov/emergencies.

A Temporary Evacuation point has been set up at Porterville College, 100 E College Avenue. Thank you.

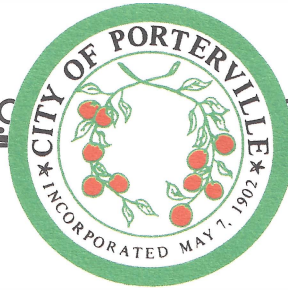
Jake Castellow
Chief of Police

Police Department

350 North "D" Street
Porterville, CA 93257
(559) 782-7400/FAX (559) 784-1070
www.PortervillePolice.com

Jake Castellow

Chief of Police



March 19, 2023

This is a message from Tulare County & the City of Porterville. Due to the recent storm events, there is erosion to the banks of the Tule River.

An **Evacuation Order** has been issued for the north bank and south bank of the Tule River, from Westwood Street, to the Plano bridge, but does not include the south bank from Westwood Street, east to the bridge of State Route 65. This evacuation order does not include permanent structures with a designated address, other than those for which a previous evacuation order has been issued.

An evacuation order, also known as a mandatory evacuation, means that all residents and visitors should leave immediately due to the unsafe conditions of the river banks. If you are unable to evacuate and require assistance, please call 9-1-1. For additional resources or information, please call 2-1-1. Please refer to the map on the Tulare County website, emergencies page, at TulareCounty.CA.gov/emergencies.

A Temporary Evacuation point has been set up at Porterville College, 100 E College Avenue.

Jake Castellow

Chief of Police

EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

EXECUTIVE ORDER N-6-23

WHEREAS on March 1, 2023, March 8, 2023, March 12, 2023, March 14, 2023, and March 28, 2023, I proclaimed a State of Emergency to exist in 47 counties, cumulatively, as a result of a series of ongoing winter storms that initially struck California beginning in late February and continue to significantly impact the counties identified in my Proclamations; and

WHEREAS the State has experienced over a dozen atmospheric rivers since December 2022, resulting in compounding and cumulative impacts across California, including what are expected to be record amounts of snow in the Sierra Nevada, in particular in the southern Sierra, and current and forecasted precipitation are expected to add to historic snowpack levels already composed of several million acre-feet of snow water content; and

WHEREAS reservoirs into which the Sierra snowpack runoff would flow are already impacted by runoff, which is expected to greatly exceed available storage capacity in the reservoirs in and around the Tulare Lake Basin and the San Joaquin River Basin, and much of the ground in the area has reached saturation due to the series of ongoing winter storms; and

WHEREAS the Tulare Lake Basin is the terminal point for the Kings, Kaweah, Tule, and Kern Rivers, and several smaller streams, meaning that water from additional expected rains and Sierra snowpack runoff that cannot be stored in reservoirs or absorbed into the ground will flow into the basin; and

WHEREAS recent storms have already caused flooding in the Tulare Lake Basin, leading to emergency rescues and evacuation orders in Allensworth, Alpaugh, and other communities in Tulare and Kings Counties, and leading to dozens of levee breaks and local agencies directing strategic cuts to canals and levees to prevent further flooding of communities; and

WHEREAS runoff from the snowpack caused by the winter storms could result in flood conditions in the Tulare Lake Basin resembling those last experienced in the historic floods of 1969 and 1983, following historic snowpacks in those years; and

WHEREAS local flood control districts and other local governments generally have flood control responsibility in the Tulare Lake Basin, but state agencies such as the California Department of Forestry and Fire Protection (CAL FIRE), the California Department of Water Resources, and the Governor's Office of Emergency Services are actively engaged in supporting this local effort, and state agencies will continue to provide technical advice and other resources and support as needed, with a particular priority on protecting the lives and health of local communities; and

WHEREAS stretches of the San Joaquin River have been or are at flood stage this spring, river stages are expected to stay high throughout the spring as snowpack melts, and multiple levee repairs are underway on the lower San Joaquin River; and

WHEREAS the Tulare Lake Basin is hydrologically connected to the San Joaquin River Basin and that connection has the potential to exacerbate the flood risk in the San Joaquin River Basin, and so further emergency response efforts may become necessary in the San Joaquin River Basin as well; and

WHEREAS heavy accumulation of snowfall on the roof of Bear Valley Elementary School, located in Alpine County, currently renders instructional space unsafe for use; and

WHEREAS frequent flooding and flood evacuation orders have resulted in school closures and low student attendance in Pajaro Middle School, Hall District Elementary School and Ohlone Elementary, located in Pajaro Valley Unified School District in Santa Cruz County; and

WHEREAS it is critical that displaced students are back in school facilities as quickly as possible to ensure continuity in education; and

WHEREAS the State of California and local governments, in collaboration with the Federal government, continue sustained efforts to respond to and mitigate the effects of these storms; and

WHEREAS on March 9, 2023, I requested a Presidential Emergency Declaration related to these late winter storms, which was expeditiously approved by President Joseph R. Biden, Jr.; and

WHEREAS on March 15, 2023, I requested the addition of 9 counties to the existing Presidential Emergency Declaration related to these late winter storms, which was expeditiously approved by the President; and

WHEREAS on March 28, 2023, I also requested the President issue a Major Disaster Declaration related to these late winter storms for counties that met the validated damage threshold; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay the mitigation of the effects of these ongoing winter storms.

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, 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. All provisions contained in the above-referenced Proclamations of a State of Emergency shall remain in full force and effect.
2. To protect health, safety, and the environment, and to reduce the risks of local catastrophic flooding in the Tulare Lake Basin, Chapter 6 (commencing with section 1600) of Division 2 of the Fish and Game Code, and regulations adopted pursuant to that Chapter, are

suspended for activities that meet all of the requirements in Paragraph 3.

3. The suspension created by Paragraph 2 shall apply to floodwater diversion, debris removal, and levee repair and breach in the Tulare Lake Basin, on the condition that the actions cease when the flood conditions have abated to the point there is no longer flooding outside of defined streambeds and levees. Additionally, the suspension created by Paragraph 2 shall apply to floodwater diversion only if all of the following additional conditions are met:
 - a. The diversion of floodwater from the Tulare Lake Basin or rivers or streams flooding the Tulare Lake Basin must occur between March 31, 2023, and August 1, 2023, for flood management purposes.
 - b. For diversions directly from rivers or streams, a local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice that flows downstream of the point of diversion are at imminent risk of flooding and inundation of land, roads, or structures.
 - c. For diversion of floodwaters in the Tulare Lake Basin (that is, waters no longer contained within a defined streambed or levee), a local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice that areas from which the floodwaters are diverted are either at imminent risk of flooding or already flooded, with potential or existing inundation of land, roads, or structures.
 - d. Any water diverted is not diverted to and will not be applied to any area that has not been in active irrigated agricultural cultivation within the past three years, including grazing lands, annual grasslands, and natural habitats. This limitation does not apply to facilities already constructed for the purposes of groundwater recharge or managed wetlands.
4. In addition to the mandatory conditions set forth in Paragraph 3, any person conducting planned levee breaches or controlled inundation to prevent further catastrophic flooding pursuant to the suspension created by Paragraph 2 should take care, wherever feasible, to protect above-ground infrastructure and drinking water and wastewater infrastructure such as drinking water well field sites, wastewater discharge ponds, and other water resources that are necessary for the protection of human health and the recovery of impacted communities.
5. For purposes of conducting emergency flood preparation and response activities, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Secretary of the Natural Resources Agency concurs that local action is required, and (c) permits necessary to carry out actions under (a) and (b), Public

Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division, are suspended to the extent necessary to address flood impacts in the Tulare Lake Basin.

6. To support adequate state staffing for all state agencies and departments with an assigned response and/or recovery role related to flooding in the Tulare Lake Basin, consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. All other restrictions must be adhered to for retired annuitants. The Director of the California Department of Human Resources must be notified of any individual employed in state government pursuant to these suspensions. The suspension of statutes identified in this Paragraph shall also apply to local governments, as applicable, to ensure adequate staffing to appropriately respond to the flooding in the Tulare Lake Basin. Local governmental agencies shall notify the California Public Employees' Retirement System of any individual employed by an agency pursuant to this Paragraph.
7. The limitation for the period of employment for State Personnel Board emergency appointments, as provided in Government Code section 19888.1, is suspended for positions required for emergency response and/or recovery operations related to flooding in the Tulare Lake Basin. The requirements and period of employment for such appointments will be determined by the Office of Emergency Services but shall not extend beyond the termination date of the State of Emergency.
8. To the extent the Alpine County Office of Education and Alpine County Unified School District are required to use temporary facilities such as the Alpine County Public Library due to extraordinary snowpack on the roof of Bear Valley Elementary School, rendering instructional space unsafe, the requirements of Education Code sections 17280, et seq., 17365, et seq., and Government Code sections 4453 and 14963 are suspended with respect to those temporary facilities. The requirements of the California Building Code (codified in Title 24 of the California Code of Regulations), as adopted and enforced by the local building and fire agencies with jurisdiction over the area, shall apply to these temporary facilities.
9. To the extent the Alpine County Office of Education and Alpine County Unified School District are required to temporarily use buildings, as defined in the California Building Code (California Code of Regulations, Title 24, Part 2, Chapter 2, section 202), such as the Alpine County Public Library due to extraordinary snowpack on the roof of the Bear Valley Elementary School, rendering instructional space unsafe, local planning and zoning regulations shall be suspended to allow immediate occupancy of such buildings for use as public school facilities. In addition, the requirements of the California Building Code, as adopted and enforced by the local building and fire agencies with jurisdiction over the area, shall apply, except that the requirements

relating to Change of Use or Occupancy Classification in the California Building Code (California Code of Regulations, Title 24, Part 2, Chapter 1, section 111) shall not trigger immediate code upgrades, and a Certificate of Occupancy shall not be withheld for such immediate and temporary use of the facilities as a public school, as long as such facilities met building code requirements at the time of their construction, are accessible to individuals with disabilities, and are judged safe for use by the local building official.

10. Education Code section 60641 (a) requiring that all pupils be administered academic assessments in mathematics, English language arts, and science, as provided for in Education Code section 60640, is suspended for the 2022-2023 school year for Pajaro Middle School, Hall District Elementary School and Ohlone Elementary School of the Pajaro Valley Unified School District, if a federal waiver is approved by the United States Department of Education.

I FURTHER DIRECT 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 31st day
of March 2023.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. WEBER, Ph.D.
Secretary of State

EXECUTIVE DEPARTMENT STATE OF CALIFORNIA

EXECUTIVE ORDER N-7-23

WHEREAS on March 1, March 8, March 12, March 14, March 28, April 20, and May 15, 2023, I proclaimed a State of Emergency to exist in 52 counties, cumulatively, as a result of a series of winter storms that initially struck California beginning in late February and continue to significantly impact the counties identified in my Proclamations; and

WHEREAS on March 31, 2023, I issued Executive Order N-6-23 to further bolster the emergency response to this Late Winter Storms event, particularly in the Tulare Lake Basin that continues to be plagued by historic flooding; and

WHEREAS on April 21, May 10, July 8, and October 19, 2021, I proclaimed States of Emergency to exist due to drought conditions; and

WHEREAS on March 10, 2023, I issued Executive Order N-4-23 to address evolving drought conditions due to the winter storms and to mitigate flooding by facilitating groundwater recharge; and

WHEREAS due to the complexity of the impacts from over a dozen Atmospheric River events since December 2022, including the accumulation of a record snowpack in the Sierra Nevada that is likely to yield record snowmelt runoff, especially in the Tulare Lake Basin, I previously issued Executive Orders identified herein to respond to and recover from the winter storms, and those orders now require updating in-light of the most recent runoff conditions and the State's more robust and recent modeling of likely flood impacts; and

WHEREAS the Tulare Lake Basin includes portions of Fresno, Kings, Tulare, and Kern counties and is the terminal point for the Kaweah, Tule, and Kern Rivers as well as a portion of the Kings River and several smaller streams, meaning that water from Sierra snowpack runoff that cannot be stored in reservoirs or absorbed into the ground will flow into the basin; and

WHEREAS the Tulare Lake Basin is hydrologically connected to the San Joaquin River Basin via the James Bypass and Fresno Slough and that connection has the potential to exacerbate the flood risk in the San Joaquin River Basin, and so further emergency response efforts may become necessary in the San Joaquin River Basin; and

WHEREAS stretches of the San Joaquin River, Chowchilla and Eastside Bypasses, San Joaquin River mainstem and tributaries (Fresno River, Chowchilla River, Merced River, Stanislaus River, and Tuolumne River, hereafter, San Joaquin River Tributaries), and Fresno Slough/James Bypass have been or are at flood stage this spring, river stages are expected to stay high or increase throughout the spring and summer as snowpack melts, and multiple levee repairs are underway on the lower San Joaquin River; and

WHEREAS the Kern River – California Aqueduct Intertie exists to move floodwaters safely from the Kern River into the California Aqueduct, and the Kern River Watermaster on May 10, 2023, requested the use of the Intertie to prevent Kern River floodwater from exacerbating flooding in the Tulare Lake Basin, and state agencies have begun actions to safely enable the diversion of these flood flows; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this Order would prevent, hinder, or delay the mitigation of the effects of these ongoing winter storms.

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, 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. All provisions contained in the above-referenced Proclamations of a State of Emergency and Executive Orders shall remain in full force and effect except as modified in this Order.
2. Paragraph 2 of Executive Order N-6-23 is withdrawn and replaced by the following:

To protect health, safety, and the environment, and to reduce the risks of local catastrophic flooding in the Tulare Lake or San Joaquin River Basins, the following are suspended for activities that meet the requirements in Paragraph 3.

- a. Chapter 6 (commencing with section 1600) of Division 2 of the Fish and Game Code, and regulations adopted pursuant to that Chapter; and
 - b. Division 13 (commencing with Section 21000) of the Public Resources Code, and regulations adopted pursuant to that division.
3. Paragraph 3 of Executive Order N-6-23 is withdrawn and replaced by the following, except that any diversion in the Tulare Lake Basin that is operational as of June 1, 2023, may continue to operate under Paragraph 3 of Executive Order N-6-23 until August 31, 2023:

The suspensions created by Paragraph 2 shall apply to floodwater diversion, floating vegetation and debris removal, and levee repair and breach, in the Tulare Lake or San Joaquin River Basins, on the condition that the actions cease when the flood conditions have abated to the point there is no longer a risk of, or existing, flooding causing inundation of land, roads, or structures at or downstream of the point of diversion.

4. Additionally, the suspensions created by Paragraph 2 shall apply to floodwater diversion only if all the following additional conditions are met:
 - a. Any diversion of floodwaters directly from the (i) Tulare Lake Basin or rivers or streams or bypasses flooding the Tulare Lake Basin or (ii) the San Joaquin River or San Joaquin River tributaries (including Fresno Slough and James Bypass) or San Joaquin River bypasses must occur between March 31, 2023, and August 31, 2023, for flood management purposes.

- b. With respect to diversions of floodwaters directly from rivers or streams or bypasses, a local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice, that flows downstream of the point of diversion are at imminent risk of flooding and inundation of land, roads, or structures.
- c. With respect to diversions of floodwaters that are no longer contained within a defined streambed or levee, a local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice that areas from which the floodwaters are diverted are either at imminent risk of flooding or already flooded, with potential or existing inundation of land, roads, or structures, or are on lands inundated as a result of actions within subparagraph (a).
- d. Any floodwater diverted is not diverted to and will not be applied to:
 - i. Any barn, ponds, or lands to which manure or waste from an animal facility that generates waste from the feeding and housing of animals for more than 45 days per year in a confined area that is not vegetated are applied;
 - ii. Any agricultural field where pesticide or fertilizer application has occurred in the prior 30 days or in the period prohibited by applicable law, whichever is longer;
 - iii. Any area that could cause damage to critical levees, infrastructure, wastewater and drinking water systems, drinking water wells or drinking water supplies, or exacerbate the threat of flood and other health and safety concerns; or
 - iv. Any area that has not been in active irrigated agricultural cultivation within the past three years including grazing lands, annual grasslands, and natural habitats. This limitation does not apply to facilities already constructed for the purposes of groundwater recharge or managed wetlands.
- e. With respect to diversions of floodwaters from waters tributary to the Sacramento and San Joaquin River Delta as defined in Water Code section 12220 (Delta), water rights holders are not making releases of stored water or reoperating facilities to provide flow for the purposes of meeting water quality control plan or endangered species requirements in the Delta at the time of the diversion.
- f. With respect to diversions of floodwaters directly from the San Joaquin River or San Joaquin River Tributaries, the diversion uses:
 - i. either existing diversion infrastructure or temporary pumps;

- ii. no new permanent infrastructure or permanent construction; and
 - iii. simple screens installed on temporary pump intakes to minimize the impacts of diversion to salmon and other aquatic life.
- 5. Paragraph 4 of Executive Order N-6-23 is withdrawn and replaced by the following:

In addition to the mandatory conditions set forth in Paragraph 3, any person conducting planned levee breaches or controlled inundation to prevent further catastrophic flooding pursuant to the suspensions created by Paragraph 2 should, wherever feasible, protect above-ground infrastructure and water sources that are necessary for the protection of human health and the recovery of impacted communities.

- 6. Paragraph 5 of Executive Order N-6-23 is withdrawn and replaced by the following:

For purposes of conducting emergency flood preparation and response activities beyond those provided for in Paragraphs 2 and 3, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Secretary of the Natural Resources Agency concurs that local action is required, and (c) permits necessary to carry out actions under (a) and (b), Public Resources Code, Division 13 (commencing with Section 21000) and regulations adopted pursuant to that Division, are suspended to the extent necessary to address flood impacts in the Tulare Lake or San Joaquin River Basins.

- 7. Paragraph 6 of Executive Order N-6-23 is withdrawn and replaced by the following:

To support adequate state staffing for all state agencies and departments with an assigned response and/or recovery role related to flooding in the Tulare Lake or San Joaquin River Basins, consistent with applicable federal law, work hour limitations for retired annuitants, permanent and intermittent personnel, and state management and senior supervisors are suspended. Furthermore, reinstatement and work hour limitations in Government Code sections 21220, 21224(a), and 7522.56(b), (d), (f), and (g), and the time limitations in Government Code section 19888.1 and California Code of Regulations, title 2, sections 300-303 are suspended. All other restrictions must be adhered to for retired annuitants. The Director of the California Department of Human Resources must be notified of any individual employed in state government pursuant to these suspensions. The suspension of statutes identified in this Paragraph shall also apply to local governments, as applicable, to ensure adequate staffing to appropriately respond to the flooding in the Tulare Lake Basin. Local governmental agencies shall notify the California Public Employees' Retirement System of any individual employed by an agency pursuant to this Paragraph.

- 8. Paragraph 6 of Executive Order N-6-23 is withdrawn and replaced by the following:

The limitation for the period of employment for State Personnel Board

emergency appointments, as provided in Government Code section 19888.1, is suspended for positions required for emergency response and/or recovery operations related to flooding in the Tulare Lake or San Joaquin River Basins. The requirements and period of employment for such appointments will be determined by the Office of Emergency Services, but shall not extend beyond the termination date of the State of Emergency.

9. Paragraph 3 of Executive Order N-4-23 is withdrawn and replaced by the following, except that any diversion that is operational as of June 1, 2023, may continue to operate under Paragraph 3 of Executive Order N-4-23 until August 31, 2023:

The suspensions created by Paragraph 2 of Executive Order N-4-23 shall apply to diversions of floodwaters as to which all the following conditions are met:

- a. Diversions of floodwaters directly from rivers, streams, or bypasses must occur between March 10, 2023, and August 31, 2023, for flood management and associated groundwater recharge.
- b. Diversions of floodwaters no longer contained within a defined streambed must prevent imminent risk of flooding or relieve flooding pressure from land, roads, or structures, already inundated, including as a result of actions within subparagraph (a).
- c. A local or regional flood control agency, city, or county has given notice via its internet website, electronic distribution list, emergency notification service, or another means of public notice, that waters at or downstream of the point of diversion are at imminent risk of flooding and inundation of land, roads, or structures.
- d. The diversions cease when the flood conditions have abated to the point there is no longer a risk of, or existing, flooding causing inundation of land, roads, or structures at or downstream of the point of diversion.
- e. Any floodwater diverted is not diverted to and will not be applied to:
 - i. Any barn, ponds, or lands, to which manure or waste from an animal facility that generates waste from the feeding and housing of animals for more than 45 days per year in a confined area that is not vegetated are applied;
 - ii. Any agricultural field where pesticides or fertilizer application has occurred in the prior 30 days or in the period prohibited by applicable law, whichever is longer;
 - iii. Any area that could cause damage to critical levees, infrastructure, wastewater and drinking water systems, drinking water wells or drinking water supplies, or exacerbate the threat of flood and other health and safety concerns; or

- iv. Any area that has not been in active irrigated agricultural cultivation within the past three years, including grazing lands, annual grasslands, and natural habitats. This limitation does not apply to facilities already constructed for the purpose of groundwater recharge or managed wetlands.
- f. With respect to diversions of floodwaters from waters tributary to the Sacramento and San Joaquin River Delta (Delta) as defined in Water Code section 12220 (Delta), water rights holders are not making releases of stored water or reoperating facilities to provide flow for the purposes of meeting water quality control plan or endangered species supporting regulatory requirements in the Delta at the time of the diversion.
- g. The diversion uses:
 - i. Either existing diversion infrastructure or temporary pumps;
 - ii. Existing groundwater recharge locations, where available;
 - iii. No new permanent infrastructure or permanent construction; and
 - iv. Simple screens installed on temporary pump intakes to minimize the impacts of diversion to salmon and other aquatic life.
- h. The person or entity availing itself of suspensions created by Paragraph 2 of Executive Order N-4-23 files a preliminary report with the Water Board and any applicable Groundwater Sustainability Agency (GSA) or GSAs for the basin, no later than 14 days after initially commencing diversion of flood flows for groundwater recharge, and a final report with the Water Board and any applicable GSA or GSAs for the basin no later than September 15, 2023. The preliminary and final reports required by this subparagraph shall:
 - i. Identify the person or entity utilizing the suspensions created by Paragraph 2 of Executive Order N-4-23;
 - ii. Identify the triggering condition from subparagraph (c) of this paragraph;
 - iii. Provide the GPS coordinates for the point of diversion, a map identifying the approximate area inundated by the flood flows, and the corresponding assessor parcel number(s);
 - iv. Identify the time when diversions of floodwaters to groundwater recharge commenced, and for final reports, when diversions ceased; and
 - v. Provide an estimate, as of the report's date, of the amount of floodwaters diverted utilizing the suspensions created by Paragraph 2 of Executive Order N-4-23.

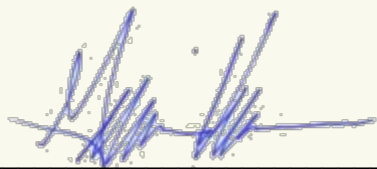
The Water Board shall post on its internet website all reports received pursuant to this subparagraph.

10. To mitigate the effects of the Late Winter Storms, including by reducing the risks of local catastrophic flooding in the Tulare Lake Basin, Part 2 (commencing with section 1200) of division 2 of the Water Code, exclusive of section 1225, and regulations adopted pursuant to that part, are suspended for diversions of flood flows into the Kern Intertie and ultimately into the California Aqueduct until August 31, 2023, such that applications and permits for water rights shall not be required for such diversions, nor shall such diversions create new water rights or modify existing water rights, to the extent applications or permits would have been required or water rights would have been affected absent this suspension.
11. The Department of Water Resources and State Water Resources Control Board shall (i) communicate to water systems and others any additional information or actions necessary for those systems and others to monitor and be prepared for the addition of Kern River floodwater in the California Aqueduct, and (ii) collaborate on long-term actions that align water rights and flood response, including actions that maximize in-basin groundwater recharge.

I FURTHER DIRECT 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 17th day
of May 2023.



GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY WEBER, PH.D
Secretary of State



FEMA

Congressional Affairs Division
202-646-4500

STATE OF CALIFORNIA

FEDERAL DISASTER DECLARATION FACT SHEET

APRIL 3, 2023

Today, April 3, 2023, President Joseph R. Biden Jr., granted a Major Disaster Declaration for the State of California triggering the release of Federal funds to help individuals and communities recover from Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides that occurred February 21, 2023, and continuing. Details of the disaster declaration and assistance programs are as follows:

Declaration Number:	FEMA-4699-DR
Incident:	Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides
Incident Period:	February 21, 2023, and continuing
Federal Coordinating Officer:	Andrew F. Grant National FCO Program
Individual Assistance (IA):	(Assistance to individuals and households):
IA-Designated Counties:	Kern, Mariposa, Monterey, San Benito, Santa Cruz, Tulare, and Tuolumne Counties.
Public Assistance (PA):	(Assistance for emergency work and the repair or replacement of disaster-damaged facilities):
PA-Designated Counties:	Calaveras, Los Angeles, Monterey, and Tulare Counties.
Hazard Mitigation (HM):	(Assistance for actions taken to prevent or reduce long term risk to life and property from natural hazards):

HM-Designated Areas:

All areas in the State of California are eligible to apply for assistance under the Hazard Mitigation Grant Program.

OTHER:

Additional designations may be made at a later date if requested by the state and warranted by the results of further damage assessments.

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LICENSE NUMBER	1221
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LICENSE TO USE STATE MILITARY PROPERTY

BETWEEN

CALIFORNIA MILITARY DEPARTMENT

AND

The City of Porterville

FOR

USE OF READINESS CENTER IMPROVEMENTS AND GROUNDS

This AGREEMENT, dated for reference the 10th day of April 2023, by and between the California Military Department (CMD), hereinafter called STATE, and the City of Porterville, 291 North Main Street, Porterville, CA 93257, hereinafter called LICENSEE, without distinction as to number or gender, and effective upon execution by STATE. STATE and LICENSEE are sometimes referred to individually as a "party" or collectively as the "parties".

RECITALS

WHEREAS, the STATE has under its jurisdiction, certain real property known as the Porterville armory, located at 29 N. Plano St. Porterville, CA 93257, hereinafter called PREMISES, identified in **Exhibit "B"**, consisting of one (1) page and attached hereto and incorporated herein by this reference.; and,

WHEREAS, it is essential that STATE have a secure facility and surrounding grounds; and,

WHEREAS, PREMISES may be made available to meet the needs of the local civil authority when not required to meet immediate operational requirements;

NOW THEREFORE, STATE and LICENSEE agree as follows:

WITNESSETH

I.

GENERAL PROVISIONS

1. AGREEMENT is for non-exclusive weekday or weekend use throughout the license term.
2. Upon declaration of emergency by the STATE or federal government, STATE reserves the right to reoccupy PREMISES, including all parking areas, with twenty-four (24) hours written or electronic (voice or email) notice to LICENSEE at the notification address/number below.

3. PREMISES will not be available during the following drill periods: n/a
4. LICENSEE shall comply with all applicable statutes, laws, ordinances and rules or regulations adopted by the Federal, State or any City, City and County, County or other body politic pertaining to use of said premises or any provisions of the License.
5. LICENSEE shall comply with such reasonable rules and regulations as may be prescribed by STATE for the reasonable use and occupation of State Facilities.
6. LICENSEE understands and agrees the California Legislature may impose additional restrictions, limitations or conditions affecting AGREEMENT provisions or terms; however, any such changes become effective no sooner than 30 days after the legislature has acted.
7. This agreement shall not be assigned or sublet or otherwise encumbered, in whole or in part, without STATE'S prior written consent.
8. STATE shall supply PREMISES with utilities, the nominal cost of which is included in the use fee. Section VI (FEES), item #5 addresses extraordinary utility use and payment.
9. LICENSEE shall have use of the offices, storage areas, drill floor, latrines, showers, parking areas for placement of storage containers (if required), and kitchen counters solely for food preparation or distribution (no oven or stove top use). All food will be stored and surfaces cleaned on a daily basis when shelter operations are underway.
10. STATE is not responsible for losses or damage to personal property, equipment or materials of LICENSEE, its employees, agents or clients. LICENSEE shall report to STATE all losses immediately upon discovery.
11. LICENSEE shall not drive any nails, tacks, pins or other objects into the walls, ceilings, partitions, windows, woodwork, or any other part of PREMISES, nor in any manner move or change any fixture, nor make any alterations to PREMISES without STATE'S prior written consent.
12. Upon completion of use, LICENSEE shall remove all decorations, display, signs, and equipment on PREMISES.
13. Upon license expiration, LICENSEE will surrender PREMISES to STATE with appurtenances and fixtures in good order, condition, and repair, reasonable use and wear thereof, or Acts of God excepted.
14. LICENSEE shall not permit any alcoholic beverage to be offered for sale, stored, given away or otherwise disposed or consumed on any part of PREMISES, nor shall LICENSEE permit any use of tobacco products on any part of PREMISES or within twenty (20) feet of entrances, doorways or opening windows, except in a sufficiently distanced controlled area under LICENSEE supervision.
15. LICENSEE acknowledges PREMISES may not be fully ADA compliant and agrees to implement or improve, at its sole cost and expense, those necessary compliance measures required for the duration of its use. Furthermore, LICENSEE agrees to provide any and all required temporary emergency lighting required by State, County or City laws or ordinances.

II.

AUTHORIZED ACTIVITIES

1. LICENSEE is authorized to use PREMISES to provide temporary shelter and/or health and medical services to homeless citizens of the community.
2. LICENSEE may provide on-site program management through either LICENSEE employees, agents or volunteers or through contracted services.
3. LICENSEE agrees to clean PREMISES removing all litter, trash, cans, bottles, etc. from PREMISES after each use period, but not less than once per day.
4. LICENSEE shall provide janitorial services, whether from a licensed contractor or qualified civil service employee(s), to clean and sanitize the armory, including restrooms, showers, and drill floor, according to standards set forth in **Exhibit "F"**, made a part hereof by this reference. If civil service employees will not fulfill janitorial services, LICENSEE shall provide STATE a copy of the janitorial contract before commencement of licensed use.
5. The armory facility will be available twenty-four (24) hours each day unless otherwise approved by the STATE for extended periods during inclement weather conditions.
6. LICENSEE shall provide on PREMISES one hour before shelter opening until one hour after lights-out in the evening no less than one (1) appropriately licensed (guard card) and easily identifiable uniformed security officer. The security officer shall have access to a telephone, provided by LICENSEE, for contacting the appropriate law enforcement agency, should it become necessary. LICENSEE is responsible for protecting patrons, agents and invitees from acts of third parties, and agrees to notify STATE and appropriate law enforcement agencies as required.
7. Uniformed security personnel will check (search) each client for weapons and drug paraphernalia before any client may enter, or reenter the armory. On-site supervising soldiers are not security personnel and WILL NOT assist with weapon checks or other security-related actions; however, they will observe security inspections.
8. Security personnel will notify the military site supervisor or, if one is not available, the Area Coordinator or the STATE Program Manager before leaving PREMISES. A copy of the security contract will be due to the STATE before the license term begins.
9. Consistent with GC 15301.3(e), LICENSEE shall provide STATE a schedule of nightly shelter visits by law enforcement officers of the local jurisdiction within which the armory is located.
10. Any damage to PREMISES will be inspected by STATE representatives (CMD Area Coordinator) and LICENSEE to determine the character and extent of damage (with photographs). Repairs should be completed within twenty-four (24) hours if an emergency or seventy-two (72) hours if urgent.
11. The STATE Area Coordinator will contract for necessary repair or restoration services using appropriate state or federal guidance, while coordinating and collaborating closely with LICENSEE. LICENSEE may not undertake repairs or restoration using its own forces or contract services without the prior written

consent of STATE'S Area Coordinator.

12. Within thirty (30) days of being presented a demand (invoice) for payment, LICENSEE shall make STATE whole for the cost of repairing or restoring any improvement or utility damaged as a result of PREMISES shelter use. If significant plumbing issues occur due to repeated latrine clogging by clients, the LICENSEE will provide, at its sole cost or expense, portable latrines for the duration of the contract.
13. LICENSEE shall take all necessary steps to ensure shelter clients do not constitute a nuisance in the immediate vicinity of PREMISES during hours of shelter operation. If at any time the STATE is dissatisfied with the LICENSEE efforts, the LICENSEE and STATE shall meet to explore means and methods of compliance.
14. LICENSEE is solely responsible for supplying consumables including, but limited to cleaning or sanitizing supplies and equipment, liquid soap, paper towels, and toilet paper. LICENSEE affirms the County Health Department shall provide regular health screenings and consultation on sanitation issues as required or as otherwise requested.
15. The ONLY animals allowed inside PREMISES are service animals as defined in Section XIV below. Client pets or any other animal not meeting the definition of service animal must remain outside PREMISES at all times.
16. LICENSEE shall conform to the guidance and recommendations for tuberculosis prevention outlined in "*Preventing Tuberculosis (TB) in Homeless Shelters: A Guide for Preventing and Controlling TB and other Aerosol Transmissible Diseases in Los Angeles County Facilities*", included as **Exhibit "C"** herein and by this reference made a part hereof.
17. LICENSEE shall at all times conform to local or state (Governor's) orders for preventing COVID-19 infection by mandating mask wearing and organizing the site to conform to physical distancing requirements.
18. Before clients may park their vehicle in PREMISES parking area, LICENSEE shall ensure each has a valid vehicle registration and current insurance coverage.
19. Vehicles parked on PREMISES without appropriate approval shall be towed away by STATE's order and at LICENSEE's risk and expense.

III.

NOTIFICATION

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below. All such notices or other communications shall be deemed received upon the earlier of (i) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice, (ii) if mailed as provided above, on the date of receipt or rejection, when received by the other party if received Monday through Friday between 6:00 a.m. and 5:00 p.m. Pacific Standard Time. so long as such day is not a State or Federal holiday and otherwise on the next day provided that if the next day is Saturday, Sunday, or a state or federal holiday, such notice shall be effective on the following business day.

To LICENSEE:

City of Porterville
Attn: City Manager
291 North Main Street
Porterville, CA 93257
(559) 782-7466

To STATE:

California Military Department
9800 Goethe Road, Box 18
Sacramento, CA 95826
(916) 854-3788

PROGRAM MANAGER:
SSG Monica Estrada
(916) 541-8160

Notice of change of address or telephone number shall be given by written notice in the manner described in this section. LICENSEE is obligated to notice State offices listed above and the failure to provide notice to do so shall constitute a lack of notice. Nothing contained herein shall preclude the giving of any such notice by personal service.

IV.

INSURANCE REQUIREMENTS

LICENSEE is a public entity, which is self-insured and will be responsible for any damage caused to PREMISES. Additionally, LICENSEE shall indemnify STATE against any injuries caused by use of PREMISES. LICENSEE has furnished the necessary Certificate of Self-Insurance, **Exhibit "D"** attached hereto and incorporated herein by this reference, demonstrating the required insurance coverage will be in effect during the complete term of AGREEMENT, and shall include, but not be limited to:

- Combined single limit liability of \$2,000,000, or
- Special event coverage with a limit of \$2,000,000, and
- A statement naming the United States, State of California, its officers, agents, employees, and servants as additional insured, but only with respect to the activities of the named insured.

V.

HOLD HARMLESS INDEMNIFICATION

The PREMISES are provided in "AS-IS" and "WITH ALL FAULTS" condition, and STATE and its employees, representatives and agents disclaim all warranties, expressed or implied, regarding the PREMISES, including, but not limited to, all implied warranties of merchantability or fitness for a particular purpose or compliance with Applicable Law. LICENSEES acknowledges and agrees that STATE and its employees, representatives and agents have made no representations or warranties for the PREMISES, including, without limitation, any representations or warranties regarding, (a) the condition or repair of the PREMISES, (b) whether such PREMISES are sufficient for the purposes of LICENSEE, or (c) whether the PREMISES comply with Applicable Laws (as defined below), including without limitation the Americans with Disabilities Act (ADA) or other accessibility laws, (d) whether there are any facts or conditions affecting the PREMISES that might, individually or in the aggregate, interfere with the use or occupancy of the

PREMISES or any portion thereof by LICENSEE.

The use of the PREMISES by LICENSEE shall be conclusive evidence that LICENSEE accepts the same "AS IS and WITH ALL FAULTS" and that the PREMISES are suited for the use intended by LICENSEE and are in good and satisfactory condition at the time such possession was taken. LICENSEE represents and warrants to STATE that (a) its sole intended use of the PREMISES is for temporary sheltering (the "Permitted Use") and (b) prior to using the PREMISES it has made such investigations as it deems appropriate with respect to the suitability of the PREMISES for its intended use and has determined that the PREMISES are suitable for such intended use.

LICENSEE shall comply with all applicable statutes, laws, ordinances and rules and regulations adopted by the Federal, State or any City, City and County, County or other body politic, including without limitation all building codes, the ADA or other accessibility laws ("Applicable Laws") and which pertains to use of the PREMISES or any provisions of the License, and will indemnify, defend and hold STATE free and harmless from and against any violations thereof and any and all liabilities, suits, causes of action, judgments, demands and claims for damages, including all reasonable costs of any litigation and attorney's fees and expenses, arising out or by reason of any such violation.

LICENSEE shall indemnify, defend and hold STATE its employees, representatives and agents free and harmless from and against any and all suits, causes of action, demands, proceedings, claims, damages, judgments, obligations liabilities, liens, fines, costs, and expenses (including, but not limited to, attorneys' fees and costs) (collectively "Losses") which arise from or are related to (a) use or occupancy of the PREMISES by LICENSEE or its Representatives, including, but not limited to, damage to property of any kind whatsoever and to whomsoever belonging, including LICENSEE, from any cause or causes whatsoever during the term of this License or any occupancy hereunder, holdover periods or any other occupancy of the PREMISES during the term of this License, except (i) those Losses that are ultimately determined by a court or administrative tribunal of competent jurisdiction to be caused by sole gross negligence of the STATE or its employees, or (ii) to the extent any such Losses are ultimately determined by a court or administrative tribunal of competent jurisdiction to be caused by the willful misconduct of the STATE or its employees; provided, however, any condition of the PREMISES that is found to be in violation of any Applicable Law by a court or administrative tribunal of competent jurisdiction shall not be deemed gross negligence or willful misconduct on the part of the STATE or its employees; (b) breach of LICENSEE'S obligations under the AGREEMENT, (c) negligence or other wrongful act by LICENSEE or its Representatives, (d) violation of Applicable Law by LICENSEE or its Representatives, (e) any allegation that the PREMISES do not comply with Applicable Law. "Representatives" means LICENSEE'S agents, employees, representatives, contractors, or any other person or persons acting within the direct control or authority of such party or its agents, employees, representatives or contractors.

VI.

FEES

1. The use fee is waived based on Services in Kind as per California Army National Guard Regulation 210-2 paragraph 9.
2. Extraordinary utility costs are waived during the term of this license.
3. Emergency 24 hour use of the facility is authorized through the request from the local Office of Emergency Services.

VII. TERM

License shall take effect no earlier than April 11, 2023 or upon execution by STATE, whichever is later, and shall expire no later than 0800 (8:00 A.M.) August 31, 2023.

VIII. AMENDMENT AND TERMINATION

AGEEMENT amendment or modification must be in writing and duly executed by the parties.

Either party may terminate AGEEMENT with 30 days written notification to the other at the addresses previously given. Upon termination, the activities of the parties shall be governed by the applicable provisions of the Military and Veterans Code. STATE is not obligated to reimburse LICENSEE any fees should it terminate this AGREEMENT before reaching its full term.

IX. ENTIRE AGREEMENT

AGREEMENT, along with any exhibits attached hereto, constitutes the entire covenant and understanding between STATE and LICENSEE for PREMISES. AGREEMENT supersedes all prior and contemporaneous routine activity agreements, representations or understandings, if any, whether oral or written.

X. DURATION & RENEWAL

AGREEMENT shall remain in effect through the termination date and will not be extended, but may be renewed annually subsequent to renegotiation required to protect the parties.

XI. RIGHT TO ENTER

During continuance in force of AGREEMENT, there shall be, and is hereby expressly reserved to STATE and to any of its contractors, agents, employees, representatives, or licensees, the right at any and all reasonable times, and any and all places to temporarily enter upon said PREMISES for inspection or other lawful STATE purposes.

XII. ENVIRONMENTAL LAWS AND REGULATIONS

LICENSEE must comply with all applicable local, State or Federal environmental provisions, requirements, ordinances, regulations or laws. AGREEMENT does not constitute any form of authorization, permit, or opinion with respect to the satisfaction thereof. LICENSEE agrees that it shall comply with all laws, federal, state, or local, existing during the term of this license pertaining to the use, storage, transportation, and disposal of any hazardous substance as that term is defined in such applicable law.

1. In the event STATE or any of its affiliates, successors, principals, employees, or agents should incur any liability, cost, or expense, including attorney's fees and costs, as a result of the LICENSEE'S illegal use, storage, transportation, or disposal of any hazardous substance, including any petroleum derivative, the LICENSEE shall indemnify, defend, and hold harmless any of these individuals against such liability.
2. Where the LICENSEE is found to be in breach of this Paragraph due to the issuance of a government order directing the LICENSEE to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition caused by the LICENSEE or any person acting under

LICENSEE'S direct control and authority, LICENSEE shall be responsible for all costs and expenses of complying with such order, including any and all expenses imposed on or incurred by STATE in connection with or in response to such government order.

XIII.

DEFAULT

LICENSEE shall make all required payments to the STATE without deduction, default or delay. In the event of the failure of LICENSEE to do so, or in the event of a breach of any of the other terms, covenants or conditions herein contained on the part of LICENSEE to be kept and performed, and if such default continues for a period of thirty (30) days after receipt of written notice from STATE to LICENSEE of such default, this License may, at the STATE'S sole discretion, be terminated.

In the event of termination of this License, it shall be lawful for STATE to reenter into and upon the PREMISES and every part thereof and to remove and store at LICENSEE's expense all property therefrom and to repossess and occupy the PREMISES. In the event STATE terminates this License pursuant to this Paragraph, the STATE shall not be required to pay LICENSEE any sum or sums whatsoever.

XIV.

SERVICE ANIMALS

Service Animal Defined by Title II and Title III of the ADA: (from the ADA National Network)

Under Title II and III of the ADA, service animals are **limited to dogs** individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Emotional support animals, comfort animals, and therapy dogs are not service animals under Title II and Title III of the ADA. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals either. The work or tasks performed by a service animal must be directly related to the individual's disability. A doctor's letter does not turn an animal into a service animal.

Examples of animals fitting the ADA's definition of "service animal" because they have been **specifically trained to perform a task for the person with a disability:**

Guide Dog or Seeing Eye® Dog¹ is a carefully trained dog that serves as a travel tool for persons who have severe visual impairments or are blind.

Hearing or Signal Dog is a dog that has been trained to alert a person who has a significant hearing loss or is deaf when a sound occurs, such as a knock on the door.

Psychiatric Service Dog is a dog that has been trained to perform tasks that assist individuals with disabilities to detect the onset of psychiatric episodes and lessen their effects.

SigDOG (sensory signal dogs or social signal dog) is a dog trained to assist a person with autism. The dog alerts the handler to distracting repetitive movements common among those with autism, allowing the person to stop the movement (e.g., hand flapping).

Seizure Response Dog is a dog trained to assist a person with a seizure disorder. The dog may stand guard over the person during a seizure or the dog may go for help. A few dogs have learned to predict a seizure and warn the person in advance to sit down or move to a safe place.

While Emotional Support Animals or Comfort Animals are often used as part of a medical treatment plan as therapy animals, they are not considered service animals under the ADA. These support animals provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities and are not covered by federal laws protecting the use of service animals.

A public facility is not allowed to ask for documentation or proof a dog has been certified, trained, or licensed as a service animal. Staff on site may ask the following questions:

1. Is the dog a service animal required because of a disability?
2. What work or task has the dog been trained to perform?

No further questions should be asked regarding the disability or the animal, nor is it permissible to ask that the dog perform the task that grants it to be a service animal.

CONCURRENCE

INSTALLATION COMMANDER

DATE: _____

FOR THE ADJUTANT GENERAL

DATE: _____



CITY OF PORTERVILLE

DATE: 04/21/2023

**MEMORANDUM OF UNDERSTANDING FOR SHELTER SUPPORT
BETWEEN COUNTY OF TULARE AND CITY OF PORTERVILLE**

This Agreement, is effective as of April 11, 2023, (the "Agreement"), and is between The City of Porterville ("CITY"), a California municipal corporation, and the COUNTY OF TULARE, a political subdivision of the State of California ("COUNTY"), who agree as follows:

WHEREAS, CITY has entered into an arrangement with the California National Guard for use of the Armory space, with address of 29 N Plano St., Porterville, CA 93257 (the "Premises") for emergency shelter purposes; and

WHEREAS, COUNTY, along with its Health and Human Services Agency, desires to provide disaster relief support, including logistical support, shelter staffing, and meal support, solely for the purpose of the Premises being used as an emergency shelter in response to the March 2023 atmospheric river storms; and

WHEREAS, in order to provide said support, COUNTY is fully dependent upon the California Department of Social Services ("CDSS") fulfilling COUNTY'S request for logistical and funding support, of which COUNTY, upon receipt, will convey to CITY; and

WHEREAS, in the event that CDSS is unable to provide support, and/or CDSS or the American Red Cross is unable to provide operational support, COUNTY is unable to continue services alone and shall immediately terminate this Agreement; and

WHEREAS, COUNTY seeks to clarify the scope of services to be provided and set reasonable limits on the term of those services; and

WHEREAS, COUNTY agrees to provide, and CITY agrees to receive said services; and

WHEREAS, CITY opened the shelter on the Premises on April 11, 2023, and COUNTY began providing services as of April 11, 2023, and now seek to memorialize this exchange in writing;

NOW, THEREFORE, in consideration of the mutual promises and representations set forth herein, the parties agree as follows:

1. **SERVICES.** COUNTY agrees to provide at its own expense, and CITY agrees to receive services at the Premises pursuant to this Agreement. COUNTY shall provide 24 hour, or agreed operational period staffing at the Premises, in which COUNTY will provide logistical support, shelter staffing, and meal support in conjunction with the California Department of Social Services and/or the American Red Cross. COUNTY will additionally provide social assistance via case management services Monday through Friday, 8 AM to 5 PM. COUNTY shall also provide 24 hour security at the site (Collectively, the "Services"). The parties may agree in writing to a shorter operational period.

CITY shall provide animal care and shelter for residents of the Premises, including kennels and food. CITY shall be providing laundry, bathroom, and shower services for the residents of the Premises. Except for as otherwise specified in Section 8.c., CITY shall provide janitorial services for the Premises, which shall be regularly available daily, and shall be available upon an immediate needs basis. CITY shall keep on-call maintenance technician that is able to respond to immediate maintenance needs.

Services will be performed to the satisfaction of COUNTY for purposes of reimbursement of COUNTY by the State or Federal government.

2. **TERM.** The Services contemplated in Section 1 shall be from April 11, 2023, to May 5, 2023.

The County's provision of staffing and support services shall end at 12:00 noon, and the County's provision of security services shall end at 5:00 p.m., on Friday, May 5, 2023.

Additionally, the Parties agree that this Agreement will terminate pursuant to Section 19 of this Agreement upon the exit of the California Department of Social Services' support of staffing of the Services.

3. **CONSIDERATION.** CITY and COUNTY agree that the services provided to the public are adequate and good consideration for this Agreement, and no monetary compensation is required for this Agreement.

4. **USE.** Upon commencement of the term, COUNTY staff shall be entitled entry onto the Premises to provide the Services.

5. **AGREEMENT TO USE FACILITIES.** The use of the Premises is defined as follows:

- a. Use of the Premises 24 hours a day for sheltering evacuees and animals; and
- b. Any other use to which the parties mutually agree.

6. **ACCEPTANCE.** On the date that the COUNTY begins providing services at the Premises, the Premises shall be in good condition. COUNTY commencing services on the Premises on the effective date shall constitute COUNTY's acknowledgment that, to the best of their knowledge, the Premises is in good condition.

7. **USE.** COUNTY shall use the Premises and shall not use it in any manner that will constitute waste or nuisance.

8. **MAINTENANCE.**

- a. CITY will provide, at CITY's expense, all ongoing maintenance, preventative maintenance, repair, and upkeep of the Premises, including, but not limited to, the parking areas, sidewalks, grounds, building and improvements, and equipment and fixtures attached thereto.

b. CITY will be responsible for complying with all codes or laws requiring alterations, maintenance or restoration of the Premises and parking areas during the term of the AGREEMENT, at no cost to COUNTY, including all ADA Standards for Accessible Design requirements and codes requiring fire extinguishers or other fire suppression equipment and related signage.

c. CITY will be responsible for cleaning the restrooms. COUNTY will be responsible for any cleaning or sanitization of rooms used, waiting rooms, and door handles.

d. In case of emergency the parties will take immediate steps to protect persons and property, consistent with their respective roles and responsibilities under this AGREEMENT. The CITY maintains responsibility to provide COUNTY with a facility that is fit for the purpose and intent of the AGREEMENT. If necessary repairs are brought to the CITY's attention by COUNTY, CITY will make repairs within the next ten (10) days. If the CITY does not take the necessary steps, COUNTY will have the right to repair and to be reimbursed by CITY.

9. **ALTERATIONS.** COUNTY shall not make any structural or exterior alterations to the Premises without CITY's or the California National Guard's consent; however, COUNTY shall have the right without cost to the CITY to make, with CITY's prior written consent, nonstructural alterations to the interior of the Premises that COUNTY requires in order to conduct its operations on the Premises, so long as those alterations are not prohibited by the terms and conditions of the CITY'S License Agreement with the California Military Department.

Upon termination of the AGREEMENT, if COUNTY is not then in default of any of the provisions of this AGREEMENT, COUNTY shall have the right to remove from the Premises immediately before the termination of the AGREEMENT, or within ten (10) days thereafter, any alterations COUNTY has made to the Premises, as long as the removal will not cause any structural

damage to the Premises, and COUNTY at its cost promptly restores any damage caused by the removal.

10. **UTILITIES.** CITY, in conjunction with the California National Guard, shall make all arrangements for, and pay for, all utilities and services furnished or to be used by COUNTY, including, without limitation, gas, electricity, water, sewer, trash, and for all connection charges, therefore. CITY and the California National Guard shall provide all fire extinguishers and related signs.

11. **INDEMNITY.** To the fullest extent permitted by law, CITY will hold harmless, defend and indemnify COUNTY and its officers, agents, volunteers, contractors, and employees from and against any liability, claims, actions, costs, damages, losses and expenses for injury, including without limitation, death of any person or damage to any property, including damage to animals; enforcement actions under California Prevailing Wage laws with respect to work done by CITY, or under other applicable statute or ordinance; or resulting from CITY's or CITY's agents', employees', contractors', or invitees' negligent or intentionally wrongful acts or omissions with respect to the Premises. CITY's obligation will continue beyond the expiration or termination of this Agreement as to any act or omission which occurred during the term of this AGREEMENT, or any renewal or holdover period. This indemnification provision will survive the termination of this AGREEMENT.

To the fullest extent permitted by law, COUNTY will hold harmless, defend and indemnify CITY and its officers, agents, volunteers, contractors, and employees from and against any liability, claims, actions, costs, damages, losses and expenses for injury, including without limitation, death of any person or damage to any property, including damage to animals; enforcement actions under California Prevailing Wage laws with respect to work done by COUNTY, or under other applicable statute or ordinance; or resulting from COUNTY's or COUNTY's agents', employees', contractors', or invitees' negligent or intentionally wrongful acts or omissions with

respect to the Premises. COUNTY's obligation will continue beyond the expiration or termination of this Agreement as to any act or omission which occurred during the term of this AGREEMENT, or any renewal or holdover period. This indemnification provision will survive the termination of this AGREEMENT.

12. **INSURANCE.** CITY acknowledges and agrees that COUNTY is a self-insured entity and waives any requirement that COUNTY procure and/or maintain insurance of any kind, including liability and/or fire/extended coverage insurance. COUNTY acknowledges and agrees that CITY is a self-insured entity and waives any requirement that CITY procure and/or maintain insurance of any kind, including liability and/or fire/extended coverage insurance.

13. **DESTRUCTION.** In the event the Premises, or the building in which the Premises is located, is totally or partially destroyed by fire, earthquake, flood, or other casualty so as to render such property unfit for occupancy, in whole or in part, and that if it should reasonably appear that CITY cannot or will not restore or repair the Premises within ten (10) days from the date of such damage, either party shall be entitled to terminate the Agreement by giving the other party notice in writing of intention to so terminate ten (5) days before the proposed date of termination.

14. **CONDEMNATION.** If, during the AGREEMENT Term, there is any taking by condemnation of all or part of the building, other improvements, or land of which the Premises are a part, or any interest in the AGREEMENT, the rights and obligations of the parties shall be determined as follows:

a. If the Premises are totally taken by condemnation, the AGREEMENT shall terminate on the date of the taking;

b. If any portion of the Premises is taken by condemnation the AGREEMENT shall remain in effect, except that COUNTY may elect to terminate the AGREEMENT by giving notice of same within five (5) days of the date of the taking.

15. **ASSIGNMENT.** COUNTY shall not assign or encumber its interest in the AGREEMENT, all or any part of the Premises, without the consent of CITY, which consent may be withheld at CITY's absolute discretion.

16. **SIGNS.** COUNTY may not install, or permit any other person to install, any sign, awning, canopy, marquee or other advertising on any exterior wall, door, or window on the Premises.

17. **PARTIES'S ENTRY ON PREMISES.** The parties and their authorized representatives shall have the right to enter the Premises at all reasonable times.

18. **REMOVAL OF PERSONAL PROPERTY.** On expiration or other termination of the AGREEMENT, COUNTY shall remove all its personal property and shall perform all restoration made necessary by the removal of any alterations, fixtures, or signs.

19. **TERMINATION.** Either party may terminate this Agreement for cause upon fifteen (15) days' prior written notice to the other party. For purposes of this section, "cause" shall be defined as the failure of either party to remedy any material breach of the AGREEMENT within three (3) days' written notice of the breach. No material breach will be found for issues that this contract already provides a remedy for, so long as those remedies are timely undertaken.

COUNTY, may immediately terminate this Agreement upon written notice should the expenses associated with the Services be deemed to be non-reimbursable by the Federal Government or California State Government, as COUNTY will not be able to fund the scope of the Services considered in this Agreement without Federal or State reimbursement. Written notice of such determination of non-reimbursability shall be communicated by COUNTY to CITY as soon as possible.

COUNTY may immediately terminate this Agreement upon written notice should operational support from CDSS or the American Red Cross ceases, as COUNTY will not be able to provide such support on its own. This written notice shall be communicated by COUNTY to CITY as soon as possible.

COUNTY, as required by the Federal Emergency Management Agency ("FEMA") contract provisions, may terminate this Agreement without cause and shall provide CITY with seven (7) days written notice of the termination of this Agreement without cause.

20. **SUCCESSORS.** This Agreement shall be binding on, and inure to, the benefit of the parties, their successors and assigns, except as otherwise limited by this Agreement.

21. **NOTICE.** Any notice, demand, request, consent, approval or other communication required or permitted under this Agreement shall be in writing and must be either delivered in person or sent by certified mail, postage prepaid, to the follow addresses:

COUNTY: Board of Supervisors
County of Tulare Administration Building
2800 W. Burrel
Visalia, CA 93291
w/Copy to: Tulare County Office of Emergency Services
Attn: Andrew Lockman
5957 S. Mooney Blvd.
Visalia, CA 93277

CITY: John Lollis
291 N Main St,
Porterville, CA 93257

Notice shall be deemed communicated four (4) days from the time of mailing as provided in this section.

22. **ACCESS TO RECORDS.** The following access to records requirements apply to this AGREEMENT: a. The parties agree to provide each other, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to

any books, documents, papers, and records of the CITY and COUNTY which are directly pertinent to this AGREEMENT for the purposes of making audits, examinations, excerpts, and transcriptions.

b. The CITY agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

c. The CITY agrees to provide the FEMA Administrator, or their authorized representatives, access to the Premises or other sites pertaining the scope of this AGREEMENT.

d. In compliance with the Disaster Recovery Act of 2018, the COUNTY and the CITY acknowledge and agree that no language in this AGREEMENT is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

23. **DEBARMENT AND SUSPENSION.** CITY certifies, by entering into this AGREEMENT, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this AGREEMENT by any federal agency or by any department, agency or political subdivision of the State of California. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of CITY. The CITY also further certifies that it has verified the suspension and debarment status for all sub-contractors receiving funds under this AGREEMENT and is solely responsible for any paybacks and or penalties that might arise from non-compliance.

24. **CHANGES.** CITY and COUNTY, together the "Parties" agree that any changes made to this AGREEMENT must be formal written Agreement in the form of a Change Order to this AGREEMENT. Any Change Order must be submitted by the requesting party by at least seven

(7) days written notice to the other Party. Both the CITY and COUNTY must agree, in writing, to any changes to this AGREEMENT.

25. DEPARTMENT OF HOMELAND SECURITY SEALS/LOGOS. The CITY shall not use the Department of Homeland Security ("DHS") seal(s), logos, crests, or reproduction of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

26. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS. CITY acknowledges that FEMA financial assistance will be used to fund all or a portion of the AGREEMENT. CITY shall comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

27. NO OBLIGATION BY FEDERAL GOVERNMENT. The Federal Government is not a party to this AGREEMENT and is not subject to any obligation or liabilities to the COUNTY, CITY, or any other party pertaining to any matter resulting from this AGREEMENT.

28. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS. CITY acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statement) applies to the CITY's actions pertaining to this AGREEMENT.

29. DISASTER SERVICE WORKERS. Emergency management personnel provided under this AGREEMENT are public employees, who during disaster situations, are declared under California Government Code section 3100, to be Disaster Service Workers. Work-related injuries will be handled by providing agency/jurisdiction under Worker's Compensation. Emergency management personnel must immediately report any injury suffered while deployed, to their assigned supervisor and home agency. Further, emergency management personnel provided by the CITY under this Agreement are Disaster Service Workers and employees of the CITY, and as such are provided the immunities, protections, and benefits of Disaster Service Workers, as provided in the California Emergency Services Act and other applicable law. Each

party shall defend, indemnify, and hold the other party, its officials, officers, employees, agents, and volunteers, harmless from and against any and all liability, loss, expense (including reasonable attorney's fees), or claims for injury or damage arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damage are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officials, officers, employees, agents, or volunteers.

30. **WAIVER.** The failure of either party to insist on strict compliance with any provision of this Agreement will not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment will not be considered to be a waiver of any preceding breach of the Agreement by the other party.

31. **INTEGRATION.** This instrument contains all the Agreements of the parties relating to the Premises and cannot be modified or amended except by a subsequent Agreement in writing.

32. **NO THIRD-PARTY BENEFICIARIES.** Unless specifically set forth, the parties to this Agreement do not intend to provide any third-party benefit or enforceable legal or equitable right or remedy.

33. **GOVERNING LAW.** This Agreement will be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles.

34. **HEADINGS.** Paragraph headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

35. **INTERPRETATION.** This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code Section 1654 shall not apply to address and interpret any uncertainty.

36. **CONFLICT WITH LAWS OR REGULATIONS; SEVERABILITY.** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision will be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement will continue in full force and effect.

37. **AUTHORITY.** Each person executing this Agreement on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of the entity it purports to bind, and if such party is a partnership, corporation or trustee, that such partnership, corporation or trustee has full right to enter into this Agreement and perform all of its obligations hereunder.

38. **COUNTERPARTS.** This Parties to this AGREEMENT may sign this AGREEMENT in counterparts, each of which is an original and all of which taken together form one single document. The counterparts of this AGREEMENT may be executed and delivered by facsimile or other electronic signature (including portable document format) by the Parties and the receiving Party may rely on the receipt of such document so executed and delivered

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electronically or by facsimile as if the original had been received.

THE PARTIES, having read and considered the above provisions, indicate their Agreement by their authorized signatures below.

CITY OF PORTERVILLE

Date: _____

By: _____

John Lollis

City Manager

Approved as to form:

City Attorney

By:  _____

**COUNTY
COUNTY OF TULARE**

By: _____

Jason T. Britt

Tulare County Emergency Services Director

Approved as to form:

County Counsel

By:  _____

Matter No. 2023359



Office of Emergency Services

5957 South Mooney Boulevard, Visalia, California 93277
(559) 624-7495 Telephone (559) 737-4692 Facsimile

April 14, 2023

Ms. Nancy Ward
Director, Governor's Office of Emergency Services
3650 Schriever Avenue
Mather, CA 95655

Dear Director Ward,

Tulare County appreciates the Office of Emergency Services' tireless work to support the response to and recovery from DR-4699 in our County and the surrounding region. Specifically, your negotiation of an ongoing incident period and the expeditious approval of individual assistance programs have been particularly valuable to the affected communities as we continue to recover from storm damages, repair distressed and weakened waterways, and prepare for the impending historic snowmelt runoff.

As current snow moisture content in local watersheds is estimated at over 300% of the historical average, total inflows to local reservoirs through April and July are expected to exceed three times the reservoir capacity. Local reservoir and waterway operators continue to aggressively release water at or near full capacity to make space for the anticipated inflows and prevent a return to spillway flows, while balancing needs of downstream operators to conduct emergency repairs. As a result, a number of homes, agricultural properties, and public spaces remain inundated with floodwater, and more homes may be affected because of the new snowmelt conditions. Specifically, we anticipate similar or worse conditions as a result of the snowmelt.

Tulare County is concerned that current sheltering for individuals affected by inundation and/or evacuation orders, including previously displaced individuals who remain under an evacuation order, may be limited in duration, especially during the current intervening period between storm and snowmelt-induced flooding incidents within the disaster.

Tulare County has entered into an agreement with the City of Porterville to maintain the last remaining emergency evacuation shelter site in the County. The California Department of Social Services and Volunteer Emergency Services Team have pledged support to provide staff and services for only two weeks at this shelter. Forty Tulare County residents who have been displaced due to flood activities are staying at this site. Because the support from CDSS and VEST is limited, the County is concerned that it may not be able to continually fund and staff the ongoing shelter projects. Our concern is the ongoing financial and logistical burden to the County and the incorporated cities therein.

As we are sure that you are aware, emergency protective measures, flood control activities, and damage assessments are being conducted because of the flood conditions in Tulare County. These efforts go hand-in-hand with ensuring that County residents are safe,



Office of Emergency Services

5957 South Mooney Boulevard, Visalia, California 93277
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fed, and warm. The State's cooperation in keeping funding and support from the Department of Social Services and VEST beyond the initial two weeks available for emergency sheltering of Tulare County Residents is vital. Your support in ensuring ongoing funding and logistical support for these critical emergency protective measures is greatly appreciated.

Sincerely,

A handwritten signature in black ink, reading "Andrew Lockman", with a stylized flourish at the end.

Andrew Lockman
Office of Emergency Services Manager

Porterville Army National Guard Armory
Temporary Evacuation Point and Shelter
Daily Census

<u>Date:</u>	<u>Adults:</u>	<u>Youth:</u>	<u>Dogs:</u>
Friday, May 5, 2023	12	0	1
Saturday, May 6, 2023	10	0	0
Sunday, May 7, 2023	10	0	0
Monday, May 8, 2023	15	0	1
Tuesday, May 9, 2023	12	0	0
Wednesday, May 10, 2023	8	0	0
Thursday, May 11, 2023	9	0	0
Friday, May 12, 2023	9	0	0
Saturday, May 13, 2023	7	0	0
Sunday, May 14, 2023	6	0	0
Monday, May 15, 2023	13	0	0
Tuesday, May 16, 2023	11	3	4
Wednesday, May 17, 2023	11	3	4
Thursday, May 18, 2023	16	3	4
Friday, May 19, 2023	11	0	3
Saturday, May 20, 2023	14	0	5
Sunday, May 21, 2023	12	0	4
Monday, May 22, 2023	14	0	3
Tuesday, May 23, 2023	14	5	3
Wednesday, May 24, 2023	16	3	3
Thursday, May 25, 2023	13	1	6
Friday, May 26, 2023	18	4	3
Saturday, May 27, 2023	16	5	5

<u>Date:</u>	<u>Adults:</u>	<u>Youth:</u>	<u>Dogs:</u>
Sunday, May 28, 2023	16	1	3
Monday, May 29, 2023	18	1	3
Tuesday, May 30, 2023	19	1	6
Wednesday, May 31, 2023	17	1	3



LICENSE NUMBER	1221
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LICENSE TO USE STATE MILITARY PROPERTY

BETWEEN

CALIFORNIA MILITARY DEPARTMENT

AND

The City of Porterville

FOR

USE OF READINESS CENTER IMPROVEMENTS AND GROUNDS

This AGREEMENT, dated for reference the 10th day of April 2023, by and between the California Military Department (CMD), hereinafter called STATE, and the City of Porterville, 291 North Main Street, Porterville, CA 93257, hereinafter called LICENSEE, without distinction as to number or gender, and effective upon execution by STATE. STATE and LICENSEE are sometimes referred to individually as a "party" or collectively as the "parties".

RECITALS

WHEREAS, the STATE has under its jurisdiction, certain real property known as the Porterville armory, located at 29 N. Plano St. Porterville, CA 93257, hereinafter called PREMISES, identified in **Exhibit "B"**, consisting of one (1) page and attached hereto and incorporated herein by this reference.; and,

WHEREAS, it is essential that STATE have a secure facility and surrounding grounds; and,

WHEREAS, PREMISES may be made available to meet the needs of the local civil authority when not required to meet immediate operational requirements;

NOW THEREFORE, STATE and LICENSEE agree as follows:

WITNESSETH

I.

GENERAL PROVISIONS

1. AGREEMENT is for non-exclusive weekday or weekend use throughout the license term.
2. Upon declaration of emergency by the STATE or federal government, STATE reserves the right to reoccupy PREMISES, including all parking areas, with twenty-four (24) hours written or electronic (voice or email) notice to LICENSEE at the notification address/number below in Section III; "Notification".

3. LICENSEE shall comply with all applicable statutes, laws, ordinances and rules or regulations adopted by the Federal, State or any City, City and County, County or other body politic pertaining to use of said premises or any provisions of the License.
4. LICENSEE shall comply with such reasonable rules and regulations as may be prescribed by STATE for the reasonable use and occupation of State Facilities.
5. LICENSEE understands and agrees the California Legislature may impose additional restrictions, limitations or conditions affecting AGREEMENT provisions or terms; however, any such changes become effective no sooner than 30 days after the legislature has acted.
6. This agreement shall not be assigned or sublet or otherwise encumbered, in whole or in part, without STATE'S prior written consent.
7. STATE infrastructure shall supply PREMISES with utilities, but LICENSEE will transfer utility accounts into its name for payment: electric, sewer, water, refuse collection.
8. LICENSEE shall have use of the offices, storage areas, drill floor, latrines, showers, parking areas for placement of storage containers (if required), and kitchen counters solely for food preparation or distribution (no oven or stove top use). All food will be stored and surfaces cleaned on a daily basis when shelter operations are underway.
9. STATE is not responsible for losses or damage to personal property, equipment or materials of LICENSEE, its employees, agents or clients. LICENSEE shall report to STATE all losses immediately upon discovery.
10. LICENSEE shall not drive any nails, tacks, pins or other objects into the walls, ceilings, partitions, windows, woodwork, or any other part of PREMISES, nor in any manner move or change any fixture, nor make any alterations to PREMISES without STATE'S prior written consent.
11. Upon completion of use, LICENSEE shall remove all decorations, display, signs, and equipment on PREMISES.
12. Upon license expiration, LICENSEE will surrender PREMISES to STATE with appurtenances and fixtures in good order, condition, and repair, reasonable use and wear thereof, or Acts of God excepted.
13. LICENSEE shall not permit any alcoholic beverage to be offered for sale, stored, given away or otherwise disposed or consumed on any part of PREMISES, nor shall LICENSEE permit any use of tobacco products on any part of PREMISES or within twenty (20) feet of entrances, doorways or opening windows, except in a sufficiently distanced controlled area under LICENSEE supervision.
14. LICENSEE acknowledges PREMISES may not be fully ADA compliant and agrees to implement or improve, at its sole cost and expense, those necessary compliance measures required for the duration of its use. Furthermore, LICENSEE agrees to provide any and all required temporary emergency lighting required by State, County or City laws or ordinances.

II.

AUTHORIZED ACTIVITIES

1. In order to provide a variety of health, medical or other services to homeless citizens, LICENSEE may provide on-site program management through either LICENSEE employees, agents, volunteers or contracted services.
2. The armory facility will be available twenty-four (24) hours each day unless otherwise amended in writing by the STATE.
3. LICENSEE is solely responsible for protecting employees, patrons, agents, clients, or invitees from acts of third parties, and agrees to notify STATE and appropriate law enforcement agencies as required.
4. LICENSEE agrees to maintain PREMISES in a clean and habitable condition, which includes exterior landscape maintenance and removal of all litter, trash, cans, bottles, etc. from the site not less than once per day.
5. Any damage to PREMISES will be inspected by STATE representatives (CMD Area Coordinator) and LICENSEE to determine the character and extent of damage (with photographs). Repairs should be completed within twenty-four (24) hours if an emergency or seventy-two (72) hours if urgent.
6. The STATE Area Coordinator will contract for necessary repair or restoration services using appropriate state or federal guidance, while coordinating and collaborating closely with LICENSEE. LICENSEE may not undertake repairs or restoration using its own forces or contract services without the prior written consent of STATE'S Area Coordinator.
7. Within thirty (30) days of being presented a demand (invoice) for payment, LICENSEE shall make STATE whole for the cost of repairing or restoring any improvement or utility damaged as a result of PREMISES use.
8. If significant plumbing issues occur due to continued actions of clients, LICENSEE will provide portable latrines, at its sole cost and expense, for the duration of the contract.
9. LICENSEE shall take all necessary steps to ensure clients do not constitute a nuisance in the immediate vicinity of the facility during hours of operation. If at any time the STATE is dissatisfied with the LICENSEE efforts, the LICENSEE and STATE shall meet to explore means and methods of compliance.
10. LICENSEE shall supply consumable sanitary items and paper products, which include, but not limited to: cleaning/sanitizing supplies and equipment, liquid soap, paper towels, and toilet paper. If requested (necessary), the County Health Department shall provide periodic health screenings and consultation on issues pertaining to sanitation
11. Pets of clients occupying PREMISES or participating in provided services are prohibited inside the PREMISES, with the exception of those meeting the definition of "service animal" in Section XV below.
12. LICENSEE shall ensure clients provide valid vehicle registration and insurance BEFORE parking their vehicle in PREMISES parking area.
13. Vehicles parked on PREMISES without appropriate approval shall be towed away by STATE's order and at LICENSEE's risk and expense.

III.

NOTIFICATION

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by overnight courier, or sent by registered or certified mail, postage prepaid, return receipt requested to the addresses set forth below. All such notices or other communications shall be deemed received upon the earlier of (i) if personally delivered or sent by overnight courier, the date of delivery to the address of the person to receive such notice, (ii) if mailed as provided above, on the date of receipt or rejection, when received by the other party if received Monday through Friday between 6:00 a.m. and 5:00 p.m. Pacific Standard Time, so long as such day is not a State or Federal holiday and otherwise on the next day provided that if the next day is Saturday, Sunday, or a state or federal holiday, such notice shall be effective on the following business day.

To LICENSEE:

City of Porterville
Attn: City Manager
291 North Main Street
Porterville, CA 93257
(559) 782-7466

To STATE:

California Military Department
9800 Goethe Road, Box 18
Sacramento, CA 95826
(916) 854-3788

PROGRAM MANAGER:

SSG Monica Estrada
(916) 541-8160

Notice of change of address or telephone number shall be given by written notice in the manner described in this section. LICENSEE is obligated to notice State offices listed above and the failure to provide notice to do so shall constitute a lack of notice. Nothing contained herein shall preclude the giving of any such notice by personal service.

IV.

INSURANCE REQUIREMENTS

LICENSEE is a public entity, which is self-insured and will be responsible for any damage caused to PREMISES. Additionally, LICENSEE shall indemnify STATE against any injuries caused by use of PREMISES. LICENSEE has furnished the necessary Certificate of Self-Insurance, **Exhibit "D"** attached hereto and incorporated herein by this reference, demonstrating the required insurance coverage will be in effect during the complete term of AGREEMENT, and shall include, but not be limited to:

- Combined single limit liability of \$2,000,000, or
- Special event coverage with a limit of \$2,000,000, and
- A statement naming the United States, State of California, its officers, agents, employees, and servants as additional insured, but only with respect to the activities of the named insured.

V.

HOLD HARMLESS INDEMNIFICATION

The PREMISES are provided in "AS-IS" and "WITH ALL FAULTS" condition, and STATE and its employees, representatives and agents disclaim all warranties, expressed or implied, regarding the PREMISES, including, but not limited to, all implied warranties of merchantability or fitness for a particular purpose or compliance with Applicable Law. LICENSEES acknowledges and agrees that STATE and its employees, representatives and agents have made no representations or warranties for the PREMISES, including, without limitation, any representations or warranties regarding, (a) the condition or repair of the PREMISES, (b) whether such PREMISES are sufficient for the purposes of LICENSEE, or (c) whether the PREMISES comply with Applicable Laws (as defined below), including without limitation the Americans with Disabilities Act (ADA) or other accessibility laws, (d) whether there are any facts or conditions affecting the PREMISES that might, individually or in the aggregate, interfere with the use or occupancy of the PREMISES or any portion thereof by LICENSEE.

The use of the PREMISES by LICENSEE shall be conclusive evidence that LICENSEE accepts the same "AS IS and WITH ALL FAULTS" and that the PREMISES are suited for the use intended by LICENSEE and are in good and satisfactory condition at the time such possession was taken. LICENSEE represents and warrants to STATE that (a) its sole intended use of the PREMISES is for temporary sheltering (the "Permitted Use") and (b) prior to using the PREMISES it has made such investigations as it deems appropriate with respect to the suitability of the PREMISES for its intended use and has determined that the PREMISES are suitable for such intended use.

LICENSEE shall comply with all applicable statutes, laws, ordinances and rules and regulations adopted by the Federal, State or any City, City and County, County or other body politic, including without limitation all building codes, the ADA or other accessibility laws ("Applicable Laws") and which pertains to use of the PREMISES or any provisions of the License, and will indemnify, defend and hold STATE free and harmless from and against any violations thereof and any and all liabilities, suits, causes of action, judgments, demands and claims for damages, including all reasonable costs of any litigation and attorney's fees and expenses, arising out or by reason of any such violation.

LICENSEE shall indemnify, defend and hold STATE its employees, representatives and agents free and harmless from and against any and all suits, causes of action, demands, proceedings, claims, damages, judgments, obligations liabilities, liens, fines, costs, and expenses (including, but not limited to, attorneys' fees and costs) (collectively "Losses") which arise from or are related to (a) use or occupancy of the PREMISES by LICENSEE or its Representatives, including, but not limited to, damage to property of any kind whatsoever and to whomsoever belonging, including LICENSEE, from any cause or causes whatsoever during the term of this License or any occupancy hereunder, holdover periods or any other occupancy of the PREMISES during the term of this License, except (i) those Losses that are ultimately determined by a court or administrative tribunal of competent jurisdiction to be caused by sole gross negligence of the STATE or its employees, or (ii) to the extent any such Losses are ultimately determined by a court or administrative tribunal of competent jurisdiction to be caused by the willful misconduct of the STATE or its employees; provided, however, any condition of the PREMISES that is found to be in violation of any Applicable Law by a court or administrative tribunal of competent jurisdiction shall not be deemed gross negligence or willful misconduct on the

part of the STATE or its employees; (b) breach of LICENSEE'S obligations under the AGREEMENT, (c) negligence or other wrongful act by LICENSEE or its Representatives, (d) violation of Applicable Law by LICENSEE or its Representatives, (e) any allegation that the PREMISES do not comply with Applicable Law. "Representatives" means LICENSEE'S agents, employees, representatives, contractors, or any other person or persons acting within the direct control or authority of such party or its agents, employees, representatives or contractors.

VI.

FEES

1. The use fee is waived based on Services in Kind as per California Army National Guard Regulation 210-2 paragraph 9.
2. Utility accounts will be transferred to LICENSEE, which will directly pay utility costs on an as-incurred basis.

VII.

TERM

License shall take effect no earlier than May 5, 2023 or upon execution by STATE, whichever is later, and shall expire no later than 0800 (8:00 A.M.) May 4, 2024.

VIII.

AMENDMENT AND TERMINATION

AGREEMENT cannot be amended or modified in any way except by a written AGREEMENT duly executed by STATE and LICENSEE. Any proposal for amendment or modification must be delivered for review and approval by the Chief, Realty Operations or her/his delegatee.

AGREEMENT may be terminated by either party upon 30 days' written notification to the other party at the addresses previously given in Section III; "Notification". Upon termination, the activities of the parties shall be governed by the applicable provisions of the Military and Veterans Code. STATE is not obligated to reimburse LICENSEE any fees should it terminate this AGREEMENT before reaching its full term.

IX.

ENTIRE AGREEMENT

AGREEMENT, along with any exhibits attached hereto, constitutes the entire covenant and understanding between STATE and LICENSEE for PREMISES. AGREEMENT supersedes all prior and contemporaneous routine activity agreements, representations or understandings, if any, whether oral or written.

X.

DURATION & RENEWAL

AGREEMENT shall remain in effect through the termination date and will not be extended, but may be renewed annually subsequent to renegotiation required to protect the parties.

XI.

RIGHT TO ENTER

During continuance in force of AGREEMENT, there shall be, and is hereby expressly reserved to STATE and to any of its contractors, agents, employees, representatives, or licensees, the right at any and all reasonable times, and any and all places to temporarily enter upon said PREMISES for inspection or other lawful STATE purposes.

XII.

ENVIRONMENTAL LAWS AND REGULATIONS

LICENSEE must comply with all applicable local, State or Federal environmental

provisions, requirements, ordinances, regulations or laws. AGREEMENT does not constitute any form of authorization, permit, or opinion with respect to the satisfaction thereof. LICENSEE agrees that it shall comply with all laws, federal, state, or local, existing during the term of this license pertaining to the use, storage, transportation, and disposal of any hazardous substance as that term is defined in such applicable law.

1. In the event STATE or any of its affiliates, successors, principals, employees, or agents should incur any liability, cost, or expense, including attorney's fees and costs, as a result of the LICENSEE'S illegal use, storage, transportation, or disposal of any hazardous substance, including any petroleum derivative, the LICENSEE shall indemnify, defend, and hold harmless any of these individuals against such liability.
2. Where the LICENSEE is found to be in breach of this Paragraph due to the issuance of a government order directing the LICENSEE to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition caused by the LICENSEE or any person acting under LICENSEE'S direct control and authority, LICENSEE shall be responsible for all costs and expenses of complying with such order, including any and all expenses imposed on or incurred by STATE in connection with or in response to such government order.

XIII.

DEFAULT

LICENSEE shall make all required payments to the STATE without deduction, default or delay. In the event of the failure of LICENSEE to do so, or in the event of a breach of any of the other terms, covenants or conditions herein contained on the part of LICENSEE to be kept and performed, and if such default continues for a period of thirty (30) days after receipt of written notice from STATE to LICENSEE of such default, this License may, at the STATE'S sole discretion, be terminated.

In the event of termination of this License, it shall be lawful for STATE to reenter into and upon the PREMISES and every part thereof and to remove and store at LICENSEE's expense all property therefrom and to repossess and occupy the PREMISES. In the event STATE terminates this License pursuant to this Paragraph, the STATE shall not be required to pay LICENSEE any sum or sums whatsoever.

XIV.

SERVICE ANIMALS

Service Animal Defined by Title II and Title III of the ADA: (from the ADA National Network)

Under Title II and III of the ADA, service animals are **limited to dogs** individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Emotional support animals, comfort animals, and therapy dogs are not service animals under Title II and Title III of the ADA. Other species of animals, whether wild or domestic, trained or untrained, are not considered service animals either. The work or tasks performed by a service animal must be directly related to the individual's disability. A doctor's letter does not turn an animal into a service animal.

Examples of animals fitting the ADA's definition of "service animal" because they have been **specifically trained to perform a task for the person with a disability**:

Guide Dog or Seeing Eye® Dog¹ is a carefully trained dog that serves as a travel tool for persons who have severe visual impairments or are blind.

Hearing or Signal Dog is a dog that has been trained to alert a person who has a significant hearing loss or is deaf when a sound occurs, such as a knock on the door.

Psychiatric Service Dog is a dog that has been trained to perform tasks that assist individuals with disabilities to detect the onset of psychiatric episodes and lessen their effects.

SigDOG (sensory signal dogs or social signal dog) is a dog trained to assist a person with autism. The dog alerts the handler to distracting repetitive movements common among those with autism, allowing the person to stop the movement (e.g., hand flapping).

Seizure Response Dog is a dog trained to assist a person with a seizure disorder. The dog may stand guard over the person during a seizure or the dog may go for help. A few dogs have learned to predict a seizure and warn the person in advance to sit down or move to a safe place.

While Emotional Support Animals or Comfort Animals are often used as part of a medical treatment plan as therapy animals, **they are not considered service animals under the ADA**. These support animals provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities and are not covered by federal laws protecting the use of service animals.

A public facility is not allowed to ask for documentation or proof a dog has been certified, trained, or licensed as a service animal. Staff on site may ask the following questions:

1. Is the dog a service animal required because of a disability?
2. What work or task has the dog been trained to perform?

No further questions should be asked regarding the disability or the animal, nor is it permissible to ask that the dog perform the task that grants it to be a service animal.

CONCURRENCE

FOR THE ADJUTANT GENERAL



CITY OF PORTERVILLE

DATE: _____

DATE: 05/17/2023

RESOLUTION NO. 15 -2023

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE
CATASTROPHIC / EMERGENCY RESERVE FOR THE COSTS ASSOCIATED
WITH THE RESPONSE TO THE LOCAL FLOOD EMERGENCY**

WHEREAS: Pursuant to Chapter 9 of the Porterville Municipal Code, Mayor Martha A. Flores declared the existence of a local emergency within the City of Porterville on March 13, 2023 due to the threat to life and property caused by a series of storms impacting Success Lake significantly increasing the Tule River flows; and

WHEREAS: Flood water and water from Success Lake had caused evacuation warnings and mandatory evacuation orders in the month of March for some local residents; and

WHEREAS: Historic water levels and flows of the Tule River have caused erosion to the river banks, prompting City staff to take extraordinary measures to protect the riverbanks and avoid potentially catastrophic flooding;

WHEREAS: The significant threat of local flooding emergency continues to exist with the estimated snow pack in the Sierra Nevada mountains of more than three hundred percent (300%) of normal and the potential for a warm storm or heat wave this Spring; and

WHEREAS: The City of Porterville Municipal Code Section 2-31.2, established the Catastrophic / Emergency Reserve Fund for the purpose of providing funds to mitigate costs associated with unforeseen emergencies, including natural disasters or catastrophic events;

NOW, THEREFORE, BE IT RESOLVED:

1. That the City Council of the City of Porterville make a finding that the local flood emergency is an unforeseen and unavoidable event that require the expenditure of City resources beyond those provided for in the annual budget; and
2. That the City Council of the City of Porterville does hereby approve and authorize the appropriation of funds from the Catastrophic / Emergency Reserve Fund for the costs associated with the response to the local emergency including personnel, equipment, services, and other necessary expenditures; and
3. That the City Council authorize the replacement of funds from any grant funds that may be used to reimburse said costs.

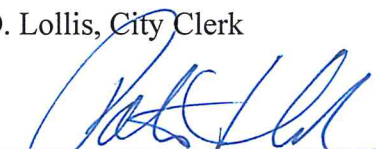
PASSED, APPROVED AND ADOPTED this 4th day of April, 2023.



Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 

Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at a meeting of the Porterville City Council duly called and held on the 4th day of April, 2023.

Said resolution was duly passed, approved, and adopted by the following vote:

Council:	FLORES	CARRILLO	WEYHRAUCH	BELTRAN	MEISTER
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					



JOHN D. LOLLIS, City Clerk

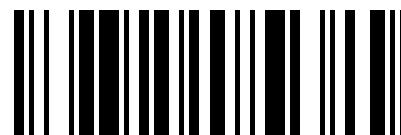
By: 
Fernando Gabriel-Moraga, Deputy City Clerk

Invoice

Calwen Inc. dba Rescue Source & Rescue 3 Intl

Calwen Inc. dba Rescue Source & Rescue 3
P.O. Box 1050
Wilton, CA 95693
Phone: 916-687-6556
Fax: 916-687-6717
Email: info@rescuesource.com

Order #	Date
131282	03/20/2023



Bill To:	Ship To:
PORTERVILLE FIRE DEPARTMENT 40 W CLEVELAND PORTERVILLE, CA 93257 Phone: 559-782-7526 Email: jrodriguez@ci.porterville.ca.us	PORTERVILLE FIRE DEPARTMENT 40 W CLEVELAND PORTERVILLE, CA 93257
Customer: PORTERVILLE FIRE DEPARTMENT	Contact: JANIE RODRIGUEZ PO Number: 23-22733

Sales Rep	Payment Terms	FOB Point	Carrier	Ship Service	Date Scheduled
MELISSA	NET 30	Origin	UPS Next Day Air		03/20/2023

Item #	Type	Number	Description	Unit Price	Qty Ordered	Total Price
1	Kit	KT2210	PFD TYPE V PACKAGE	\$250.00	20 ea	\$ 5,000.00
2	Sale	PF4026R	NRS 2022 RAPID RESCUER RED	\$0.00	20 ea	\$ 0.00
3	Sale	KN2556OR	NRS PILOT KNIFE ORANGE	\$0.00	20 ea	\$ 0.00
4	Sale	WH7905	WHISTLE-RESCUE 3 LOGO WITH COIL	\$0.00	20 ea	\$ 0.00
5	Sale	HL7050HVL/XL	RQ3 STORM PRO HELMET HI VIS LARGE/XLARGE	\$32.00	20 ea	\$ 640.00
6	Shipping	Freight	Freight Out	\$256.00	1 ea	\$ 256.00
7	Sale	Tax Expense	Tax Expense	\$521.70	1 ea	\$ 521.70

Subtotal:	\$6,417.70
Sales Tax:	\$0.00
Total:	\$6,417.70

Thank you for your order.
If you have any questions please call 800-457-3728
or e-mail info@rescuesource.com.

Royal Restrooms

A Regal Portable Restroom Experience

INVOICE # 04-12-2023

BILL TO: Portable Restrooms

dmoore@ci.porterville.ca.us

(559) 782-7539

Livermore, Ca 94551

Fax:(925) 337-8878

Cage Code 5HJ93

DESCRIPTION	T	AMOUNT
1 Single ADA Shower/Restroom Combo	t	\$4,250.00
1 Three Stall Shower/Restroom Combo	t	\$4,850.00
Delivery	t	\$100.00
Installation and Removal		\$2,500.00
Before/After Hours or Same Day Services		\$600.00

Due upon receipt-----For Royal Restrooms of California [W9 Click here.](#)

Make all checks payable to Royal Restrooms of California. If payment is not received per terms of agreement signed, applicable late fees will be applied. If you have any questions concerning this invoice, call Us at 877-922-9980 california@royalrestroomscs.com

THANK YOU FOR YOUR BUSINESS!

TAXABLE SUBTOTAL	\$9,200.00
TAX RATE	9.250%
SALES TAX	\$851.00
NON TAXABLE SUBTOTAL	\$3,100.00
TOTAL	\$13,151.00

TOTAL



INVOICE

24/7 Emergency 800-742-7246
www.rainforrent.com

Rain For Rent
Bakersfield
4001 State Rd
Bakersfield CA 93308
United States
661-399-1724

Your sales person	REMIT PAYMENTS TO:
JESSE PINTOR	Rain for Rent RAIN FOR RENT FILE 52541 LOS ANGELES, CA 90074-2541

CONTRACT # 1169502 CUSTOMER CITY OF PORTERVILLE CUSTOMER # 112354 NAME CITY OF PORTERVILLE ADDRESS 291 N MAIN ST PORTERVILLE CA 93257 PHONE	INVOICE# 1854595	INVOICE DATE 3/30/2023	PO or JOB# 23-22734	PAYMENT DUE 4/29/2023
PLEASE PAY				\$77,396.67
SHIPPED TO JOBSITE:				
NAME CITY OF PORTERVILLE ADDRESS Corporation Yard 555 N Prospect St Porterville CA 93257 PHONE				

Notes:

Requested by: Michael Knight
PO Number: 23-22734

QTY	UOM	DESCRIPTION	PRODUCT #	STATUS	DATE OUT	BILLED THRU	DAYS BILLED	PRICE	AMOUNT	TAXABLE
1.00	EA	Pump BA150E D285 Tlr Mt Diesel Eng Hatz 4H50TIC	1022734		SALES		0.00	\$65,685.06	\$65,685.06	Y
1.00	EA	Shipping/Handling Freight	M240			SERVICES	0.00	\$5,158.57	\$5,158.57	Y

TOTAL SALES:	\$65,685.06
TOTAL RENTALS:	\$0.00
TOTAL SERVICES:	\$5,158.57
TOTAL OTHER:	\$0.00
SUBTOTAL:	\$70,843.63
TAX:	\$6,553.04

TOTAL:	\$77,396.67
---------------	--------------------

FOR PROPER CREDIT, PLEASE INCLUDE INVOICE NUMBER ON YOUR PAYMENT.
PAST DUE AMOUNTS ARE SUBJECT TO A SERVICE CHARGE OF 1.50%
CUSTOMER, (RENTEE OR BUYER as context requires), shall be deemed to accept
all terms, conditions and provisions hereof upon execution of this agreement;
ordering; or delivery of equipment to customer, whichever comes first.

PAYMENT TERMS: NET 30

SIGNATURE: _____ DATE: _____

Mike Clark Trucking
19385 Avenue 144
Porterville, CA 93257 US
+1 5597845486
mct3desk1@yahoo.com



INVOICE

BILL TO

City of Porterville
Street Superintendent, Field
Service Div.
555 N. Prospect
Porterville, Ca 93257

INVOICE # 2637**DATE** 03/23/2023**DUE DATE** 04/25/2023**TERMS** Net 30

DATE	FREIGHT	ACTIVITY	FREIGHT BILL	RATE	AMOUNT
03/23/2023	8.80	Super 10	7383117 - Luque	120.00	1,056.00
03/23/2023	9.70	Super 10	7383219 - Luque	120.00	1,164.00
03/23/2023	9.70	Super 10	7383046 - Luque	120.00	1,164.00
03/23/2023	9.80	Super 10	8432857 - Luque	120.00	1,176.00
03/23/2023	7.30	Super 10	9281272 - Luque	120.00	876.00

Thank you for your business!

SUBTOTAL	5,436.00
TAX	0.00
TOTAL	5,436.00
BALANCE DUE	\$5,436.00

A finance charge of 1.5% monthly/18% annually will be charged on accounts over 30 days past due. In the event a suit is brought to enforce collection, the customer shall be liable for responsible attorneys fees and costs of the suit.



Name of person in charge: Amy Greybehl

Event Date: Start 5/5/23 month to month Price Per Guard: _____

Event Time: 8pm-8am How many guests: open

(Overtime is billed at \$35 per hour) _____ Invite Only: Y/N

Event Location: 29th ~~44~~ Plano St

City: Porterville State: CA

Zip: 93257 Special Instructions/ Directions for Event:

2 guards, check-in Guest by 8pm, lock gates, lights off by 10pm.

Balance Due for guaranteed hours \$: 18,000 - updated

Third Party Information- Please Print Clearly

Financially Responsible Party (Client):

City of Porterville - Army National Guard

Clients Contact Phone

Number: 559-782-7521

Client Email

Address: agreybehl@ci.porterville.ca.us

Clients Home

Address: City

City: Porterville State: CA Zip: 93257

Wedding/Prom/ Anniversary? Other: _____

Payment Information:

The parties have read all pages of this Agreement & the attached Terms and Conditions, agree to all its terms, and acknowledge receipt of a complete copy of the Agreement and Terms & Conditions. Each person signing as the Client below shall be responsible for ensuring that full payment is made as stated in this document. Client agrees that a 30% non-refundable retainer will be due immediately to reserve date and time as listed on contract.

Venmo: _____ @Chris-Morton-80 Zelle: _____ (559)756-4570

Cashapp: _____ \$maddym90 Check: X* Cash: _____

*Payment to be issued upon completion of a City of Porterville Business License Application

Client Initials: AG

Date: 5/5/23

You are a valued customer of Topknotch Security INC, and we want you to enjoy our guards' services. To ensure that the integrity of our officers is maintained for you and all of our customers, the following Terms & Conditions apply to all services provided by Topknotch Security INC, under all circumstances and without exception.

The purchaser (client) on the front of this contract is 100% responsible for his or her guests.

Topknotch Security INC will strictly enforce State and Federal Laws and will maintain a zero-tolerance compliance policy that no alcoholic beverages can be consumed or used by any person not of legal drinking age. All U.S. law enforcement agencies have absolute power to stop any event for administrative search. If contraband is found, even in negligible quantities without the officers knowledge, they can seize and forfeit the contraband to a local government agency. All law enforcement agencies are aggressively enforcing this policy.

Topknotch Security INC will not be responsible for injuries that may occur due to fighting while the event is ongoing. Topknotch Security INC will do their best to defuse any situation verbally, if Topknotch Security INC feels as if our officers cannot control the situation, we will be forced to contact the local law enforcement.

At the officer's discretion, the Client agrees to be fully liable for any damages / charges that may be incurred.

The Client accepts full responsibility for any and all damage, and for any loss of income due to negligence or carelessness caused by any member of the client's group at any time during the event. The Client authorizes Topknotch Security INC to charge for the expenses regardless of and in addition to any prior agreements or understandings. These charges are necessary due to the high cost of insurance, health insurance, uniforms, and due to the revenue and time lost during the time that the officer cannot work.

Please initial here to acknowledge the charges should any damages occur. AG

- Topknotch Security INC recommends that all and any personal valuables be removed from the vehicle when unattended. We will not be held responsible for any lost, stolen, or damaged articles.

- Topknotch Security INC reserves the right to terminate this or any other contract for noncompliance of the above requests, especially if responsible party does not follow Topknotch Security INC, requests to obey the rules in this contract.

Any deposits (cash, checks or course of payment) will be non-refundable for any reason, if any cancellation occurs from the responsible party's side. If for any reason the local law enforcements shuts the event down for any reasons, payment is non-refundable. The open balance is due immediately the day before the agreed job. The renter authorizes the immediate 30% non-refundable retainer & the final payment, states that she/he is the authorized purchaser for this rental contract, the authorized party for the given payment, responsible and liable for payment of the total amount, per cash or other payments. As with all contracts, the rental contract between the mentioned person as renter (Client) and Topknotch Security INC is made with the information and the terms given to us. I am satisfied with the terms and conditions above and fully understand and agree to everything stated in the contract.

Client Initials: AG Date 5/5/23

All of the given information from the Client is binding and cannot be changed without Topknotch Security INC acceptance. If the contract is cancelled after it is signed, Topknotch Security INC is still authorized to collect the remaining balance in full, if the officers does not go out again on the cancelled date for the same or higher amount. We will reserve the set date upon the approval of the purchaser's preferred payment as per telephone conversation. The responsible party gives authorization to use the payment information over the phone / fax / Internet in combination with a signed contract. It is agreed that it is not necessary to obtain a signed slip, as the reservation is made over the phone / fax / Internet. Proof of identity of the purchaser using said credit card must be supported by the signed contract or in person. At time of event we need the full payment, state identification of the purchaser that authorizes the transaction for the signed contract. If the purchaser cannot provide all of the above items at the time of event, Topknotch Security INC will not start the job, as we have no proof of the legal possession of payment. Therefore the risk of not getting paid will give us the right to cancel. The purchaser is still fully responsible to pay the total amount as he failed to provide the above requirements.

Topknotch Security INC cannot guarantee the availability of overtime. It is of particular importance that the purchaser makes allowances for anticipated delays and adheres to the agreed time schedule. In the event that the purchaser wants to change the time of the itinerary, they may do so, only if Topknotch Security INC can accommodate other clients that booked with Topknotch Security INC prior to or after the said time. The purchaser further agrees to pay additional charges incurred such as overtime and or more officers. The overtime will be billed by hourly rate at \$35.00 per hour, unless negotiated otherwise. If customer fails to cancel at the last minute, the full amount of contracted time will be charged.

The purchaser authorizes Topknotch Security INC to charge any additional charges after they have rendered services to the purchasers' as supplemental charge. If cash payment is selected, the payment is due no later than the close of the next business day in full. Customer agrees to have Topknotch Security INC get an authorization for the above course of payment and amount, for the event stated above.

If any payment due hereunder is unpaid (10) ten days after the due date, hereon Topknotch Security INC will have the right to add and collect late charges with interest at the maximum rate allowed by law. All such sums are due and owing with any other expenses, (filing fees, court cost, and reasonable attorney fees, etc.)

I fully understand and agree to everything stated in the contract and the Terms & Conditions. If, for any reasons, I am not fully satisfied with the services I receive, I have 24 hours after the completion of the job to file a complaint in writing. If Topknotch Security INC, does not receive my written complaint in the above stated timeframe, I agree that there is no valid complaint, and I am fully satisfied with the services I received. Filing a written complaint insures both parties that it is fully understood what the problem was and will help Topknotch Security INC to assist the responsible parties in any kind of resolution to the complaint. The purchaser will be contacted within a week of the complaint to settle the matter. I understand that this is a separate case from the main contract and therefore have no dispute in general against Topknotch Security INC and the payment I authorized.

Since Topknotch Security INC offers high-tech-equipment, sometimes heat and excessive use of all power-operated equipment might be subject to having more breaks for our officers. This will, of course, not interfere with the safety of the party itself and therefore will have no effect on continuing or paying of the contracted event. Topknotch Security INC guarantees that all our officers are constantly trained to keep the highest possible standards and eliminate such failures as much as possible. We have the right to add more officers in case of emergency or the event is getting bigger than contracted. As stated, this will only happen in emergencies, and to upgrade, never downgrade. If the upgrade is needed, Topknotch Security INC gives the customer the right to downsize the event and receive additional charges. Additional charges will occur on the customer's side if an upgrade is made. Topknotch Security INC will notify the responsible party if more officers and hours are needed, as well as how much more the cost will be.

If any of our above guarantees or contracted terms cannot be met due to conditions outside of our control, including weather, accidents, and any other acts of incidents, we will use our best efforts to notify the customer of these conditions and resulting delays or changes.

I am satisfied with the terms and conditions above and fully understand and agree to everything stated in the contract and the Terms & Conditions.

Client Signature Amy Graybehl Date 5/5/23
Topknotch Security Representative Signature Madeline M. Foster Date 5/3/25

ADDITIONAL REMARKS:

- 1 officer roaming & 1 officer checking in guest
- Roaming grounds and making sure lights out at 10 pm
- Making sure no guest leave after 8pm
- Roaming the whole grounds and the animals

CHAPTER 9

CIVIL DEFENSE AND DISASTER

SECTION:

9-1: Purpose Of Chapter

9-2: Definitions

9-3: Emergency Council

9-4: Officers Of Emergency Council

9-5: Emergency Council Meetings

9-6: Duties Of Emergency Council

9-7: Powers Of Chairman Of Emergency Council

9-8: Exercises Or Drills

9-9: Acts Authorized Under Certain Conditions

9-10: Emergency Services Coordinator

9-11: Powers And Duties Of Coordinator

9-12: Emergency Powers Of Coordinator

9-13: Emergency Services Organization

9-14: Functions And Duties Of Emergency Service Organization

9-15: Acts Unlawful During Disasters

9-16: Penalty For Violation Of Chapter

9-1: PURPOSE OF CHAPTER:

The purposes of this chapter are to provide for the preparation and carrying out of plans for disaster and emergency services, the protection of persons and property within the city of Porterville in the event of a disaster, and to provide for the coordination of the disaster and emergency functions of the city with all other affected persons and agencies, both public and private. Any expenditures made in connection with such disaster or emergency services, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property in the city. (Ord. 987 § A, 10-6-1970)

9-2: DEFINITIONS:

Except where the context otherwise requires, the following definitions shall govern the construction of this chapter:

DISASTER: Actual or threatened enemy attack, sabotage, extraordinary fire, flood, storm, epidemic, riot, earthquake or other public calamity. It shall not include, nor does any provision of this chapter apply to, any condition relating to a labor controversy.

EMERGENCY SERVICES: The preparation for carrying out disaster functions, other than functions for which military forces are primarily responsible, and to prevent, minimize and repair injury and damage resulting from disasters. It shall not include, nor does any provision of this chapter apply to, any condition relating to a labor controversy.

EMERGENCY SERVICES OFFICE: The physical facilities constituting the Tulare operational area's primary emergency operating center, and the necessary staff and personnel to operate such facilities on a day to day or disaster emergency basis.

TULARE OPERATIONAL AREA: The unincorporated area of the county, and the cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, Visalia and Woodlake. (Ord. 987 § A, 10-6-1970)

9-3: EMERGENCY COUNCIL:

The emergency council of the Tulare operational area is hereby created and shall consist of the following members:

A. The chairman of the board of supervisors of the county. Said board of supervisors shall appoint an additional member of said board to serve as an alternate member of the emergency council when the chairman is absent from the county or is not immediately available to perform his duties.

B. The mayors of the cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, Visalia and Woodlake, or alternates appointed by the respective city councils.

C. Two (2) persons residing in the unincorporated area of the county who shall be appointed by the other members of the emergency council.

D. The emergency services coordinator of the county, who shall be an ex officio member and who shall not be entitled to a vote at the meetings of the emergency council. (Ord. 987 § A, 10-6-1970)

9-4: OFFICERS OF EMERGENCY COUNCIL:

The officers of the emergency council shall be a chairman, and such other officers as the council may deem necessary. The chairman of the board of supervisors shall serve as chairman of the council. When he is absent from the county or is not immediately available to perform his duties, the other member of the board of supervisors who is a member of the council shall serve as chairman. (Ord. 987 § A, 10-6-1970)

9-5: EMERGENCY COUNCIL MEETINGS:

The emergency council may hold regular meetings at a time and place established by the council. Special meetings of the council shall be called in accordance with section 54950 et seq., of the Government Code of the state of California. Special meetings may be called by the chairman or the alternate chairman designated pursuant to section 9-4 of this chapter. The council shall meet at least four (4) times each year. The council shall have the power to adopt rules and regulations governing the conduct of its meetings. (Ord. 987 § A, 10-6-1970)

9-6: DUTIES OF EMERGENCY COUNCIL:

It shall be the duty of the emergency council to review and recommend for adoption by the board of supervisors and the respective city councils, disaster and mutual aid plans and agreements, and such ordinances, resolutions, rules, regulations and budgets as are necessary to implement such plans and agreements. (Ord. 987 § A, 10-6-1970)

9-7: POWERS OF CHAIRMAN OF EMERGENCY COUNCIL:

The chairman of the emergency council is hereby empowered to perform the following acts:

A. Serve as the emergency services director of the Tulare operational area.

B. Request the city council of the city of Porterville to proclaim the existence or threatened existence of a local emergency and the termination thereof, if the city council is in session, or to issue such a proclamation if the city council is not in session, subject to confirmation by the city council at the earliest practicable time.

C. Request the mayor to request the governor to proclaim a state of disaster when in the opinion of the chairman the resources of the area are inadequate to cope with the disaster on a local basis. (Ord. 987 § A, 10-6-1970)

9-8: EXERCISES OR DRILLS:

The chairman of the emergency council shall order an exercise or drill of the entire emergency services organization at least once each year, and a minimum of two (2) exercises or drills for selected portions of the emergency operating center staff each year. Participation in required state or federal exercises, special drills for communications, radiological, fire, law enforcement or other specific services shall be in addition to the exercises or drills required hereinabove. (Ord. 987 § A, 10-6-1970)

9-9: ACTS AUTHORIZED UNDER CERTAIN CONDITIONS:

In the event of the proclamation of a local emergency as herein provided, or the proclamation of a state of disaster by the governor or the director of the California disaster office, or in the event of a war caused state of

extreme emergency, the chairman, as the emergency services director of the Tulare operational area, is hereby empowered to perform the following acts:

A. Make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, that such rules and regulations must be confirmed at the earliest practicable time by the emergency council.

B. Subject to the approval of the city council, to obtain vital supplies, equipment and such other properties found lacking and needed for the protection of life and property of the people, and to bind the city for the fair value thereof and, if required, to commandeer the same immediately for public use.

C. Require emergency services of any city officer or employee, and in the event of the proclamation of a state of disaster or extreme emergency by the governor in the region in which the city is located, to commandeer the aid of as many citizens as he thinks necessary in the execution of his duties. Such persons shall be entitled to all privileges, benefits and immunities which are provided by state law for registered civil defense and disaster volunteer workers.

D. Requisition any necessary equipment or materials from any city department or agency.

E. Execute all of the special powers conferred upon him by this chapter or by resolution adopted pursuant thereto, all powers conferred upon him by any statute, by any agreement approved by city council, or by any other lawful authority. (Ord. 987 § A, 10-6-1970)

9-10: EMERGENCY SERVICES COORDINATOR:

There is hereby created the position of emergency services coordinator of the Tulare operational area who may be referred to as the coordinator. He shall serve as the executive officer of the Tulare operational area and his staff shall serve as the staff of the emergency services office. The board of supervisors of the county of Tulare shall consider the recommendations of the emergency council in the appointment or dismissal of the coordinator. (Ord. 987 § A, 10-6-1970)

9-11: POWERS AND DUTIES OF COORDINATOR:

The coordinator shall have the following general powers and duties:

A. Represent the emergency council and its chairman as their executive officer for the purpose of coordinating all efforts within the Tulare operational area for the accomplishment of the purposes of this chapter.

B. Identify and define questions of authority and responsibility that may arise between persons and agencies referred to in section 9-13 of this chapter and submit recommendations for resolving such matters to the chairman.

C. Represent the Tulare operational area in all dealings with public or private agencies pertaining to disaster or civil defense, when authorized by the chairman.

D. Prepare an operational plan with necessary service annexes and standing operating procedures to provide administrative guides for the Tulare operational area.

E. Plan and conduct exercises and drills, as ordered by the chairman, for the emergency services organization or for the emergency operating center staff. (Ord. 987 § A, 10-6-1970)

9-12: EMERGENCY POWERS OF COORDINATOR:

In the event of the proclamation of a local emergency as herein provided, or the proclamation of a state of disaster by the governor, or in the event of a war caused state of extreme emergency, the coordinator is hereby empowered to perform the following acts:

A. Activate the emergency operating center including calling in, as necessary, service chiefs, standby staff and service dispatchers.

B. Cause the dissemination of appropriate warning signals and issue suitable advisory information to the emergency council, the emergency services organization and the public.

C. Advise the California disaster office of the local situation.

D. Request mutual aid through the California disaster office if local deficiencies of personnel and/or equipment are indicated by the service chiefs.

E. Order the provision of security for the emergency operating center and communications staff. (Ord. 987 § A, 10-6-1970)

9-13: EMERGENCY SERVICES ORGANIZATION:

All officers and employees of the county and the cities included in the Tulare operational area, together with those volunteer forces enrolled to aid them during a disaster and all groups, organizations and persons, including persons commandeered under the provision of subsection 9-9C of this chapter who by operation of law or agreement may be charged with duties incident to the protection of life and property in the city during such disaster, shall constitute the emergency service organization of the Tulare operational area. (Ord. 987 § A, 10-6-1970)

9-14: FUNCTIONS AND DUTIES OF EMERGENCY SERVICE ORGANIZATION:

The functions and duties of the emergency services organization shall be distributed among such divisions, services and special staff as the emergency council shall prescribe by resolution, subject to the approval of the board of supervisors of the county and the respective city councils. Insofar as possible, the form of organization, titles and terminology shall conform to the recommendations of the federal government and the California disaster office. (Ord. 987 § A, 10-6-1970)

9-15: ACTS UNLAWFUL DURING DISASTERS:

It shall be unlawful for any person to perform any of the following acts during a disaster:

A. Wilfully obstruct, hinder or delay any member of the emergency services organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed upon him by virtue of this chapter.

B. To do any act forbidden by any lawful rules or regulations issued pursuant to this chapter, if such act is of such a nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives or property of inhabitants of the city, or to prevent or delay the defense or protection thereof.

C. To wear, carry or display, without authority, any means of identification specified by the civil defense and disaster agency of the federal government or the state of California. (Ord. 987 § A, 10-6-1970)

9-16: PENALTY FOR VIOLATION OF CHAPTER:

Any person violating any of the provisions of this chapter which are declared to be unlawful shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the Tulare County jail for not more than six (6) months, or by both such fine and imprisonment. (Ord. 987 § A, 10-6-1970)

State of California

GOVERNMENT CODE

Section 8558

8558. Three conditions or degrees of emergency are established by this chapter:

(a) “State of war emergency” means the condition that exists immediately, with or without a proclamation thereof by the Governor, whenever this state or nation is attacked by an enemy of the United States, or upon receipt by the state of a warning from the federal government indicating that an enemy attack is probable or imminent.

(b) “State of emergency” means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, electromagnetic pulse attack, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a “state of war emergency,” which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

(c) (1) “Local emergency” means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, deenergization event, electromagnetic pulse attack, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage or deenergization event that requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

(2) A local emergency proclaimed as the result of a deenergization event does not trigger the electric utility obligations set forth in Public Utilities Commission Decision 19-07-015 or its successor decisions as related to deenergization events. A local emergency proclaimed as the result of a deenergization event does not alter the electric

utilities' Public Utilities Commission-approved cost-recovery mechanisms for their own costs associated with deenergization events.

(Amended by Stats. 2022, Ch. 537, Sec. 1. (SB 468) Effective January 1, 2023.)