



**CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
DECEMBER 19, 2023, 5:30 PM**

The City of Porterville is allowing for electronic viewing of 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 as a courtesy using the following information

City of Porterville – City Council Meeting of December 19, 2023

Please use the following link below to join the webinar:

<https://us06web.zoom.us/j/84354533609?pwd=4X4nTvaASZLifPitPpVK2hKMp7CB5g.mqybkeOKk7XlzTyY>

Or via Telephone: **1-669-900-6833** Webinar ID: **843 5453 3609** Passcode: **529712**

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 54957 - Public Employee Appointment/Employment:
Title: City Manager, Interim City Manager.

2 - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency
Negotiator: Mayor Martha A. Flores. Employee Organization: Unrepresented
Management - Interim City Manager.

3 - Government Code Section 54956.8 - Conference with Real Property
Negotiators/Property: APN: A portion of APN 253-171-004. Negotiating Parties: City
of Porterville and Sam Zenz. Under Negotiation: Terms and Price.

4 - Government Code Section 54956.9(d)(3) – Conference with Legal Counsel –
Anticipated Litigation – Significant Exposure to Litigation: Two 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 cases.

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

Pledge of Allegiance Led by Council Member Weyhrauch

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.

REPORTS

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

- I. City Commission and Committee Meetings
 1. Parks & Leisure Services Commission - December 7, 2023
 2. Library & Literacy Commission - December 12, 2023
 3. Arts Commission
 4. Animal Control Commission
 5. Youth Commission - December 13, 2023
 6. Transactions and Use Tax Oversight Committee (TUTOC) - November 28, 2023
- II. Staff Informational Reports
 1. Water Conservation Phase IV Status Update - November 2023
 2. Proclamation Issuance Report (November 2023)

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. **Authorization to Purchase Park Amenities through Community Development Block Grant (CDBG) Park Improvement Program Funds**
Re: Consideration to approve the purchase by negotiation of park amenities for Zalud, Fallen Heroes, and Murry Parks.
2. **Purchase the CordicoFire Firefighter Wellness Application Subscription**
Re: Consideration to approve the purchase of the CordicoFire Firefighter Application subscription at a cost of \$9,154.08 annually.
3. **Purchase of Firefighting Personal Protective Equipment.**

Re: Consideration to approve the purchase of six sets of turnouts from LNCurtis for \$21,749.49, with an added ten percent (10%) contingency of \$2,174.95, for the total purchase and not to exceed amount of \$23,924.44

4. Purchase of Police Service K9 and K9 Vehicle Upfit

Re: Consideration to approve the purchase of a police service dog and related training from Top Dog Training Center at the cost of \$18,271.88; authorize the Chief of Police to enter into an agreement with Top Dog Training Center to acquire the service dog and associated training; and enter into an agreement with Cook's Communications for the retrofit K9 vehicle at a cost of 21,965.66 with an added ten percent (10%) contingency on the total purchasing price of the K9 retrofit equipment.

5. Authorization to Repair Specialized Equipment - Outfall Pump #2

Re: Considering to award the repair of Outfall Pump #2 to S. A. Camp Pump and Drilling Company at a cost not to exceed \$28,552, (inclusive of all parts, taxes, labor, including a 10% contingency).

6. Authorization to Advertise for Bids - Santa Fe Byway Revitalization and Beautification Project

Re: Consideration to approve staff recommended Plans and Project Manual and to advertise for bids for the byway project that runs north to south between Henderson Avenue and Walnut Avenue along the former Santa Fe railway.

7. Acceptance of Project - Akin and Central Mutual Water System Improvement Project

Re: Consideration to accept the Akin and Central Mutual Water System Improvement Project located in the area of Lincoln Street at Fourth Street and north of Gibbons Avenue, as complete.

8. Authorization to Execute Consultant Agreement - Sports Complex Baseball Field Design

Re: Consideration to authorize the execution of the Consultant Service Agreement with QK for the design of a new lighted baseball field on the southeast portion of the Sports Complex in the amount of \$167,150.

9. Request for Renewal of Five-Year Professional Services Contract with Tesco Controls

Re: Consideration to approve a draft five-year Professional Services Contract with Tesco Controls for the maintenance, support, design, programming, and repair of the Wastewater Treatment Facility's Supervisory Control and Data Acquisition (SCADA) system.

10. Consideration of Memorandum of Understanding between Porterville Developmental Center (PDC) and Porterville Fire Department Regarding Fire Investigations and Emergency Response Assistance

Re: Consideration to approve the MOU concerning assistance with fire investigations and emergency responses at PDC.

11. Consideration of Amendment to Reclamation Area Lease

Re: Consideration to approve Amendment No. 5 of the 2019 Reclamation Area Lease Agreement with Rick Perigo Roadsiding.

12. Assignment of Airport Lease - Lot No. 32B

Re: Consideration to approve the Assignment of Lease for Lot No. 32B at the Porterville Municipal Airport from Eddie Boriack, Administrator of the Estate of Ray Boriack to Mason Daniel Racing.

13. Consideration of Amending Section IV(G) of the City Council's Procedural Handbook Regarding Proclamations

Re: Consideration of modifications to the City Council's process for the handling of Proclamation requests pursuant to Council direction from its meeting on December 5, 2023.

14. Status and Review of Local Drought Emergency

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

SCHEDULED MATTERS

15. Update Regarding Consideration of Potential Local Regulations Addressing Regulation of Camping, the Protection of Critical Infrastructure and Public Access to Open Spaces, and Request to Schedule Study Session

Re: Consideration of scheduling a Study Session early next calendar year to consider and provide further direction concerning proposed changes to the City's current regulations, and the development and planning for additional shelter space.

16. Consideration of Appointment of Large City Representative to the San Joaquin Valley Air Pollution Control District

Re: Considering approval of Large City applicant Elizabeth Wynn of the City of Visalia to serve on the San Joaquin Valley Air Pollution Control District.

17. 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.

AB 1234 REPORTS

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

1. Local Initiatives Navigation Center (LINC) Committee - December 6, 2023
2. Eastern Tule Groundwater Sustainability Agency (ETGSA) Board - December 7, 2023
3. Tulare County Association of Governments (TCAG)/Tulare County Transportation Authority (TCTA) - December 11, 2023
4. CalVans Board - December 14, 2023
5. Porterville Area Development Authority (PADA) Board - December 15, 2023 - Canceled
6. Tulare County Regional Transit Agency (TCRTA) Board - December 18, 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 January 16, 2024, 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 – DECEMBER 19, 2023

SUBJECT: 1. Water Conservation Phase IV Status Update - November 2023

SOURCE: Public Works

COMMENT: The City has continued to implement an active water conservation approach, conserving and providing flexibility to the community. The City transitioned from Phase III to Phase IV of the City's Water Conservation Plan as of October 1, 2023. The Water Conservation Plan applies to all municipal water users within or outside the city limits.

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

Violations of prohibited activities are considered infractions and are punishable by fines of up to \$500 for each day the violation occurs. Any peace officer or employee of a public agency charged with enforcing laws and authorized to do so by ordinance may issue a citation to the violator. The City will respond to enforcement by issuing a Notice of Violation for all witnessed occurrences, and staff will process all reported issues. Enforcement statistics for November 2023 show that eight notices of violations were issued for water wasting, and seventeen (17) administrative citations were issued.

Water production for November 2023 reflects a four percent (4%) decrease from the 5-year average. The monthly production for November was 239 million gallons, which is a six percent (6%) decrease compared to November 2013 at 254 million gallons. Residential consumption for November 2023 was 89 gallons per capita per day (GPCD).

Compliance with individual water supplier conservation requirements is based on cumulative savings. Cumulative tracking means that conservation savings will be added together from one month to the next and compared to the amount of water used during the same months in 2013. City Staff will evaluate conservation totals in two formats: 1) Calculate the cumulative conservation totals for production as compared to production in 2013, and 2) Calculate cumulative conservation totals in relation to GPCD in efforts to evaluate population growth impacts on production as compared to 2013. The cumulative total production for the City of Porterville's conservation efforts will be reflected from November 2015 through November 2023. Porterville's cumulative total production conservation through November 2023 is twenty-two percent (22%). The cumulative total of GPCD for the City of Porterville's

conservation efforts will be reflected from November 2015 through November 2023. Porterville's cumulative total GPCD conservation through November 2023 is twenty-six percent (26%).

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

The State Water Board requires monthly reporting to track what agencies are doing and how they perform throughout the year. Proposed permanent regulations will require agency reporting to continue monitoring the performance of urban water conservation with a preparedness to implement conservation standards as necessary. California Governor Gavin Newsom signed Executive Order N-10-21 on July 8, 2021, urging all Californians to voluntarily reduce their water use by fifteen percent (15%) compared to their prior-year levels due to excessive drought conditions. Water production for the City system shows a eight (8%) increase from November 2022 to November 2023. California Governor Gavin Newsom issued another Executive Order N-7-22 on March 28, 2022, to address drought conditions after the driest first three months of a year in recorded history. EO N-7-22 requires that each water supplier implements, at a minimum, the shortage response actions adopted under section 10632 of the Water Code for a shortage level of up to twenty percent (Level 2). The City of Porterville's Water Conservation Plan Phase III meets the requirements for this shortage (Level 2). California Governor Gavin Newsom signed Executive Order N-3-23 on February 13, 2023, stating the state has experienced one of the wettest three-week periods on record. With this order, California Governor Gavin Newsom removed the need to voluntarily reduce water use by fifteen percent (15%), as stated in the previous Executive Order N-10-21.

RECOMMENDATION: Information Only

ATTACHMENTS: 1. Monthly Production Status November 2023
2. Monthly Production Status GPCD November 2023
3. Drought Response Phase IV Flyer

Appropriated/Funded:

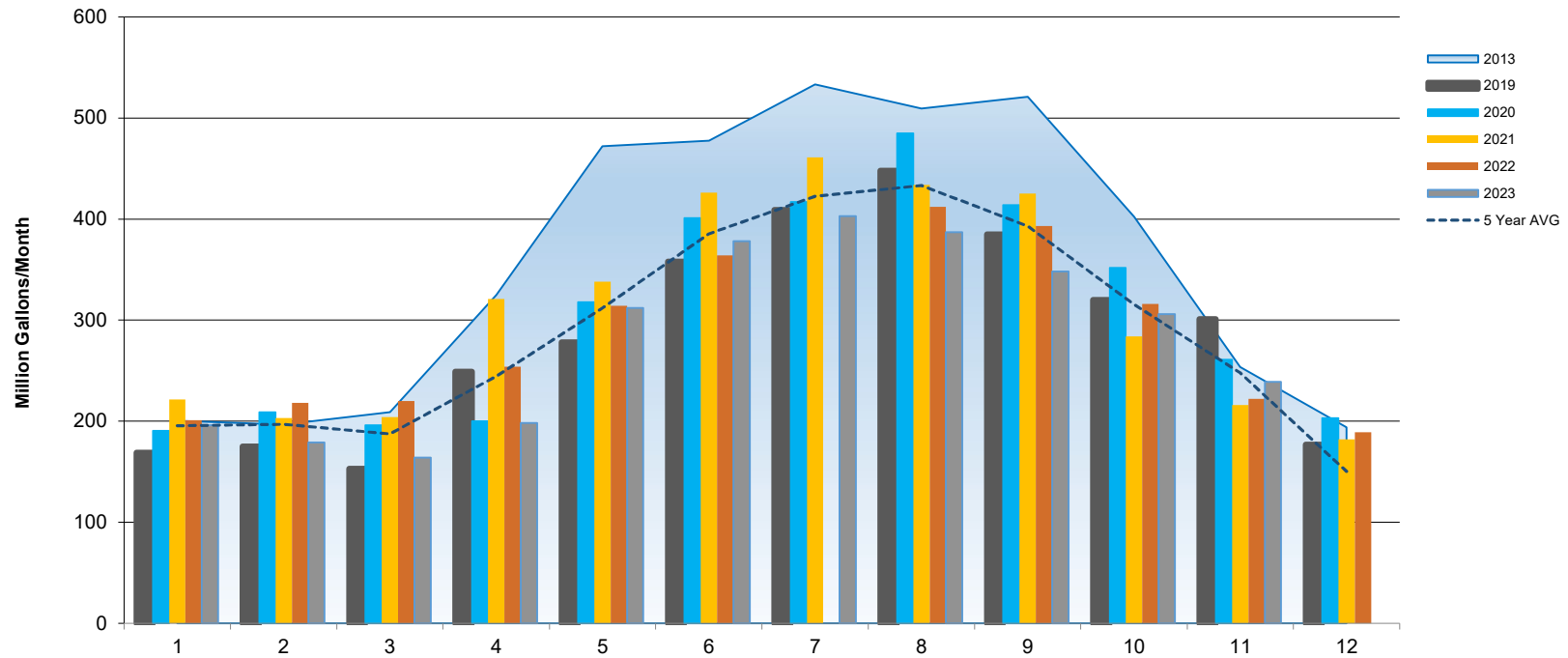
Review By:

Department Director:

Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

**Monthly Production Status & Cumulative Total June 2015 Through
November 2023 Production Comparison to 2013 & 5 Year Average**

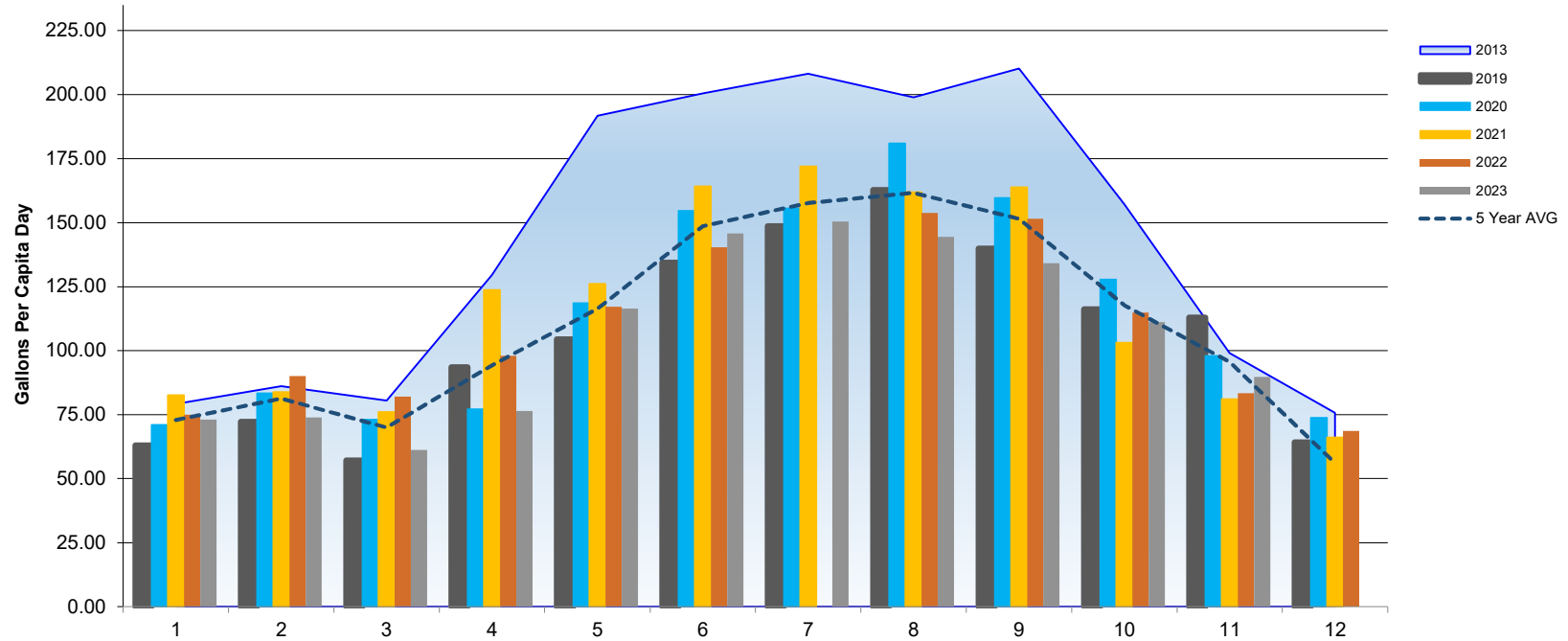


Production Cumulative Total 22%

2019	16%	-11%	-27%	-23%	-41%	-25%	-23%	-12%	-26%	-20%	19%	-9%
2020	-5%	6%	-6%	-38%	-33%	-16%	-22%	-5%	-21%	-13%	3%	5%
2021	11%	3%	-2%	-1%	-28%	-11%	-14%	-15%	-18%	-29%	-15%	-6%
2022	0%	11%	5%	-22%	-33%	-24%	-22%	-19%	-25%	-21%	-13%	-3%
2023	-2%	-18%	-31%	-39%	-34%	-21%	-24%	-24%	-33%	-20%	-6%	

Percent Comparison to 2013 Production

**Monthly Production Status & Cumulative Total June 2015 Through
November 2023 Gallon Per Capita Day Comparison to 2013 & 5 Year Average**



GPCD

Cumulative Total 26%

	2019	-20%	-16%	-29%	-28%	-46%	-33%	-29%	-18%	-33%	-26%	14%	-15%
	2020	-10%	-3%	-9%	-40%	-38%	-23%	-25%	-9%	-24%	-19%	-1%	-3%
	2021	4%	-3%	-5%	-4.4%	-34%	-18%	-17%	-19%	-22%	-34%	-18%	-13%
	2022	-5%	4%	2%	-24.3%	-39%	-30%	-100%	-24%	-28%	-27%	-16%	-9%
	2023	-19%	-29%	-21%	-29%	-41%	-30%	-19%	-24%	-21%	-25%	-8%	

Percent Comparison to 2013 Production



DROUGHT RESPONSE Phase IV

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

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

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

Excessive water runoff is prohibited.

The washing of sidewalks and driveways is prohibited.

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

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

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

DROUGHT RESPONSE PHASE IV

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

Mandatory Odd/Even Watering Schedule

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

- Odd Address
- Even Address
- Outdoor Watering is Prohibited

ODD NUMBER ADDRESSES

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

OR

EVEN NUMBER ADDRESSES

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

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

**Mandatory
Odd/Even Watering
Schedule**

**Excessive water
runoff prohibited**

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

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

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

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

**NO WATERING
MONDAY THROUGH
FRIDAY.**



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: 2. Proclamation Issuance Report (November 2023)

SOURCE: Administrative Services

COMMENT: Pursuant to the City Council Procedural Handbook, staff is herein providing a report on Proclamation Requests that were processed during the month of November 2023. There were no Proclamations issued during the month of November.

RECOMMENDATION: Information Only

ATTACHMENTS: 1. City Council Procedural Handbook - Requests for Proclamations

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, Deputy City Manager

Final Approver: John Lollis, City Manager

Excerpt from the CITY COUNCIL PROCEDURAL HANDBOOK

G. Requests for Proclamations

The City routinely receives requests for proclamations. Proclamations are ceremonial statements which do not convey legislative action. Each individual Council Member has the authority to grant and sign proclamations. Within one business day of receipt of a Request for Proclamation, staff shall scan and email the request to all City Council Members. In the event a Council Member is interested in granting the request, they shall notify staff of their interest. If more than one Council Member responds, the first responsive notification received by staff shall be the grantor. Upon receipt of the affirmative response, staff shall advise the remaining Council Members and inquire whether they would also like to sign the proclamation. The Council shall have one business day to reply, after which the proclamation will be drafted with the appropriate number of signature blocks, and the grantor and signers shall be notified of its availability for signature.

The signed proclamations will be made available in the Office of City Clerk for pick up by the requestor, unless arrangements have been made for presentation at a certain event. Proclamations shall not be included on the Council Agenda nor presented at a Council Meeting unless so approved by a majority of the Council. Staff shall provide a monthly informational report to the City Council identifying the proclamations granted for the preceding month.



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Authorization to Purchase Park Amenities through Community Development Block Grant (CDBG) Park Improvement Program Funds

SOURCE: Parks and Leisure Services

COMMENT: In accordance with the City's Purchasing Policy and Procedure Manual, as amended by Resolution No. 122-87, staff hereby requests approval to negotiate the purchase of the following park amenities. Purchases will be made from companies that are members of government discount purchasing programs, including U.S. Communities and BuyBoard.

<u>ITEM DESCRIPTION</u>	<u>COST NOT TO EXCEED AMOUNT INCLUDING FREIGHT AND TAX</u>
Senior Fitness Surface Challenge (Zalud Park)	\$26,000
Senior Fitness Twist & Flex Wheel (Zalud Park)	\$7,000
5 Benches (Zalud and Murry Park)	\$3,500 per unit
5 Picnic tables (Zalud and Murry Park)	\$6,000 per unit
Covered bench swing (Murry Park)	\$35,000
2 Mini-picnic shelters (Murry Park)	\$15,000 per unit

The purchase of these items are contingent upon current and future funding allocations available through Community Development Block Grant (CDBG) funds designated for public facilities and improvements specific to Fallen Heroes, Murry and Zalud Parks (only Murry and Zalud Parks are currently considered for the recommended improvements). Staff will seek a minimum of three quotes for each item to be purchased from qualified sources. At its meeting on October 5, 2023, the Parks and Leisure Services Commission voted unanimously to recommend to City Council the approval of the amenities listed above.

RECOMMENDATION: That the City Council authorize the purchase by negotiation of the park amenity items listed and authorize payment for said items

upon satisfactory delivery through CDBG Park Improvement grant funds.

ATTACHMENTS:

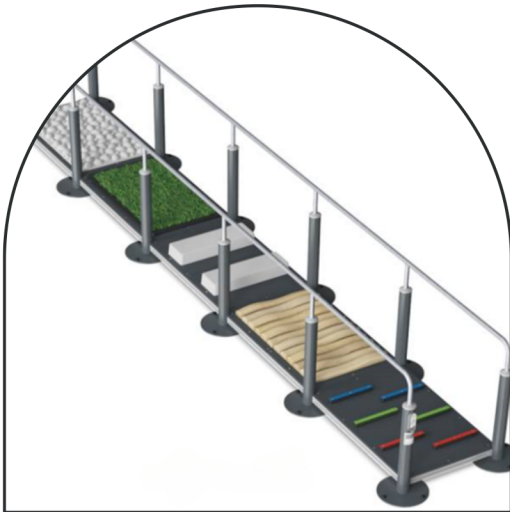
1. CDBG Park Amenities
2. Locator Map - Murry Park
3. Locator Map - Zalud Park

Appropriated/Funded:

Review By:

Department Director:
Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager



Senior Fitness
Surface Challenge
(Zalud Park)



Senior Fitness
Twist & Flex Wheel
(Zalud Park)



5 Benches
(Zalud Park &
Murry Park)

CDBG PARK AMENITIES

5 Picnic Tables
(Zalud Park &
Murry Park)

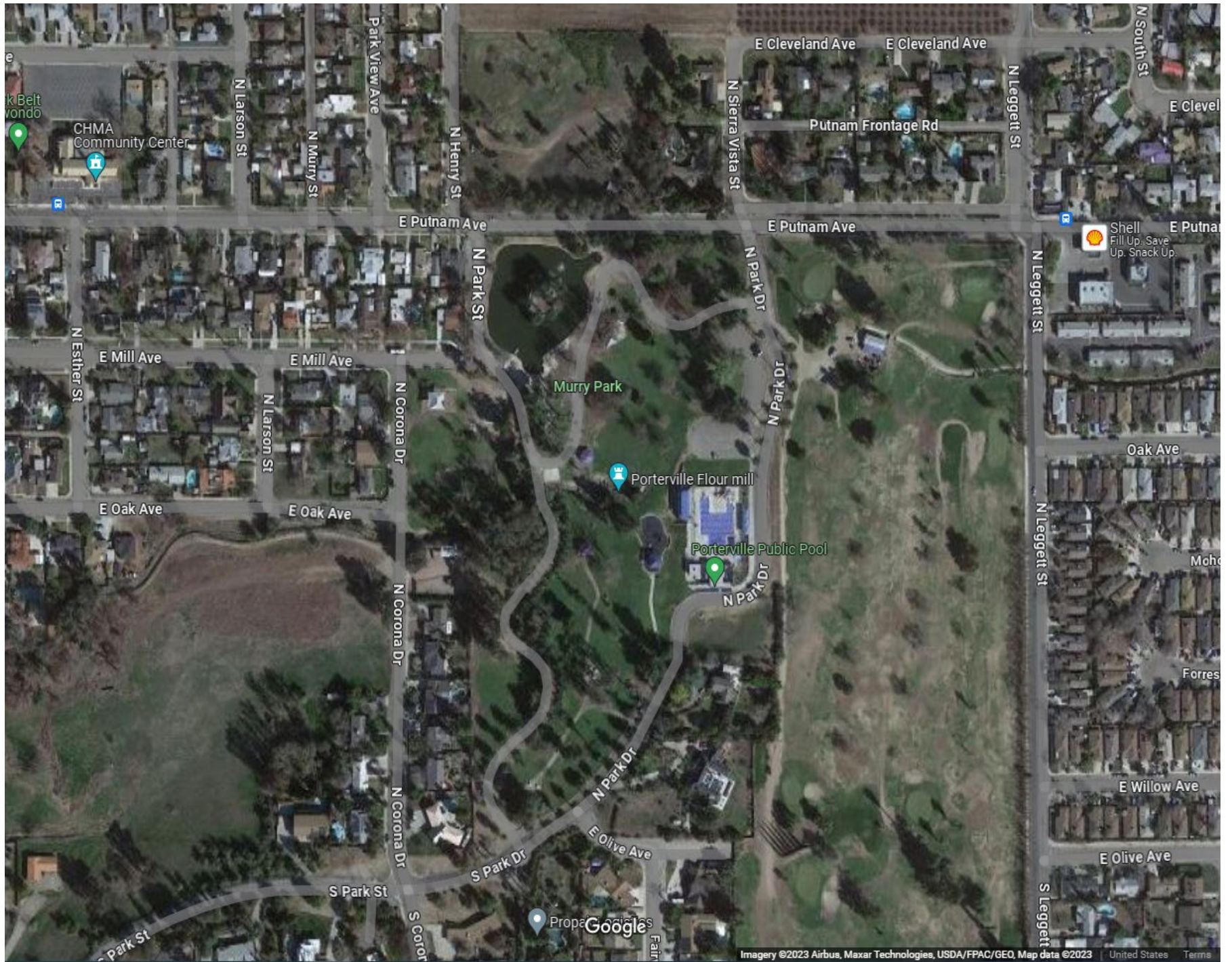


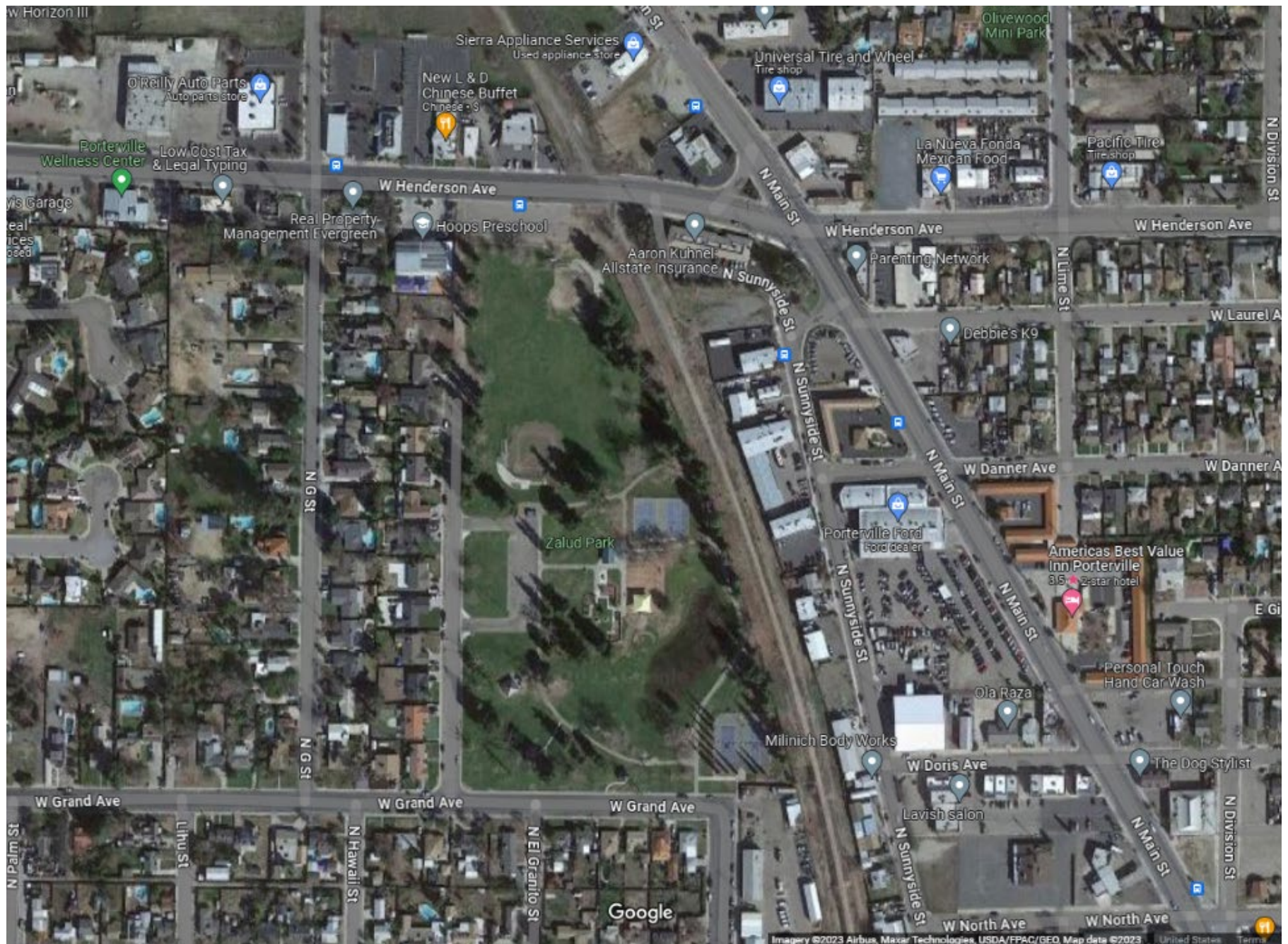
Covered Bench
Swing
(Murry Park)



2 Mini-Picnic
Shelters
(Murry Park)









CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Purchase the CordicoFire Firefighter Wellness Application Subscription

SOURCE: Fire

COMMENT: In the fire service, support for mental health of first responders has significantly increased and has become widely accepted. The fatal Library Fire on February 18, 2020, had an even bigger impact on the need for mental health and wellness of personnel in the Porterville Fire Department. The Department has been continually searching for ways to support and strengthen firefighter health and a peer support team was developed. Several mental health programs were evaluated by the peer support team, which found that the CordicoFire Firefighter Wellness Application was the best solution for the Department's needs. The wellness application provides 24/7/365 and one-touch confidential access to peer support, chaplains, teletherapy, and a therapist finder. It is fully customizable for agency-specific information and resources, and it also provides peer support training. In addition to mental health, the app also offers access to resources to support leadership skills, fitness, nutrition, and injury prevention.

The annual subscription covers app build, design, licensing, maintenance, technical support, and ongoing updates (iPhone and Android), unlimited use to all personnel employed by the agency, unlimited use at no cost to all spouses and significant others of personnel employed by the agency, unlimited use at no cost for all department retirees, implementation and support for promoting the app to agency personnel, including posters, QR codes for easy phone installation, and a customized PowerPoint presentation for shift briefings or roll call. These resources have resulted in a ninety percent (90%) app installation rate.

Cordico is operated through Lexipol, with which the Department currently contracts for policy and procedures manuals, and is currently being subscribed to by the Police Department under the CordicoShield Police Wellness Application. Lexipol has provided a quote for the CordicoFire Firefighter Application subscription at an annual cost of \$9,154.08. Funds are available for this purchase in the Fire Department's annual training budget.

RECOMMENDATION: That the City Council approve the purchase of the CordicoFire Firefighter Application subscription at a cost of \$9,154.08 annually, to be paid from the Departmental budget.

ATTACHMENTS: 1. Lexipol Cordico Firefighter Wellness Proposal

Item No. 2.

Appropriated/Funded:

Review By:

Department Director:
Bryan Cogburn, Fire Chief

Final Approver: John Lollis, City Manager



SOLUTIONS PROPOSAL



PREPARED FOR:

Porterville Fire Department
Deputy Chief Shannon Skiles
sskiles@ci.porterville.ca.us

PREPARED BY:

Mary James
mjames@lexipol.com
(469) 676-8110

2611 Internet Blvd, Ste 100
Frisco, Texas 75034
(844) 312-9500
www.lexipol.com

Executive Summary

Public safety agencies and local government organizations today face challenges of keeping personnel safe and healthy, reducing risk and maintaining a positive reputation. Add to that the dynamically changing legislative landscape and evolving best practices, and even the most progressive, forward-thinking departments can struggle to keep up.

Lexipol's solutions are designed to save you time and money while protecting your personnel and your community. Our team consists of professionals with expertise in public safety law, policy, state and federal accreditation, training, mental and physical wellness and grants. We continually monitor changes and trends in legislation, case law and best practices and use this knowledge to create policies, training, wellness resources and funding services that minimize risk and help you effectively serve your community.

THE LEXIPOL ADVANTAGE

Lexipol was founded by public safety experts who saw a need for a better, safer way to run a public safety agency. Since the company launch in 2003, Lexipol has grown to form an entire risk management solution for public safety and local government. Today, we serve more than 10,000 agencies and municipalities and 2 million public safety and government professionals with a range of informational and technological solutions to meet the challenges facing these dynamic industries. In addition to providing policy management, accreditation, online training, wellness resources, and grant assistance, we provide 24/7 industry news and analysis through the digital communities Police1, FireRescue1, Corrections1, EMS1 and Gov1.

Our customers choose Lexipol to make an investment in the safety and security of their personnel, their agencies and their communities. We help agencies address issues that create substantial risk, including:

- Inconsistent and outdated policies
- Lack of technology to easily update and issue policies and training electronically
- Unchecked mental health needs of staff
- Difficulty keeping up with new and changing legislation and practices
- Inability to produce policy acknowledgment and training documentation
- Unfamiliarity of city legal resources with the intricacies of public safety law
- The need to secure grant funding for critical equipment, infrastructure and personnel

Lexipol is backed by the expertise of 440 employees with more than 2,075 years of combined experience in constitutional law, civil rights, ADA and discrimination, mental health, psychology, labor negotiations, Internal Affairs, use of force, hazmat, instructional design, federal and state grants and a whole lot more. That means no more trying to figure out policy, achieve accreditation, develop training or wellness content, or secure funding on your own. You can draw on the experience of our dedicated team members who have researched, taught and lived these issues.

We look forward to working with Porterville Fire Department to address your unique challenges.

Scope of Services

Cordico Firefighter Wellness App

Fire service leaders are increasingly recognizing the need to provide personnel with mental and behavioral health resources. The Cordico firefighter wellness solution enables departments to provide confidential, mobile wellness resources. Our fire service app includes a complete range of self-assessments as well as continuously updated videos and guides on more than 60 behavioral health topics - all designed specifically for first responders. The anonymity of all users is paramount and no personal information is ever collected or stored. Also included are online accredited wellness courses covering such topics as managing stress, post-traumatic stress disorder, family and work relationships, and fitness and nutrition.

- Connect your personnel to confidential assessments and counseling resources
- Strengthen your wellness culture and empower your peer support team
- Help firefighters cope with the effects of critical events and chronic exposure
- Improve firefighter decision-making, empathy and resiliency, which in turn enhances the service your department provides
- Support department retirees and family members (included with agency subscription)

Peer & Chaplain Support

Peer support teams and chaplains provide invaluable assistance to public safety personnel—but personnel don't always know who these members are or how to contact them. Cordico's wellness app allows for the integration of your agency's peer support and/or chaplains, making it easy for members to quickly connect when they need support.

- Include profiles of your peer support team and chaplains in the app so personnel can see their photos, backgrounds, areas of specialty, etc.
- Enable confidential, one-on-one conversations without the need to go through an agency or city intranet
- Increase usage of peer support and chaplain services

CrisisAlert® One-Touch Dialing

Cordico's CrisisAlert one-touch dialing feature allows personnel who need help to instantly dial all peer support or chaplains with one touch—anonously. The peer support team member or chaplain who answers first is connected to the employee seeking assistance, and the other team members don't know who called. This creates an easier and more trusted way for personnel to access your peer support and chaplain resources. Your personnel don't have to determine who's on duty, who's available or how to reach them.

Therapist Finder

Individuals in crisis or suffering from depression or anxiety don't need additional roadblocks to getting help. But often, that's exactly what happens when public safety personnel try to access counseling services. Cordico's Therapist Finder simplifies and streamlines the process, making it easy for your personnel to locate therapists near them that are approved through the agency's insurance plan.

- Include profiles of therapists in the app so personnel can see their photos, backgrounds, areas of specialty, etc.
- Connect personnel to therapists your agency has vetted as being experienced with treating public safety personnel
- Show therapist locations on an interactive map
- Enable personnel to instantly contact therapists for in-person visit or teletherapy via a confidential portal

Fitness, Nutrition, and Injury Prevention

Recognizing that wellbeing is not just about mental and emotional health, Cordico's wellness apps include resources to support fitness, nutrition and injury prevention.

- Yoga videos offered through an exclusive partnership with Yoga For First Responders
- Nutrition guides
- Guided meditations
- Sleep sounds
- Ability to add agency-specific fitness videos, workout of the day, training videos, etc.

Proposal

Prepared By: Mary James
Phone: (469) 676-8110
Email: mjames@lexipol.com

Quote #: Q-60091-3
Date: 5/1/2023
Valid Through: 12/29/2023

Overview

Lexipol empowers first responders and public servants to best meet the needs of their residents safely and responsibly. We are the experts in policy, training and wellness support, committed to improving the quality of life for all community members. Our solutions include state-specific policies, online learning, behavioral health resources, funding assistance, and industry news and information offered through the websites Police1, FireRescue1, EMS1 and Corrections1. Lexipol serves more than 2 million public safety and government professionals in over 10,000 agencies and municipalities. The services proposed below are designed to meet your agency's specific goals and needs.

Annual Subscription

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	CordicoFire Firefighter Wellness App (12 Months)	USD 9,999.00	8.45%	USD 844.92	USD 9,154.08
	Subscription Line Items Total			USD 844.92	USD 9,154.08
				USD 844.92	USD 9,154.08
Annual Subscription Discount:					USD 844.92
Annual Subscription TOTAL:					USD 9,154.08

Discount Notes
PUP Pricing



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Purchase of Firefighting Personal Protective Equipment.

SOURCE: Fire

COMMENT: The Fire Department has recently hired six new firefighters to fill Department vacancies. Pursuant to National Fire Protection Association (NFPA) Guidelines, each firefighter responsible for responding to structure fires is required to have custom-fitted Personal Protective Equipment (PPE) for structure fires. The Department has a standard uniform PPE specification based on the Globe Custom turnout.

LN Curtis is the sole source for Globe Customs in this area and has provided a quote for six sets of PPE for a cost of \$21,749.49, including tax. With an added ten percent (10%) contingency, the total purchase price is not to exceed \$23,924.44. Funds are available for this purchase in the Department's annual budget.

RECOMMENDATION: That the City Council approve the purchase of six sets of turnouts from LNCurtis for \$21,749.49, with an added ten percent (10%) contingency of \$2,174.95, for the total purchase and not to exceed amount of \$23,924.44

ATTACHMENTS: 1. LN Curtis Quote

Appropriated/Funded:

Review By:

Department Director:
Bryan Cogburn, Fire Chief

Final Approver: John Lollis, City Manager

Ph: 510-839-5111
 TF: 800-443-3556
 Fax: 510-839-5325
oaksales@lncurtis.com
 UEI#: DDLSADSWN7U7



Pacific North Division
 6723 Sierra Court, Suite C
 Dublin, CA 94568
www.LNCurtis.com
 Quotation No. 282818

Quotation

CUSTOMER:

Porterville City Fire
 Department
 291 North Main Street
 Porterville CA 93257

SHIP TO:

Porterville City Fire Department
 Chief Hildreth
 40 West Cleveland Avenue
 Porterville CA 93257

QUOTATION NO.

282818

ISSUED DATE

11/29/2023

EXPIRATION DATE

12/29/2023

SALESPERSON

Chris Parano
cparano@lncurtis.com
 559-301-5156

CUSTOMER SERVICE REP

Steve Price
sprice@lncurtis.com
 510-268-3333

REQUISITION NO.

REQUESTING PARTY

Chief Hildreth

CUSTOMER NO.

C36150

TERMS

Net 30

OFFER CLASS

FR

F.O.B.

DEST

SHIP VIA

Standard Shipping

DELIVERY REQ. BY

NOTES & DISCLAIMERS

Thank you for this opportunity to quote. We are pleased to offer requested items below. If you have any questions, need additional information, or would like to place an order, please contact your Customer Service Rep as noted above.

Safety Warning Notice: Products offered, sold, or invoiced herewith may have an applicable Safety Data Sheet (SDS) as prepared by the manufacturer of the product. The SDS is provided with the product. In addition, manufacturer's safety and/or warning notices, instructions and information relating to the proper use and care of the product is provided with the product. All applicable SDS, safety and/or warning notices, instructions and other information provided with the product should be thoroughly read, reviewed, and understood prior to handling, distributing, using, reselling, or servicing any and all products provided by Curtis. Materials utilized to clean, repair, maintain and/or service your owned equipment, as well as Curtis owned equipment, may contain per-and polyfluoroalkyl substances (PFAS) to meet national standards or original equipment manufacturer specifications. For other important product notices and warnings, or to request an SDS, product specifications, manufacturer's safety notices, instructions and/or warning notices, please contact Curtis or visit <https://www.lncurtis.com/product-notices-warnings>

Transportation is included in below pricing.

LN	QTY	UNIT	PART NUMBER	DESCRIPTION	PL	UNIT PRICE	TOTAL PRICE
1	6	EA	G-XTREME 3.0 JACKET - GLOBE CUSTOM	As follows: WARNING: This Product Contains PFAS to achieve liquid repellency and/or meet current applicable NFPA performance standards. #1C757G, G-Xtreme Jacket *Per City of Porterville Fire Department specifications		\$1,889.00	\$11,334.00

Ph: 510-839-5111
TF: 800-443-3556
Fax: 510-839-5325
oaksales@lncurtis.com
UEI#: DDLSADSWN7U7



Pacific North Division
6723 Sierra Court, Suite C
Dublin, CA 94568
www.LNCurtis.com
Quotation No. 282818

LN	QTY	UNIT	PART NUMBER	DESCRIPTION	PL	UNIT PRICE	TOTAL PRICE
2	6	PR	GPS GLOBE CUSTOM	As below: WARNING: This product contains PFAS to achieve liquid repellency and/or meet current applicable NFPA performance standards #FC757G, GPS Turnout Pants *Per City of Porterville Fire Department specifications.		\$1,429.00	\$8,574.00

Small Business
CAGE Code: 5E720
SIC Code: 5099
Federal Tax ID: 94-1214350
UEI #DDLSADSWN7U7

This pricing remains firm until 12/29/2023. Contact us for updated pricing after this date.

Due to market volatility and supply shortages, we recommend contacting your local L.N. Curtis and sons office prior to placing your order to confirm pricing and availability. This excludes our GSA Contract and other Fixed Price Contracts which are governed by contract-specific prices, terms, and conditions.

Subtotal	\$19,908.00
Estimated Tax Total	\$1,841.49
Transportation	\$0.00
Total	\$21,749.49

[View Terms of Sale and Return Policy](#)



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Purchase of Police Service K9 and K9 Vehicle Upfit

SOURCE: Police

COMMENT: In May 2022, the City retired one of the Police Department's patrol service dogs. With this retirement, the Department has operated with three patrol service dogs, leaving one of the Department's patrol shifts without an on-duty service dog. Top Dog Training Center is the Department's current police service dog vendor and trainer. Top Dog Training Center supplies police service dogs to agencies throughout the state of California, including most agencies in Tulare County, and at a much lower expense than providers located out of the area.

The Department's service dog specialists recently visited the vendor to evaluate potential service dogs and obtain pricing for a police service dog and associated training. The Department would like to enter into an agreement with Top Dog Training Center to acquire a police service dog and the necessary training for the dog handler. This vendor provides a full guarantee against any congenital health defects for two years after the date of purchase, and additionally guarantees the dog for non-health service-related problems for one year.

With the addition of this service dog, the Department will need to retrofit one of the existing vehicles in the fleet to accommodate the handler and dog on patrol. Cook's Communications is the Department's vendor for vehicle upfitting and retrofitting. Staff has identified one of the current police vehicles for retrofit to be a 2022 Ford Explorer (Unit# 3420). The cost for the retrofit to include heat safety equipment is \$21,965.66.

The total cost for the police service dog, related training and retrofit is \$40,237.54. Funds for this purchase are available in the Police Department's budget.

RECOMMENDATION: That the City Council:

1. Approve the purchase of a police service dog and related training from Top Dog Training Center at the cost of \$18,271.88;
2. Authorize the Chief of Police to enter into an agreement with Top Dog Training Center to acquire the service dog and associated training; and
3. Authorize the Chief of Police to enter into an agreement with Cook's Communications for the retrofit K9 vehicle at a cost of 21,965.66, which due to unique purchasing parameters and current supply issues, the Police Department is also requesting a

ten percent (10%) contingency on the total purchasing price of the K9 vehicle retrofit equipment.

ATTACHMENTS:

1. Top Dog Training Center Quote
2. Cook's Communications Quote

Appropriated/Funded:

Review By:

Department Director:
Jake Castellow, Chief of Police

Final Approver: John Lollis, City Manager



To: **City of Porterville
Police Department
350 N. D Street
Porterville, CA 93257**

Top Dog Training Center, 5922 W. Clinton Avenue, Visalia, Ca 93291
Phone 559-802-7297



160 North Broadway
Fresno, CA 93701-1592

Estimate

Customer No.: PORTERVILLE

Quote No.: 14419

Phone: (559) 233-8818

(559) 268-8506

Quote To: **City of Porterville**

291 N Main St
Accounts Payable
Porterville, CA 93257-0000

Phone: (559) 782-7566

Fax: (559) 782-4050

Ship To: **City of Porterville**

291 N Main St
Porterville, CA 93257

Phone:

Email: [Irene Anaya <ianaya@ci.porterville>](mailto:ianaya@ci.porterville)

Date	Ship Via	F.O.B.	Terms	
12/11/23	Up-Flt Shop	Origin	Net Next EOM	
Purchase Order Number	Sales Person			Expiration Date
	David Burchfield			01/10/24
Quantity Required	Item Number	Description	Unit Price	Amount

22 FORD FPI U
K9 PATROL RETROFIT
UNIT# 3420

K9 HARDWARE
REAR STORAGE AND
ELECTRONICS TRAYS

1	GK10271U	Setina Single T Rail	331.00	331.00
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Weapon Mount 1 XL Lock

1	K9-F28-PT	Havis K9/Prisoner Transport	5340.00	5340.00
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2020-2023 Ford Interceptor
White

Allows transportation of both a K9 and a
prisoner

For all-new 2020-2023 Ford Interceptor
Utility, including hybrid

K9 compartment is on the passenger side,
single prisoner compartment is on the driver
side and utilizes the OEM single passenger
seat and seat belt

Maximizes usable space needed for seat
travel, driver comfort, visibility, K9
compartment and cargo area size
Prisoner compartment includes front
bulkhead with upper clear polycarbonate
guard

Emergency exit door between K9/PT
compartments (release knobs on door in K9
compartment)

Front partition sliding K9 exit door with
improved sliders to eliminate rattle

Durable white powder coat finish on main
components

Easy to install and clean

Fabricated from Heavy-duty aluminum for
long-lasting durability

Black powder coat finish on center sliding
door and window guards

Thank You



160 North Broadway
Fresno, CA 93701-1592

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Fax: (559) 782-4050

Phone:

Email: [Irene Anaya <ianaya@ci.porterville>](mailto:Irene.Anaya@ci.porterville)

Date	Ship Via	F.O.B.	Terms
12/11/23	Up-Flt Shop	Origin	Net Next EOM

Purchase Order Number	Sales Person	Expiration Date
	David Burchfield	01/10/24

Quantity Required	Item Number	Description	Unit Price	Amount
1	K9-A-104	Havis 10" Fan Kit	525.00	525.00
1	COOL K-9	Ray Allen A/C System	80.00	80.00
1	LBLHF	Run Cool Hood Louvers Large High Flow Semi Gloss Black (Pair)	229.00	229.00
1	PKG-TTP-INUT-1201-4	Havis Premium Package Raised Fold-Up Equipment Tray & Cargo Plate With 200 Lbs Lift Struts For 2020-2023 Ford Interceptor Utility	1585.00	1585.00

Premium fold-up raised cargo plate & equipment tray fits 2020-2023 Ford Interceptor Utility
Combines C-TTP-INUT-1201 and C-TTP-INUT-4 into one convenient ID
Includes two (2) 200 lbs gas lift struts for assistance in opening or closing - best for mounting storage or heavy equipment
Replaces OEM rear cargo floor / spare tire cover and attaches without drilling
Equipment can be mounted on the premium fold-up equipment tray included, attaches to the underside of raised cargo plate above spare tire
Allows easy access and removal of full size spare tire
Dual prop rods can be used to support mounting plate in open position
Dual lockable latches provide quick access or protection of equipment mounted beneath
Installer must drill and Bolt on equipment as desired
Works with Havis standard-length K9, extended-length K9, and K9-PT inserts
Two (2) panels provide access to siren/radios and other equipment mounted in factory

Thank You



160 North Broadway
Fresno, CA 93701-1592

Estimate

Customer No.: PORTERVILLE

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Phone: (559) 233-8818

(559) 268-8506

Quote To: **City of Porterville**

291 N Main St
Accounts Payable
Porterville, CA 93257-0000

Ship To: **City of Porterville**

291 N Main St
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Phone: (559) 782-7566

Fax: (559) 782-4050

Phone:

Email: [Irene Anaya <ianaya@ci.porterville>](mailto:Irene.Anaya@ci.porterville)

Date	Ship Via	F.O.B.	Terms	
12/11/23	Up-Flt Shop	Origin	Net Next EOM	
Purchase Order Number		Sales Person		Expiration Date
		David Burchfield		01/10/24
Quantity Required	Item Number	Description	Unit Price	Amount
1	SBX-1008	Havis Large Modular Storage Drawer w/PB Combo Lock	1542.00	1542.00
1	SBX-3003	Havis Open Storage Drawer Topper	213.00	213.00
		K9 ELECTRONICS		
1	HP-5020	Ace K9 Hot-Pop-Pro SPECIFY VEHICLE	1424.00	1424.00
1	AWD-7040	Ace K9 Watchdog Pro	899.00	899.00
1	H-NKLBK-P	Ace K9 No K9 Left Behind Option.	69.00	69.00
1	HP-RBM-27-400	Ace K9 Remote Pager Module for Hot-N-Pop Pro 10" Fiberglass Antenna Kit	339.00	339.00
1	HAP-EVS-K	Ace K9 Engine Stall Sensor Not for Use With Hybrid Vehicles	143.00	143.00
1	HA-FKT-10-P	Ace K9 Fan Kit. 10" Fan, Activation Module, Manual Switch & Materials	239.00	239.00
1	HA-SDM-D	Ace K9 Smoke Detector & Interface Module	115.00	115.00
		MISC ITEMS/ELECTRICAL		
4	5080	Relay	14.00	56.00
1	MATERIALSFEE3	Installation Material Bundle	200.00	200.00
28.000	LAISREG	Shop Installation K9 PATROL RETROFIT FORD FPI U	150.00	4200.00

add all neccesary parts to make this vehicle into a K9

Thank You



160 North Broadway
Fresno, CA 93701-1592

Estimate

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(559) 268-8506

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Email: [Irene Anaya <ianaya@ci.porterville>](mailto:Irene.Anaya@ci.porterville)

Date	Ship Via	F.O.B.	Terms	
12/11/23	Up-Flt Shop	Origin	Net Next EOM	
Purchase Order Number	Sales Person			Expiration Date
	David Burchfield			01/10/24
Quantity Required	Item Number	Description	Unit Price	Amount

Patrol Vehicle

ADD PILLAR MOUNTED
****SPOTLIGHTS***

1	218016-0002	Unity LED Spotlight fits '22 Ford FPI Utility Drivers Side	492.00	492.00
1	2180177-0002	Unity LED Spotlight fits '22 Ford FPI Utility Passenger Side	492.00	492.00
1	DB5Z15304A	Ford Spotlight Mount Kit fits FPI Utility Right Side	85.00	85.00
1	DB5Z15305A	Ford Spotlight Mount Kit fits FPI Utility Left Side	85.00	85.00
1	LB5Z7803145AA	Moulding Front Windshield '22 Ford Explorer	170.00	170.00
1	LB5Z7803144AA	Moulding Front Windshield '22 Ford Explorer	170.00	170.00
1	LB5Z7802501AB	Pillar Trim '22 Ford Explorer	34.00	34.00
1	LB5Z7802500AB	Pillar Trim '22 Ford Explorer	34.00	34.00
1	MATERIALSFEE2	Installation Material Bundle	75.00	75.00
5.000	LAISREG	Shop Installation 2.5 Hrs Per Side	150.00	750.00

Unit# 3420
22 Ford FPI Utility
Lic# Vin#

Thank You



160 North Broadway
Fresno, CA 93701-1592

Estimate

Customer No.: PORTERVILLE

Quote No.: 14419

Phone: (559) 233-8818

(559) 268-8506

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Porterville, CA 93257-0000

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Email: [Irene Anaya <ianaya@ci.porterville>](mailto:Irene.Anaya@ci.porterville)

Date	Ship Via	F.O.B.	Terms	
12/11/23	Up-Flt Shop	Origin	Net Next EOM	
Purchase Order Number	Sales Person			Expiration Date
	David Burchfield			01/10/24
Quantity Required	Item Number	Description	Unit Price	Amount

Subtotal 19916.00

Freight charges 800.00

Sales tax @ 8.35000% 1249.66

Total 21965.66

We appreciate your continued patronage

Thank You



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Authorization to Repair Specialized Equipment - Outfall Pump #2

SOURCE: Public Works

COMMENT: The Wastewater Treatment Facility (WWTF) is requesting authorization to repair Outfall Pump #2. The WWTF has three outfall pumps which are used to convey approximately 4.5 million gallons of treated effluent per day to the Reclamation Area. On average, two pumps are required to convey the daily effluent flow to the Reclamation Area. The third pump provides redundancy in the event of operational failure. Outfall Pump #2 is currently experiencing mechanical problems and must be repaired promptly to provide redundancy to the operation.

The WWTF staff contacted three reputable pump repair companies for quotes, which staff received two quotes and the third company declined to provide a quote. The quotes are as follows:

S.A. Camp Pump and Drilling Company	\$25,955.92
Shar-Craft Incorporated	\$48,762.00
Carver Pump	Declined to Quote

Based on the quotes submitted, S.A. Camp Pump and Drilling Company, provided the lowest quote for the repair of Outfall Pump #2. Expenditure for the repair in an amount not to exceed \$28,552, which includes parts, labor, freight, taxes, and a ten percent (10%) contingency, will be funded from the 2023-2024 WWTF Capital Reserve Fund.

RECOMMENDATION: That the City Council:

1. Award the repair of Outfall Pump #2 to S.A. Camp Pump and Drilling Company for an amount not to exceed \$28,552, which includes parts, labor, freight, taxes, and ten percent (10%) contingency; and
2. Direct the Finance Director to initiate a Purchase Order to S.A. Camp Pump and Drilling Company for an amount not to exceed \$28,552 which includes parts, labor, freight, taxes, and ten percent (10%) contingency; and
3. Direct the Finance Director to make payment to S.A. Camp Pump and Drilling Company upon receipt of an

invoice approved by the Public Works Director.

ATTACHMENTS:

1. S.A. Camp Pump and Drilling Company Quote
2. Shar- Craft Incorporated Quote

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

S. A. CAMP PUMP AND DRILLING COMPANY
P.O. BOX 82575 BAKERSFIELD CA 93380-2575
17876 ZERKER RD BAKERSFIELD CA 93308
PHONE (661) 399-2976 FAX (661) 399-8063 CA LIC# 346951
----ESTIMATE----

CUSTOMER: CITY OF PORTERVILLE
ATTN: DANIEL HARRIS
LOCATION: 1333 WEST GRAND AVE

DATE: 11/8/23
PHONE: 559-782-7501

QTY	DESCRIPTION	AMOUNT
1	BUSH & WEAR RING 3 STG SET 20 MKM BOWLS	2,013.00
1	BOWL SHAFT	2,727.00
1	14" X 95" COLUMN PIPE	2,216.00
1	2-1/2" X 1-11/16" TUBE & SHAFT	1,088.00
1	HEAD SHAFT WITH NUT	506.00
1	HEAD TUBE	514.00
1	GALVANIZED BASKET STRAINER	1,000.00
1	MISC MATERIALS	500.00
1	MACHINIST LABOR	3,500.00
		<u>14,064.00</u>
	9-1/4% TAX	<u>1,300.92</u>
		15,364.92
1	LABOR TO REPAIR 125 HP MOTOR, REPLACE BEARINGS, SERVICE CUSTOMER'S MOTOR	5,011.00
1	LABOR TO PULL BOOSTER PUMP & MOTOR, REPAIR, HAUL AND INSTALL	<u>5,580.00</u>
	GRAND TOTAL	25,955.92

QUOTED BY: JOSE FELIX

NOTE: THE ABOVE ESTIMATE AMOUNT MAY CHANGE
DUE TO UNFORSEEN VENDOR PRICING.

JF/jr

Shar - Craft Incorporated

SCI

Customer: City of Porterville

Date: 09/21/23

Quote

Floway Type MKM Size 20

Line	Tax	Qty.	Description	Unit Price	Total
1	N	2	Crane and transportation from/to Porterville	\$2,500.00	\$5,000.00
2	N	1	Rewind, bake, and replace bearings in motor	\$8,050.00	\$8,050.00
3	N	1	Labor to disassemble pump, replace line and bowl shafts, wear rings, bushing, oil tubes and to balance impellers	\$19,900.00	\$19,900.00
4	Y	1	Materials for replacement parts listed above	\$10,652.00	\$10,652.00
				subtotal	\$43,602.00
5	N	1	Labor to blast and coat pump	\$3,595.00	\$3,595.00
6	Y	1	Materials to blast and coat pump	\$1,565.00	\$1,565.00
				total	\$48,762.00

Job scope: As listed above. Should additional repairs need to be made once the pump is disassembled and inspected, those repairs will be quoted separately.

Quoted prices are based on the quantities listed and do not include taxes or freight.

Please note that due to the considerable volatility with raw material pricing and supply, quoted amounts are subject to raw material pricing in effect at time of order.

Thank you for the opportunity to quote these services.

sharcraftinc.com

1103 33rd Street Bakersfield, CA 93301

(661) 324-4985

Fees apply for all credit card purchases.



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Authorization to Advertise for Bids - Santa Fe Byway Revitalization and Beautification Project

SOURCE: Engineering and Project Management

COMMENT: The Plans and Project Manual have been prepared for the Santa Fe Byway Revitalization and Beautification Project. The project includes improvements to the existing asphalt trail, installation of concrete edge bands along the trail, two new picnic shelters, a new playground and workout equipment area, benches, water fountains, solar trail lighting, and new lights at intersections for improvements to public safety. The Santa Fe Byway runs north to south between Henderson Avenue and Walnut Avenue along the old Santa Fe Railway.

The Engineer's Estimate of Probable Cost for the project is \$3,783,692.47 (including \$10,500 for the installation of lights by Southern California Edison at intersections). An additional \$378,369 is required for construction contingency (10%) and an additional \$378,639 is required for construction management, surveying, quality control and inspection services (10%), equating to a total construction cost of \$4,540,970.47. Funding for this project in the amount of \$2,619,402 is provided by the Clean California Grant for the construction portion of the project. An additional \$300,000 is provided by the Clean California Grant for the Construction Management and Quality Control portion of the Project. The difference of \$1,621,568.47 is available from Measure R - Alternate Transportation Funds to fully fund the project.

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.

ATTACHMENTS:

1. Engineers Estimate
2. Locator Map

Appropriated/Funded:

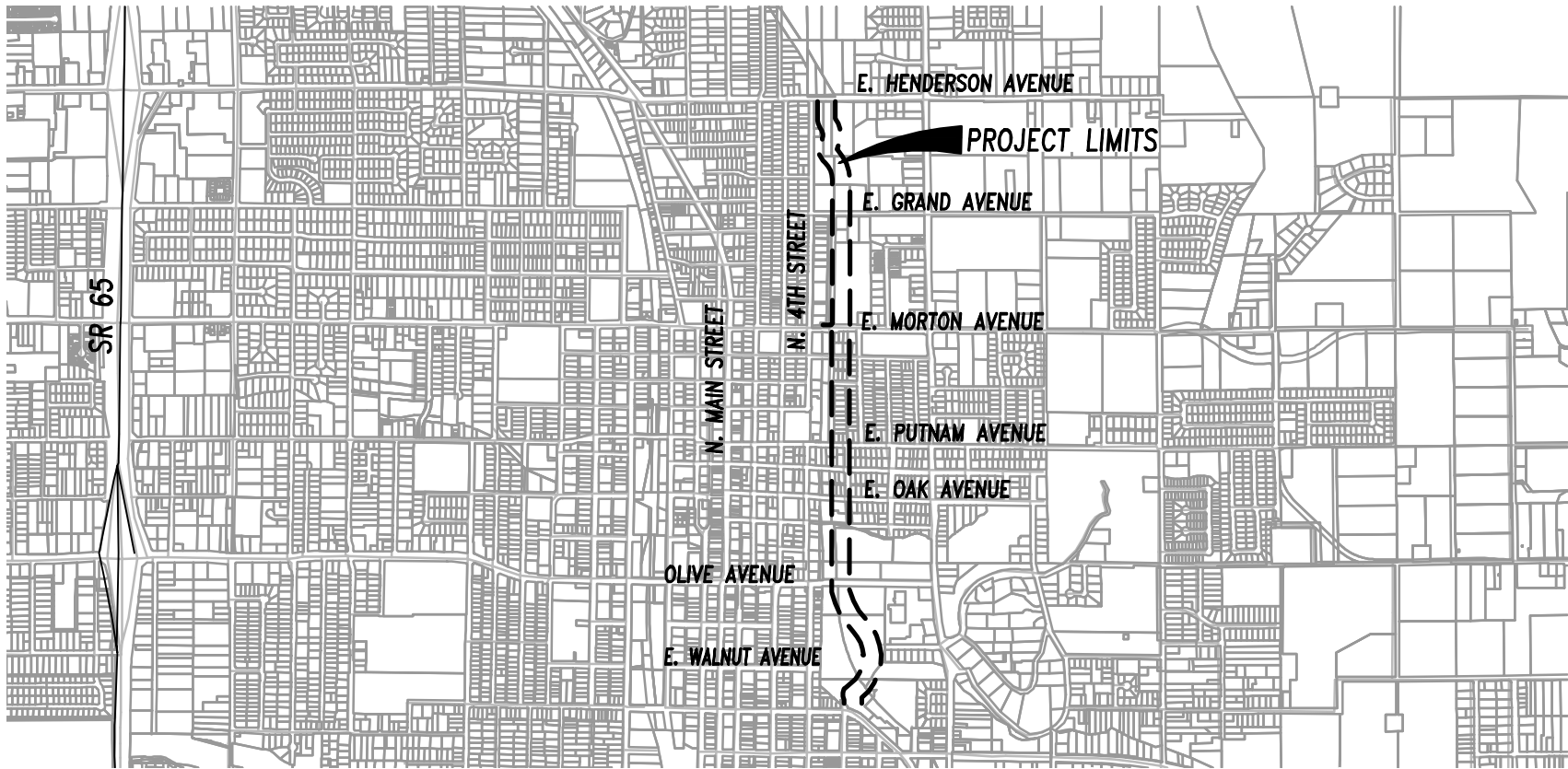
Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager

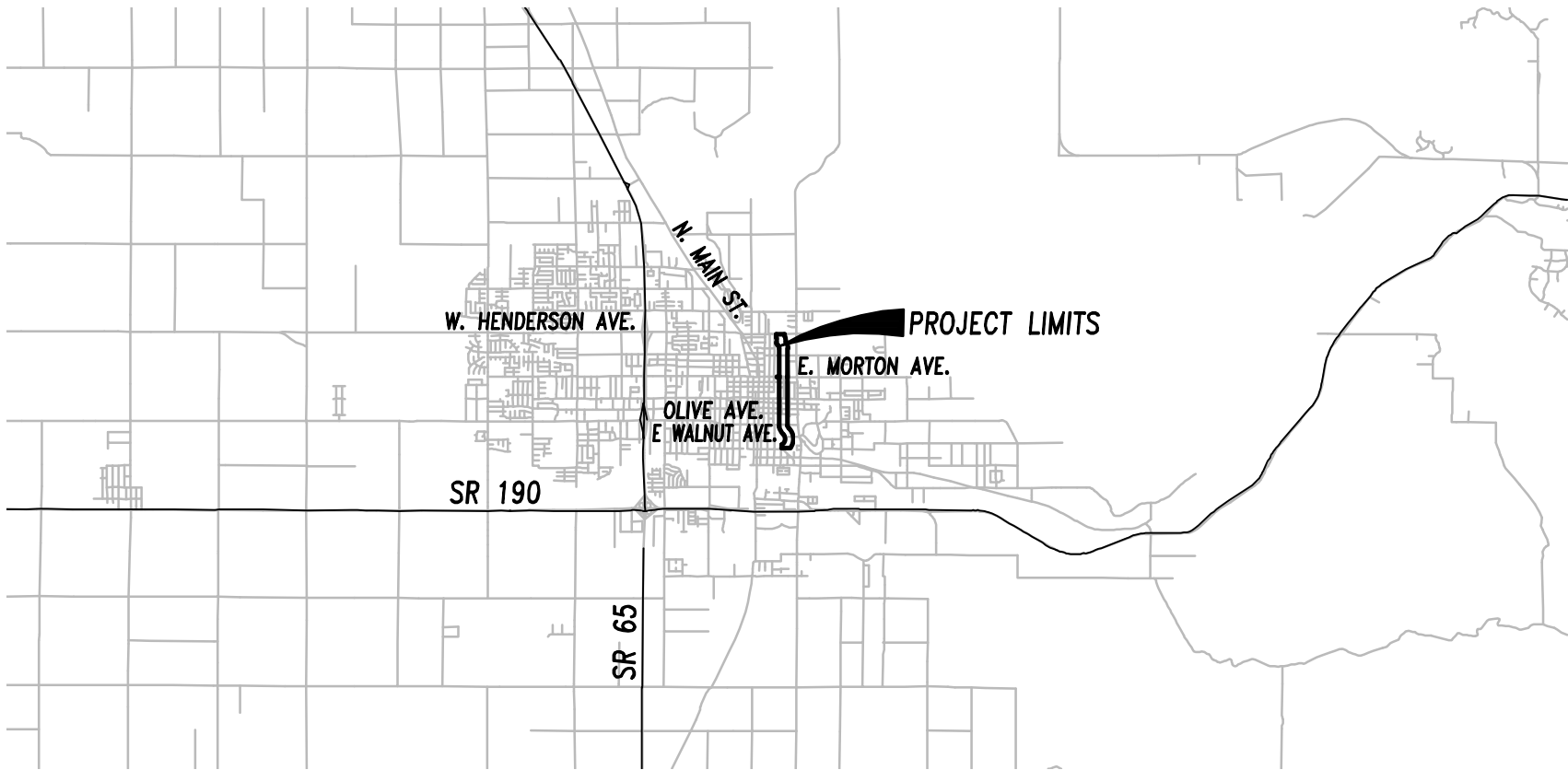
Santa Fe Byway Cost Estimate

ITEM NO.	DESCRIPTION OF WORK	QUANTITY	UNIT	UNIT PRICE (\$)	TOTAL (\$)
1	Mobilization & Demobilization	1	LS	157,000.00	157,000.00
2	Furnish & Implement Traffic Control System	1	LS	10,000.00	10,000.00
3	Unknown Utility Conflict	1	LS	10,000.00	10,000.00
4	SWPPP, Stormwater Pollution Prevention Plan	1	LS	5,000.00	5,000.00
5	Dust Control and Project Site Maintenance	1	LS	2,500.00	2,500.00
6	Construction Notification Sign	4	EA	2,500.00	10,000.00
7	Tree Removal, Clearing & Grubbing, & Demolition	1	LS	100,000.00	100,000.00
8	Remove Exist. Concrete Vee Gutter - Sta. 40+60	240	LF	20.00	4,800.00
9	Sawcut & Remove Exist. Curb & Gutter - Henrehan St	113	LF	20.00	2,260.00
10	Sawcut & Remove Exist. Curb at Oak Avenue	235	LF	20.00	4,700.00
11	Sawcut & Remove Exist. Curb/Curb & Gutter - South Parking Lot	26	LF	20.00	520.00
12	Sawcut & Remove Exist. Sidewalk - South Parking Lot	141	SF	4.00	564.00
13	Sawcut, Grind, and Remove Exist. Asphalt Concrete - Roadway	59	SY	4.00	234.67
14	Hot Mixed Asphalt (Type A, 1/2" Gradation)	914	TON	120.00	109,655.70
15	Trail Shoulder Earthwork (Sta. 23+46 - 36+40)	1	LS	2,500.00	2,500.00
16	Permanent Metal Bollards	44	EA	775.00	34,100.00
17	Parkway Regulation/Info Sign	1	EA	1,200.00	1,200.00
18	Parkway Wayfinding Sign	1	EA	200.00	200.00
19	Anti-Litter Signs	1	EA	200.00	200.00
20	Native Plant Informational Sign	1	EA	200.00	200.00
21	Trail Fence	2,291	LF	20.00	45,820.00
22	Full Height Fence - Oak Ave	150	LF	30.00	4,500.00
23	Bridge Guard Rails	188	LF	80.00	15,040.00
24	Drinking Fountain	3	EA	3,600.00	10,800.00
25	60' x 60' Picnic Area Shade Structure	1	EA	190,000.00	190,000.00
26	40' x 40' Shade Structure	2	EA	140,000.00	280,000.00
27	Picnic Table	16	EA	3,600.00	57,600.00
28	Bench	8	EA	5,500.00	44,000.00
29	Bench Shade Structure	4	EA	22,000.00	88,000.00
30	BBQ Pit	2	EA	4,500.00	9,000.00
31	Trash Can	8	EA	800.00	6,400.00
32	Bike Racks	3	EA	5,400.00	16,200.00
33	Bike Repair Station	1	EA	3,900.00	3,900.00
34	Gabion Wall	859	LF	120.00	103,080.00
35	Solar Trail Lights	61	EA	10,000.00	610,000.00
36	Concrete Curb Ramp - South Parking Lot	2	EA	7,000.00	14,000.00
37	4-Inch Concrete Sidewalk - Picnic Areas	8,762	SF	10.00	87,620.00
38	6-Inch Concrete - Parking Area	2,508	SF	16.00	40,128.00
39	Wheel Stop	7	EA	150.00	1,050.00
40	Concrete Barrier Curb - Oak Avenue	235	LF	20.00	4,700.00
41	Concrete Curb & Gutter - Oak Avenue	11	LF	40.00	440.00
42	48-Inch Concrete Vee Gutter at Henrehan St	113	LF	35.00	3,955.00
43	6-Inch x 12-Inch Wide Concrete Edge Band	10,320	SF	12.00	123,840.00
44	6-Inch x 12-Inch Wide Decomposed Granite	10,320	SF	8.00	82,560.00
45	Rectangular Rapid Flashing Beacon (RRFB) and In Road Warning Light (IRWL) System - Putnam Ave	1	EA	50,000.00	50,000.00
46	Signing, Striping, and Pavement Markings - Trail	1	LS	20,000.00	20,000.00
47	Signing, Striping, and Pavement Markings - Roadway & Parking Area	1	LS	15,000.00	15,000.00
48	Landscape Architecture & Irrigation	1	LS	755,000.00	755,000.00
49	Street Light 3" Conduit per SCE Plans and Specifications	540	LF	60.00	32,400.00
50	Street Light Pull Boxes per SCE Plans and Specifications	4	EA	500.00	2,000.00
51	Street Light per SCE Plans and Specifications	3	EA	3,500.00	10,500.00
52	Bridge Graffiti Removal	1	LS	5,000.00	5,000.00
53	Install Playground Equipment	1	EA	22,000.00	22,000.00
54	Install Fitness Equipment	1	EA	60,000.00	60,000.00
55	Install Art Structure	1	EA	20,000.00	20,000.00
BID Subtotal (\$) =					3,290,167.37
(F)	Final Pay Item			contingency (15%) \$	493,525.11
BID TOTAL (\$) = \$					3,783,692.47



PROJECT MAP

SCALE 1" : 2,000'



VICINITY MAP

SCALE 1" : 2 mi.



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Acceptance of Project - Akin and Central Mutual Water System Improvement Project

SOURCE: Engineering and Project Management

COMMENT: RT Nelson Company, Inc. has completed the Akin and Central Mutual Water System Improvement Project per plans and specifications. The Akin water system is located in the area of Lincoln Street at Fourth Street and north of Gibbons Avenue. The Central Mutual water system is located in the area of South Kessing Street at Gibbons Avenue. The project consisted of the installation of new water lines and connections, the removal of old and/or temporary water system lines, the installation of fire hydrants, water meters, and backflows, and the destruction of the water system wells to fully consolidate the two water systems into the City's system.

Staff tracks construction costs of all Capital Improvement Projects and reports construction expenditures when the project is accepted by City Council. At its meeting on February 7, 2023, the Council authorized an expenditure of \$1,087,524 for construction, construction management, and quality control inspection services for the project. The following itemizes the construction related costs into two categories: 1) the construction contract, and 2) a combination of construction management and quality control.

1. Final Construction Cost is \$918,987.06
2. Construction management, quality control and inspection service costs are \$96,372.76

Total project construction costs equate to \$1,015,359.82, which is less than the \$1,087,524 overall budget approved by Council at the time of award. Funding for this project is provided by reimbursement from the State Resources Control Board and the Funding Agreement was approved by the Council at its meeting on June 1, 2021.

RT Nelson Company, Inc. requests that the Council accept the project as complete. Staff has reviewed the work and found it acceptable.

RECOMMENDATION: That the City Council:

1. Accept the project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the five percent (5%) retention thirty-five (35) days after recordation, provided no stop notices have

been filed.

ATTACHMENTS:

1. Locator Map - Akin
2. Locator Map - Central Mutual

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager

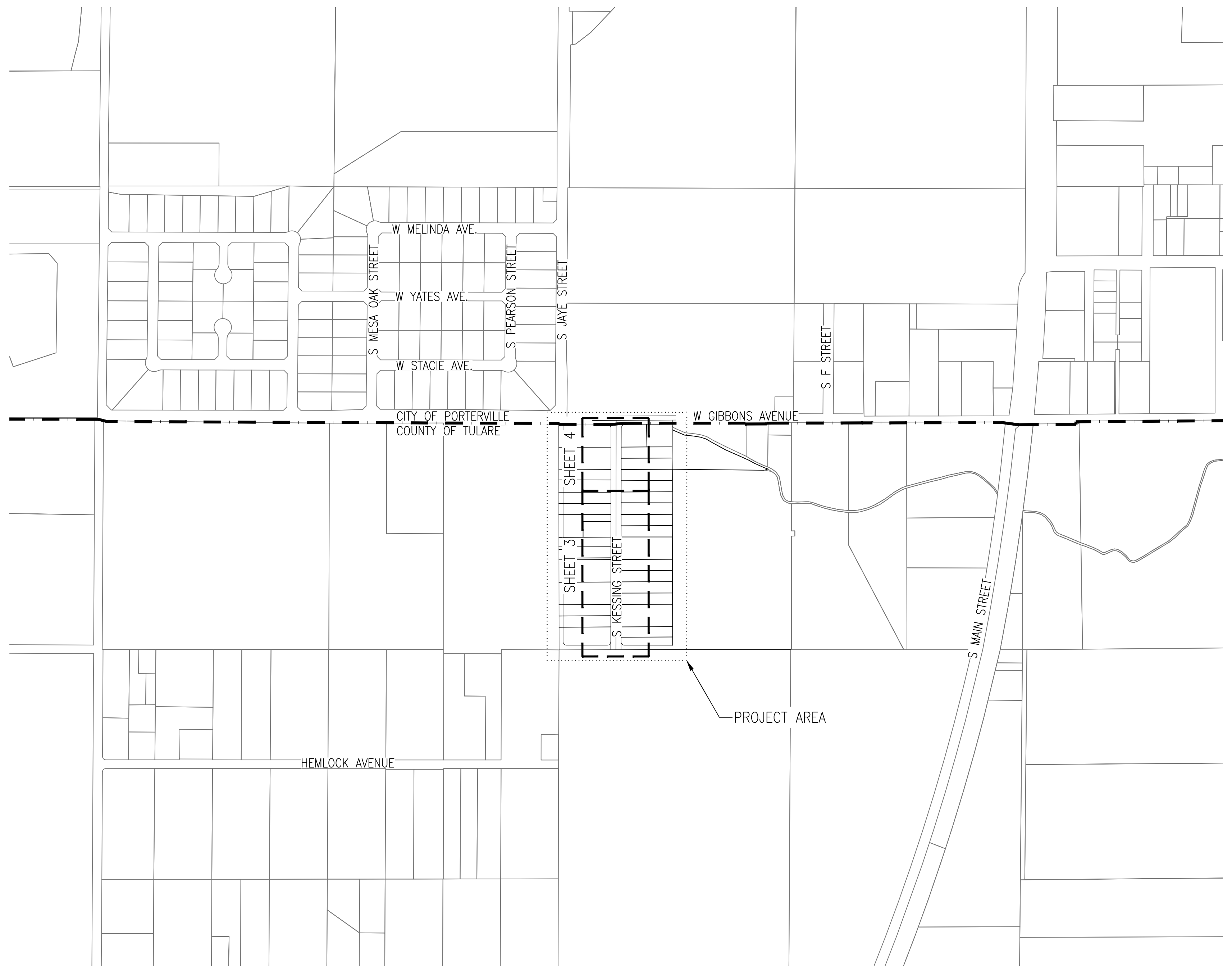
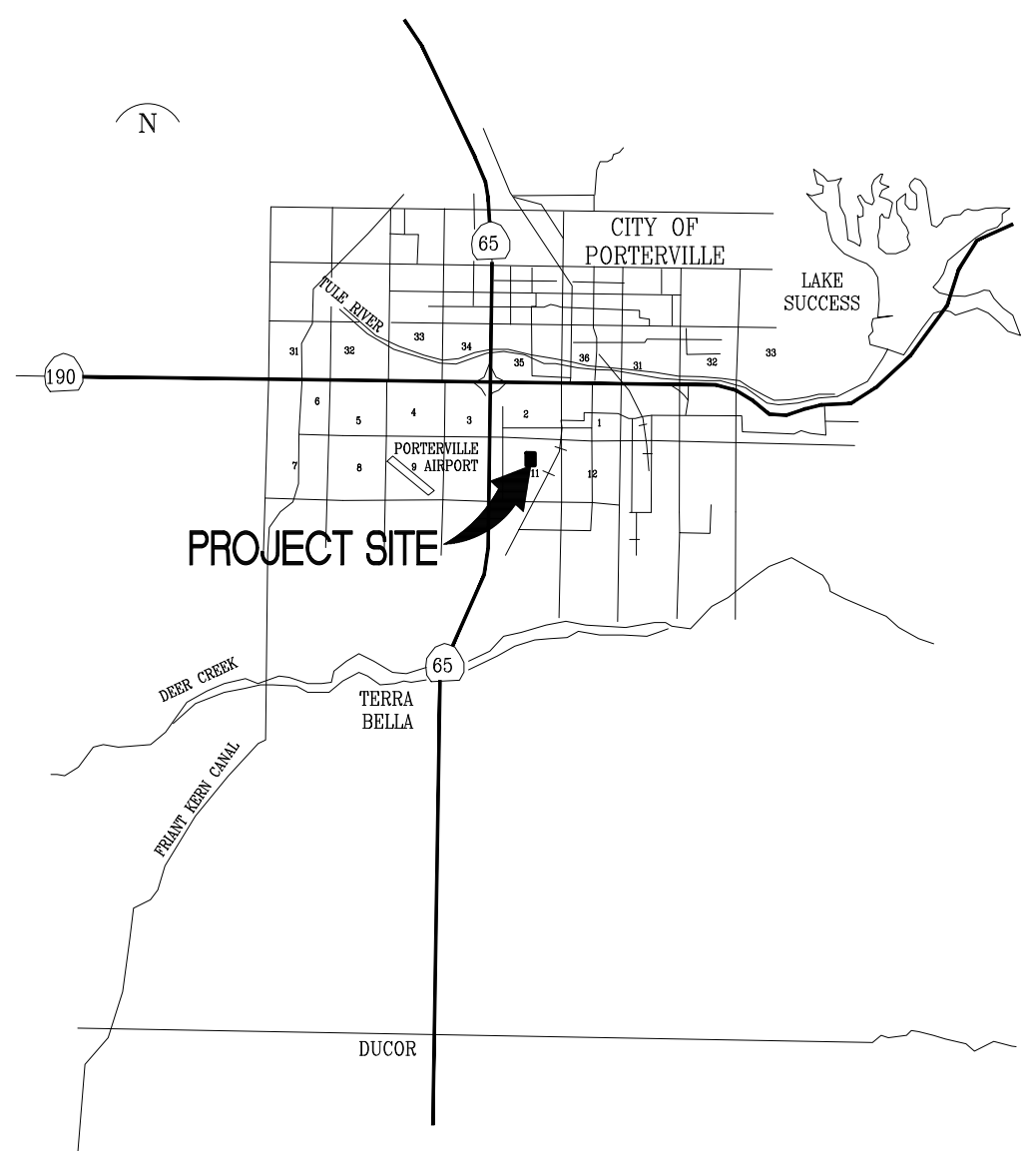
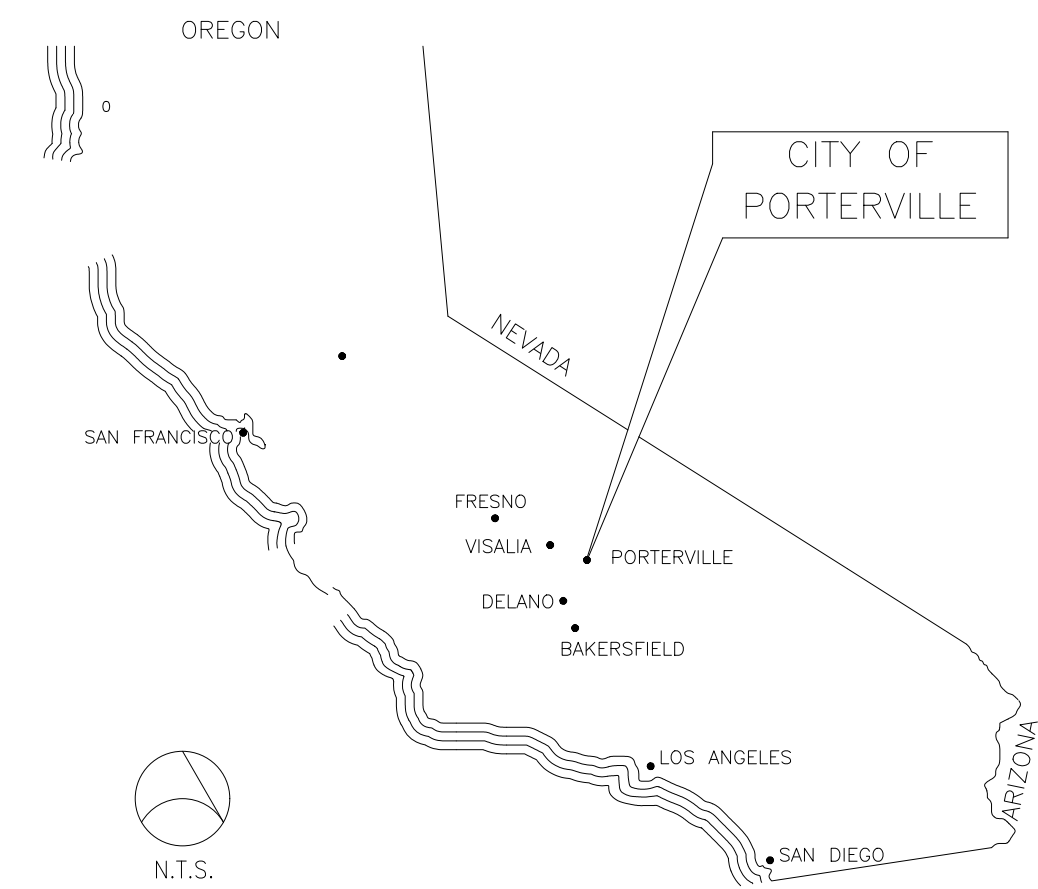


The map shows a section of Porterville, California. At the top is Porterville College. A north arrow is in the upper left. The map features several streets: Drive 238 (a north-south road on the left), S.F. St (a short street west of Drive 238), S 3rd St, S 4th St, Lincoln Street (a short street east of S 4th St), S Plano Street (a north-south road on the right), Avenue 140 (a horizontal road), and Avenue 136 (a horizontal road at the bottom). A 'PROJECT SITE' is indicated by a curved arrow pointing to a location between S 4th St and S 3rd St. A benchmark 'BM #93' is marked on Avenue 140 near S Plano Street.

PETERSONJ
XREFS: 22v34/

1215 WEST CENTER STREET, SUITE 201
209.239.9080 TEL 209.239.4166 FAX

SHEET NUMBER
G0.10
 OF **12** SHEETS
 SCALE
 HORIZONTAL: NTS
 VERTICAL: N/A
 JOB NUMBER
MTB013209



SITE MAP
NOT TO SCALE



CITY OF PORTERVILLE TULARE COUNTY, CALIFORNIA

JULY 2022



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Authorization to Execute Consultant Agreement - Sports Complex Baseball Field Design

SOURCE: Engineering and Project Management

COMMENT: At its meeting on October 3, 2023, the City Council authorized staff to begin negotiations for a scope and services contract with QK, Inc for the design of a new lighted baseball field on the southeast portion of the Sports Complex.

Staff was able to negotiate the contract at a not to exceed price of \$167,150 for design and construction support. Funding for this contract is provided by federal American Rescue Plan Act (ARPA) funds as approved in the Fiscal Year 2023-2024 budget.

Staff has found the negotiated price acceptable.

RECOMMENDATION: That the City Council:

1. Authorize the Engineering & Project Management Director to execute the Consultant Service Agreement for the design of the Sports Complex Baseball Field Project with QK, Inc in the amount of \$167,150; and
2. Authorize progress payments up to one hundred percent (100%) of the contract amount.

ATTACHMENTS:

1. Draft Service Agreement
2. Locator Map

Appropriated/Funded:

Review By:

Department Director:
Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager

SERVICE AGREEMENT

DATE: December 19, 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: Sports Complex Baseball Field

Description of Project: In general, the consultant will provide design services and construction support as summarized in the Scope of Services (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 a fee of **One Sixty-Seven Thousand One Hundred Fifty Dollars**, (\$167,150).

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 One Million Dollars (\$1,000,000) per occurrence; fully protecting CITY, its elected and appointed officers, employees, agents and assigns, against all claims arising from the negligence of CONSULTANT and any

injuries to third parties, including employees of CITY and CONSULTANT. ***To the fullest extent permitted by law, CONSULTANT agrees to 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 _____

Attachment A



150 West Morton Avenue | Porterville, CA 93257 | (559) 781-2700

December 5, 2023

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

Subject: Professional Design Services for the City of Porterville's Sports Complex New Baseball Field Project

Dear Mr. Moore:

QK is excited to partner with the City of Porterville on the design of the Sports Complex New Baseball Field Project (Project). We were honored to be selected to partner with the City for your Parks Master Plan and are eager to working with City staff again and developing a great park amenity that will be an asset to the community. The following includes our Scope of Services and Fee Estimate for your review and consideration.

Thank you for the opportunity to submit a scope and fee for this project. If you have any questions or would like to discuss this proposal further, please contact John McGee or Jeff Cowart at (559) 781-2700. We look forward to kicking off this important project.

Sincerely,

A handwritten signature in blue ink, reading "John McGee".

John H. McGee, Jr., LLA
Senior Landscape Architect

A handwritten signature in blue ink, reading "Jeff Cowart".

Jeffery S. Cowart, PE
VP of Municipal Services & Quality Control

Enclosures: Scope of Services and Fee Estimate
Charge Rate Schedule
Conceptual Layout Exhibits
Existing & Proposed City Utilities Exhibit

cc: Sarah Weaver, City of Porterville

P230489
JM/JC

Scope of Services and Fee Estimate

City of Porterville - Professional Design Services for Sports Complex New Baseball Field Project

BACKGROUND

The City of Porterville (City), with a growing population (65,000 est. residents 2023), has a need for more parks and recreation facilities. The City issued a Request for Qualifications (RFQ) for Professional Services – Sports Complex Baseball Field Design in July 2023. Following the submittal of a Statement of Qualifications to the City on September 6, 2023, QK was selected to submit a cost proposal and scope of services for the proposed project for the City's review and recommendation for award at an upcoming City Council meeting.

PROJECT UNDERSTANDING

The scope of services below is based on the RFQ issued by the City and a call with City Staff on October 30, 2023. It is our understanding that the City would like to develop a new baseball field, a prefab restroom/storage building, and an adjacent landscape area to fit into the existing Sports Complex.

The project's purpose includes focused development of a new baseball field and will consist of developing concept plans, construction plans, and bid documents for the park improvements. QK will, with the City's input, produce improvement plans based on site amenity selection, site improvement cost estimates, and specifications, and will provide bidding, and construction for the improvements. Below are the proposed services based on the City's RFQ:

1. New Baseball Field
 - a. New outfield fencing, warning track, infield, backstop, movable pitcher's mound, dugouts, main bleachers, ADA bleachers, batting cage and scoreboard.
 - b. Shade Structure over bleachers (Bid Alternate)
 - c. New 4 stadium light standards with LED standard
2. Improve Park Amenities
 - a. Connect new prefab bathroom/storage to potable water system.
 - b. Connect a new ADA water fountain to potable water system.
 - c. Locate possible picnic tables, benches, and trash cans around the field.
 - d. Connect to existing irrigation water supply.
3. Improve Parking Lot
 - a. Construct new ADA parking stalls
4. Provide Topographic Site Survey
 - a. Survey baseball field site

APPROACH/SCOPE OF SERVICES

QK will design two (2) Concept Plans for the baseball field and surrounding amenities for review with City staff. Once a Concept Plan has been selected and any changes discussed, QK will move into the construction document phase preparing documents required to build the park improvements including the demolition plan, landscape plan, irrigation plan, site dimension plan, site grading plan, electrical and lighting plan, details, and specifications.

TASK 1.0 TOPOGRAPHIC SURVEY

QK will perform a field survey for the baseball field site within the existing park. The topographic survey will be provided in such detail that the information will be used to establish existing footprint of the existing park features.

Combining GPS terrestrial surveying technologies, QK will perform a topographic survey of the area outlined in the attached exhibit. This survey will be referenced to stations providing elevation data in NAVD88 and comparisons will be provided to local or County datum if appropriate. Our scope of work will consist of the following elements:

- Spot elevations to determine contours.
- Pavement grades of new ADA parking and 10 feet surrounding.

- All above ground features including fences, power poles, signs, visible above ground utilities within the outlined area.
- Trees, noting diameter at breast height, and drip line for trees that have canopy within the specified area of survey.
- Post process field data and analyze accuracy and completeness of data.
- Import topographic data into AutoCAD and reduce to a readable, 20 scale CAD drawing.
- Create surface to show contours.
- Quality Assurance/Quality Management (QAQC) review of files by a professional land surveyor.

Deliverables:

- Topographic survey including points, planimetric data, and surface information in AutoCAD Civil 3D 2020 format
- One (1) Survey at 1" = 20' scale in PDF format

TASK 2.0 PRELIMINARY DESIGN PLAN/CONCEPTUAL (30% COMPLETION)

QK will prepare (2) Concept Plans that will show the layout of the new baseball field improvements including the new ADA walking path from parking to field, new bleachers, dugouts, backstop, fencing, shade structures, and open turf play area. QK will meet with City staff to review and select one (1) of the concepts and make modifications before moving into the construction drawings.

Deliverables:

- One (1) meeting with City Staff and notes from meeting
- Two (2) conceptual design plans in PDF format
- One (1) Preliminary cost estimate based on both concepts in PDF format

TASK 3.0 CONSTRUCTION PLANS, SPECIFICATIONS & ESTIMATES (95%,100% COMPLETION)

QK will prepare Construction Plans, Specifications, and Estimates (PS&E) for bidding. Based on the approved conceptual design and construction budget, QK will prepare complete construction documents as applicable in accordance with the local and State codes, standards, and specifications. QK plans to provide the construction documents to the City for review at the 95%, and 100% stages. Subsequent submittals will address comments from the previous submittal, and the previous markup will be provided. QK assumes that the City will prepare the bid document package and QK will provide technical specifications and opinion of probable construction costs.

A draft set of plans and specifications will be submitted to City Staff for review and comment. The plans will include the following:

- Title sheet and general notes
- Demolition plans
- Grading and Drainage plans
- ADA Parking plans
- Landscape and Irrigation plans
- Site Improvement plans
- Water line extension plans (approximately 1300 feet)
- Lighting and Electrical plans

Subtask 3.1 Landscape & Irrigation Plans

QK will provide construction-level design for the landscape and irrigation for the new baseball field. The planting will be artificial turf infield and natural grass outfield to meet the requirements of MWEL0. The design will also include the play equipment, an exercise area, a basketball court, benches, and picnic tables. Details and specifications to build the park will also be included in the plan set.

Deliverables:

- One (1), 24"x36" PDF of the 95% complete PS&E documents for City review and comment
- One (1) meeting to review and discuss the 95% PS&E submittal and notes from meeting
- Revise PS&E documents based on comments from the City review
- One (1), 24"x36" set of the 100% complete final PS&E documents
- Submit one (1) original signed set of PS&E documents for reproduction by the City

Subtask 3.2 *Site Improvement Plans*

The improvement plans will describe the site plan elements within the project including play equipment, safety surfacing for play, baseball field improvements, benches, tables, exercise equipment, loop trail, and concrete type and colors. The design will include details and specifications as required to build the project.

QK will also prepare a dimension/horizontal control plan that will locate features within the project boundaries. This plan will also provide enough information for ADA compliance review.

Deliverables:

- One (1), 24"x36" PDF of the 95% complete PS&E documents for City review and comment
- One (1) meeting to review and discuss the 95% PS&E submittal
- Revise PS&E documents based on comments from the City review
- One (1), 24"x36" sets of the 100% complete final PS&E documents
- One (1) original signed set of PS&E documents for reproduction by the City

Subtask 3.3 *Civil Engineering Plans*

QK will provide grading and drainage plans for the new baseball field in accordance with the City standards, improvement plans for ADA parking, and services to the new restroom. For our design, we have assumed the following:

1. Ballfield: We have assumed the ballfield can be graded to surface drain out onto the existing park area, and that drainage facilities will not be required. Surface drainage should be graded to drain to the existing ditch if possible.
2. ADA Parking Stalls: We have assumed that the ADA parking stalls will be located in the existing DG parking area adjacent to the proposed site close to the ballfield and restroom to minimize path of travel to the facilities. We have allowed for approximately 4 ADA parking stalls.
3. Restroom: The City GIS shows an existing sewer line adjacent to the project site but the potable water lines are over 1,000 feet away. We have assumed that we can use the existing sewer to serve the restroom, but potable water will need to be extended to the site to serve the restroom and drinking fountain. QK has included the extension of approximately 1,300 feet of water line to the site for these facilities. However, we have not included any pump stations or booster pumps in our proposal. If needed, an additional proposal can be provided for pumps/booster pumps or additional water line extensions and analysis. QK will review existing available record drawings provided by and with the City to evaluate possible water connections to determine the most appropriate connection to serve the project.

Proposed improvements will be designed in accordance with applicable City standards and details, and industry standards. Grading and drainage plans and water line plans will be at 1"=40' scale, and ADA parking will be at 1"=20' scale minimum. Applicable details will be at a larger scale for clarity. Specifications will be prepared based on the City's approved Standard Specifications and Standard Details. It is assumed that the City will prepare the project manual for bidding and QK will provide appropriate project bid documents, project description, estimated number of working days for construction, technical specifications, and opinion of probable construction costs (OPCC).

Deliverables:

- One (1), 24"x36" PDF of the 95% complete PS&E documents for City review and comment
- Revise PS&E documents based on comments from the City review

- One (1), 24"x36" set of the 100% complete final PS&E documents
- One (1) original signed set of PS&E documents for reproduction by the City

Subtask 3.4 CASp Reviews

QK's Certified Access Specialist (CASp) will provide two (2) CASp reviews of the project civil plans for compliance with ADA requirements under the California Building Code (CBC). QK will coordinate reviews with the City and provide comments. QK will provide a letter from the CASp reviewer upon completion.

Deliverable:

- CASp Review Letter in PDF format

Subtask 3.5 Electrical & Lighting Plans

Under contract with QK, Rose Sing Eastham & Associates (RSE) will provide electrical design documents to support the construction of the new baseball field in accordance with the City standards. Two (2) site visits are included in this scope of work. This task includes:

- Electrical Site Design
- Sports Lighting for Baseball Field
- Lighting/Power Design at Restroom
- Energy Compliance Documents (Title 24)
- 95% and 100% Design Packages
- Calculations
- Working Drawings
- Specifications
- Submittal Review

Deliverables:

- Energy Compliance Documents (Title 24)
- One (1), 24"x36" PDF of the 95% complete PS&E documents for City review and comment
- Revise PS&E documents based on comments from the City review
- One (1), 24"x36" set of the 100% complete final PS&E documents
- One (1) original signed set of PS&E documents for reproduction by the City

TASK 4.0 BIDDING SUPPORT

QK will prepare the project specific bid documents, technical specifications and information described in Task 3.0 above for the City's preparation of the final project manual. The City will compile the final project manual utilizing the specification and related bid documents from QK. The City will include the most current edition of the City's "front end" documents including, but not limited to, Notice to Contractors, Information for Bidders, bidding documents, General Provisions, agreement, etc. for the City's use in advertising the project.

QK will assist the City during the bidding process by conducting a virtual pre-bid meeting, reviewing and responding to questions and RFI's submitted by contractors, and issuing addenda(s) as necessary. For estimating purposes, three (3) RFI's and one (1) Addenda are included in the scope.

Deliverables:

- One (1), 24"x36" PDF of the Bid Document Package

TASK 5.0 CONSTRUCTION SUPPORT (OPTIONAL SERVICE)

QK will attend the pre-construction meeting, as well as review and respond to contractor submittals. During construction, QK will coordinate with the contractor through progress photos, emails, and calls. Our proposal assumes that the City will be the lead on all Construction Management responsibilities. For estimating purposes, six (6) contractor submittals are included in the scope to be reviewed and one (1) final site visit.

SCHEDULE

QK will provide the above services in 100 business days. The schedule does not include time for City review.

Task	Description	Duration (Business Days)
1.0	Topographic Survey	10 days
2.0	Preliminary Design Plan/Conceptual Design (30% Completion)	10 days
3.0	Construction Plans, Specifications & Estimates (95% & 100% Completion)	45 days
4.0	Bidding Support	30 days
5.0	Construction Support (Optional Service)	5 days
Total Duration		100 days

FEE ESTIMATE

Task	Description	Fee Type	Fee Amount
1.0	Topographic Survey	Fixed Fee	\$16,100
2.0	Preliminary Design Plan/Conceptual Design (30% Completion)	Fixed Fee	\$23,200
3.0	Construction Plans, Specifications & Estimates (95% & 100% Completion)		
3.1	Landscape & Irrigation Plans	Fixed Fee	\$10,800
3.2	Site Improvement Plans	Fixed Fee	\$17,000
3.3	Civil Engineering Plans	Fixed Fee	\$59,000
3.4	CASp Reviews	Fixed Fee	\$3,400
3.5	Electrical & Lighting Plans	Fixed Fee	\$19,550
4.0	Bidding Support	Fixed Fee	\$5,600
Total Fee Tasks 1.0 through 4.0 Only			\$154,650
5.0	Construction Support (Optional Service)	T&M	\$12,500
Total Fee with Optional Task 5.0			\$167,150

Notes:

- Expenses for reproduction, mailing, mileage, etc. are billed separately per our attached Charge Rate Schedule.
- All time-and-materials fees will be invoiced monthly based on the level of effort in terms of hours relative to our Charge Rate Schedule.
- When a Task is set on a time-and-materials fee basis, it signifies that it is not possible to accurately predict the amount of work effort required typical of on-call type services. QK will work with the client to set expectations where applicable.
- Tasks billed by fixed fees will be invoiced monthly based on the percentage of work completed.
- Additional Services requested in writing and approved by the client will be provided on a time-and-materials basis.
- Fees for field surveying activities are subject to the payment of Prevailing Wages for Tulare County.

EXCLUSIONS AND ASSUMPTIONS

- QK assumes the City will provide as-built drawings of the existing park and parking area.
- Minimal meetings and coordination are planned. Any additional meetings and site visits can be held for \$400 per meeting.
- Topographic survey (Task 1.0) will need to be completed prior to starting Task 2.0.
- To complete the Topographic Survey task, State of California Prevailing Wage Rate will be used.
- Subsurface utilities are excluded except for water line extension as described in the above tasks.
- Utility research and coordination is excluded.

- QK assumes a geotechnical report will be provided by the City's geotechnical consultant.
- Site renderings and 3-D drawings are excluded.
- As-built drawings are excluded.
- The City will respond to comments within two (2) weeks of submittals.
- Engineering Support during Construction is not included but will be performed upon request from the City on a time and materials (T&M) basis.

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

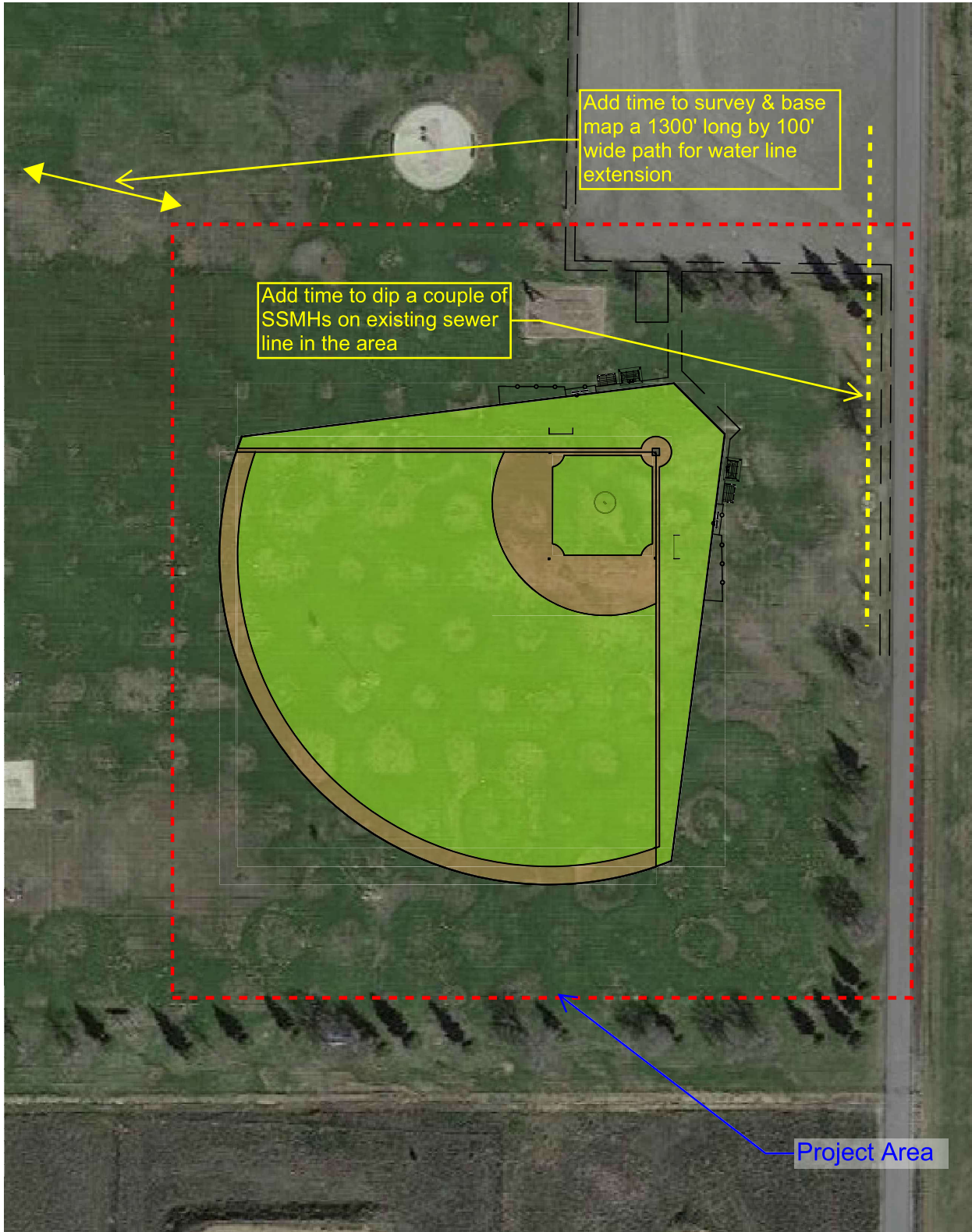
Fees are based on the median hourly pay rate for employees in each classification, plus indirect costs, overhead, and profit.

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

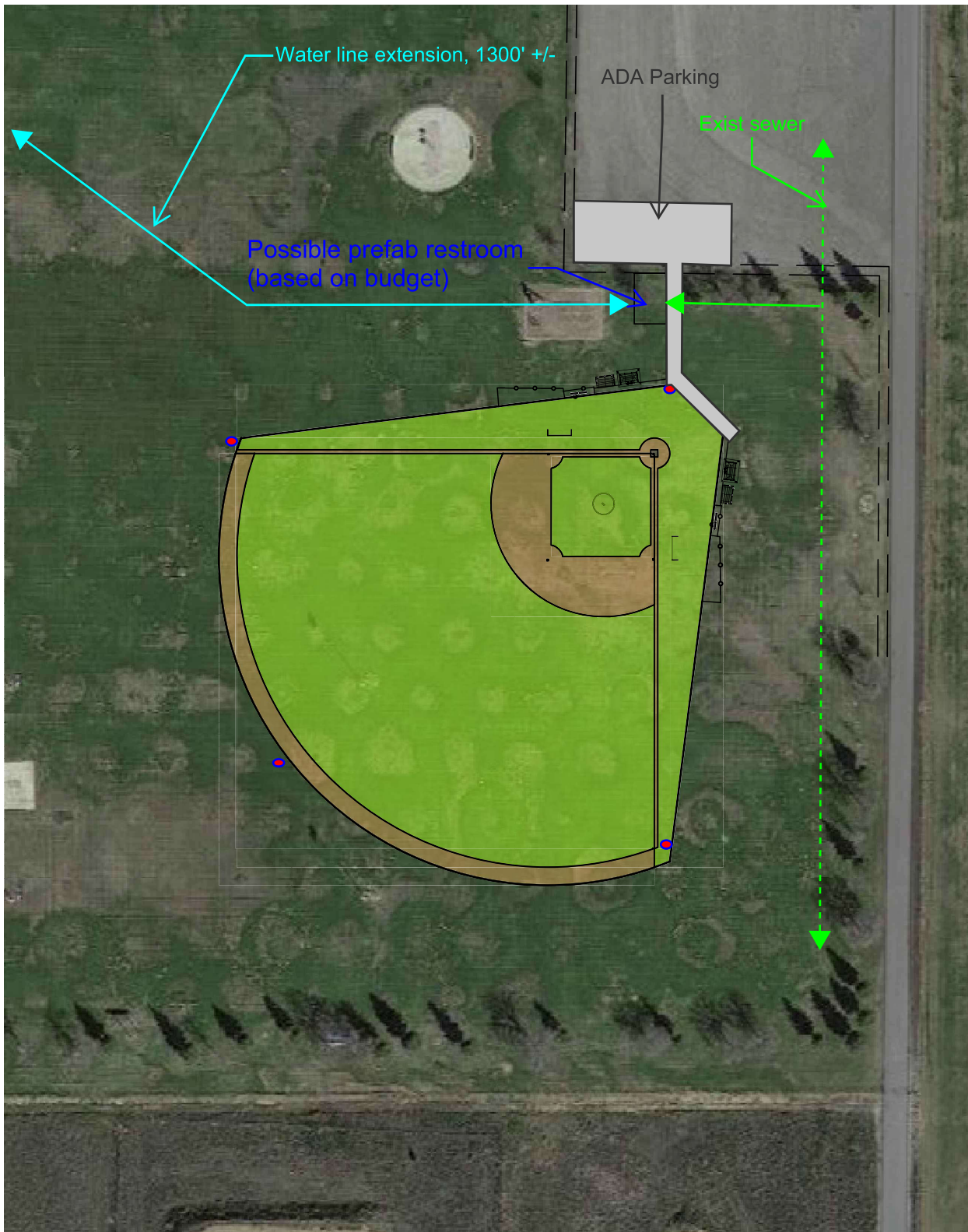
Rates are effective through December 31, 2023. If contract assignment extends beyond that date, a new rate schedule may be added to the contract. Expert Witness/ Litigation support will be billed as quoted.

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

12/20/2022

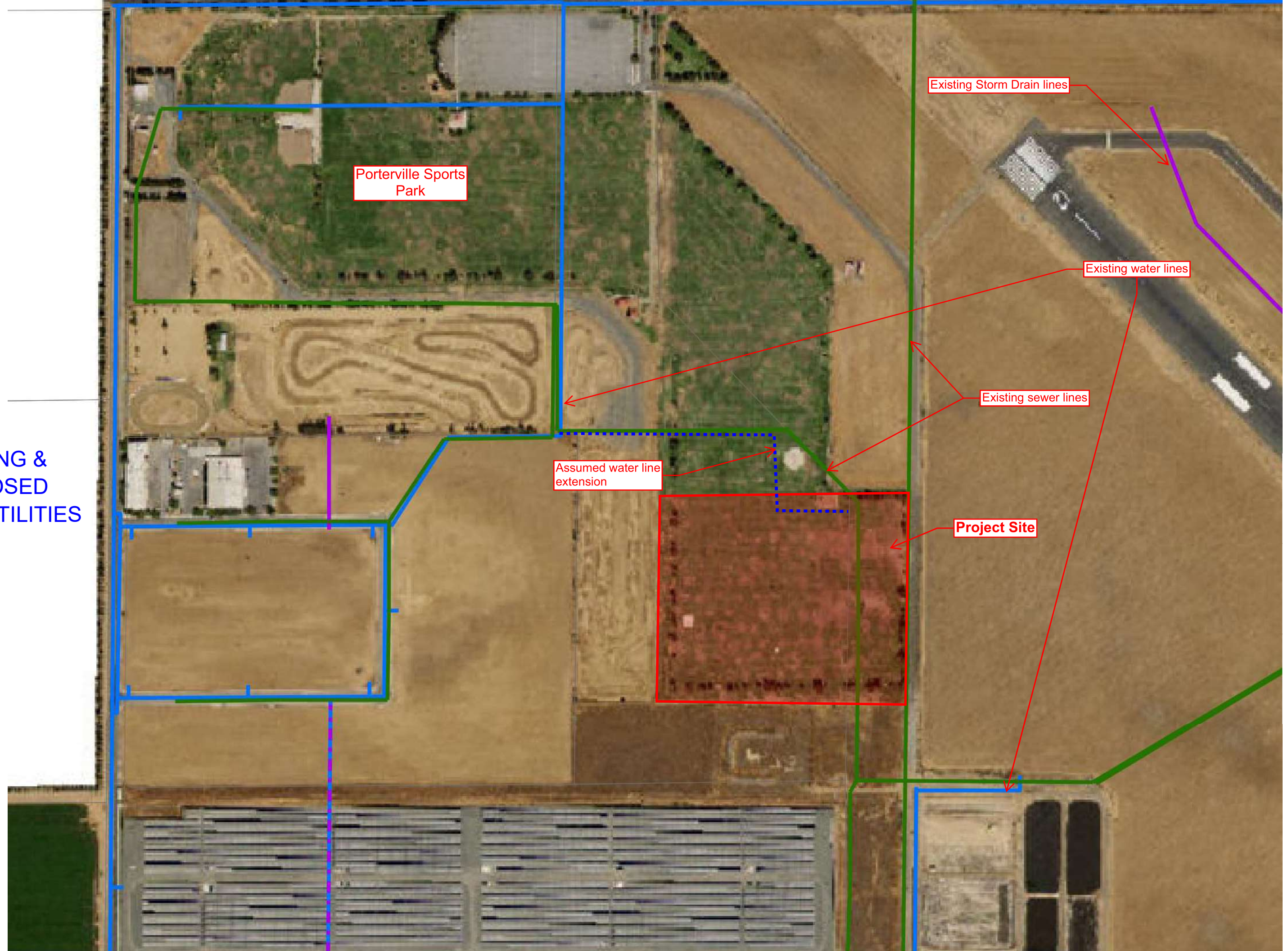


CONCEPTUAL BASEBALL FIELD LAYOUT
FOR THE PORTERVILLE SPORTS COMPLEX
2701 W Scranton Ave, Porterville, CA 93257



CONCEPTUAL BASEBALL FIELD LAYOUT
FOR THE PORTERVILLE SPORTS
COMPLEX

EXISTING &
PROPOSED
CITY UTILITIES



Porterville Sports
Park

Existing Storm Drain lines

Existing water lines

Existing sewer lines

Assumed water line
extension

Project Site

**Locator Map
Baseball Field**



— Baseball

1 in = 250 feet







CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Request for Renewal of Five-Year Professional Services Contract with Tesco Controls

SOURCE: Public Works

COMMENT: The City's Wastewater Treatment Facility (WWTF) is requesting approval to renew the 5-year Professional Services Contract with Tesco Controls for the maintenance, support, design, programming, and repair of its Supervisory Control and Data Acquisition (SCADA) system.

The SCADA system monitors and controls the entire wastewater treatment process by acquiring equipment and instrumentation data through remote telemetry units and sending the data to a central computer. The control computer performs graphic display representations, alarm reporting, report generation, data archiving, and database maintenance.

The WWTF has used the Tesco SCADA system since 1994. The system is proprietary to Tesco Controls and integrates Tesco protocol to communicate directly with programmable control units at remote sites.

Tesco Controls standard professional service rates vary depending on the needs of the WWTF. The maximum standard hourly professional service rate shall not exceed \$230 per hour and the maximum rate for emergency services shall not exceed \$285 per hour.

RECOMMENDATION: That the City Council:

1. Approve the request for the five-year renewal of the draft Professional Services Contract for the maintenance, support, design, programming, and repair of the WWTF SCADA system with Tesco Controls Incorporated; and
2. Authorize the Public Works Director to sign the draft Professional Services Contract with Tesco Controls.

ATTACHMENTS: 1. Draft Professional Services Contract

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

DATE: December 11, 2023

TO: City of Porterville **From:** TESCO Controls, "Consultant"
ATTN: Michael Knight **Contacts:** Customer Service
 Chris Abrams

**Subject: City of Porterville Wastewater Treatment Facility
Professional Services Contract
Scope of Services (EXHIBIT A)**

1. GENERAL

CONSULTANT shall furnish personnel to perform services necessary to conduct and complete all work detailed in "SCOPE OF WORK".

Materials furnished and work performed by CONSULTANT shall strictly comply with applicable terms, provisions, and conditions of the PROFESSIONAL SERVICES CONTRACT between the CONSULTANT and the CITY, which by reference is made a part of this CONTRACT.

All work under this CONTRACT shall be done in a professional manner, and shall be subject to inspection and acceptance of the CITY, whose decision with respect to all questions arising out of the performance of such work shall be binding upon the parties hereto.

All work and services by the CONSULTANT shall be performed on a Task Order Request issued by the CITY.

Copies of the original of all deliverables (drawings, reports, etc.), and any necessary notes generated at the CONSULTANT'S office shall be accessible by the CITY upon completion of work in the event back-up information is requested.

2. SCOPE OF WORK

Professional Services to be provided by the CONSULTANT under this CONTRACT are those set-forth as follows and as specifically directed by the CITY. Work and services are to be provided for the Wastewater Department.

The requirements of the CONSULTANT are described in the following itemized "Scope of Work", and shall be performed on a Task Order Request issued by the CITY.

- a) Review Meetings: Project review meetings will be arranged with all interested parties during initial stages of project design to ensure all details are outlined.
- b) Project Reviews: If requested by the CITY, the CONSULTANT will be available for input in the review of existing or future developer driven projects including electrical instrumentation and control drawings including P&ID's, as well as, construction plans and vendor submittals.
- c) Control System Engineering: The CONSULTANT will interface with City Engineers and Operations Staff in providing the design of PLC-based control panels located at the Wastewater Treatment Plant, and at remote field sites, including lift stations, potable water pump stations, manholes, reservoirs, and other sites related to the delivery of potable water and operation/maintenance of a sewer system.

- d) Additional Plans and Specifications: The CONSULTANT will provide technical specifications and drawings required for bid documents in addition to those provided by the CITY and equipment manufacturers. The following specifications are included but not limited to;
- Control computer hardware and software
 - Network hardware and software
 - Control Computer UPS system
 - Miscellaneous network hardware
- e) HMI Screen Development: The CONSULTANT shall develop a list of screens for the HMI and identify I/O tag references that will be represented in each screen (coordinated with P&ID's)
- f) Develop Operational Standards: The CONSULTANT shall interface with CITY Engineers and Operational Staff to develop and maintain operational standards including O&M's, electrical schematics, communications architecture, PLC programs and HMI configuration.
- g) Prebid Support: At the CITY'S request, the CONSULTANT shall be available to attend prebid meetings, assist in responding to bidders questions, and assist in preparing addenda's to bid documents for integrated portion of projects.
- h) On-Call Technical Services: CONSULTANT shall provide the CITY On-Call Technical Services. Service personnel shall be available within 24 hours of request to assist in diagnostics, repair, and maintaining operational systems.
- i) Control System Implementation: The CONSULTANT will provide a variety of services related to upgrades, development, implementation, and maintenance of the CITY'S Wastewater Treatment Plant SCADA system. The services may include but are not limited to;
- Programming, configuration, and maintenance of *Wonderware Intouch SCADA* system located at the CITY's Wastewater Treatment Plant.
 - Programming, configuration and maintenance of the CITY'S Wastewater Treatment Plant PLC-based control panels.
 - Installation, programming, and maintenance of the CITY'S Wastewater Treatment Plant SCADA computers and peripherals including laptop computers.
 - Maintenance and diagnostics to the CITY'S instrumentation and controls at remote field sites.
 - Calibration services for the CITY'S Wastewater Treatment Plant instrumentation.
 - Maintenance and diagnostics to the CITY'S Wastewater Treatment Plant communication equipment.
 - Training on maintenance and diagnostics of the CITY's Wastewater Treatment Plant SCADA system, PLC's, and Instrumentation.

CONSULTANT agrees to mobilize and perform assigned Task Directives as well as perform Work authorized and requested by the City of Porterville. CONSULTANT shall perform Tasks and authorized Work at rates indicated in the attached Professional Services Rate Sheet.

Terms and Conditions:

- Proposal firm for 30 days unless otherwise stated.
- Terms are net 45 days on *approved* credit accounts.
- Interest will be applied to all past due invoices.
- All merchandise sold is subject to lien laws.

City of Porterville
Company/Agency

Name, Title

Signature

Date

Tesco Controls
Company/Agency

Name, Title

Signature

Date

This rate sheet provides pricing for Professional Services offered by Tesco Controls (TESCO), including engineering, integration, programming, equipment service, troubleshooting, technical support, and onsite field service. These services are available as Professional Services for system assessments, consulting, surveys/studies, engineering, and integration of SCADA/HMI automation systems, process control systems, instrumentation & control systems, information systems, power systems, electrical power and control equipment, networking/telemetry systems, transportations solutions, and water/wastewater automation systems. These services also provide support services for TESCO products, integrated automation systems, process control solutions, electrical distribution equipment, MCCs, pump/motor controls, and instrumentation.

Standard Professional Service Rates for Time and Material Services

The following are TESCO's current professional service rates for the year **2023** including the escalation rate schedule for service type and category. The rates shown below include the direct hourly rate only and do not include expenses related to business travel, ME&I costs, per diem, or other miscellaneous fees. If needed, please consult with a TESCO representative for travel-loaded rates which are evaluated case-by-case upon request.

Professional Services	Standard Rate	Emergency Services
Factory Repairs / Manufacturing Services	\$150	\$175
Engineering Support	\$150	\$175
Drafter/Designer	\$165	\$205
Project Engineer	\$200	\$270
Project Manager	\$200	\$270
PLC Applications Programmer	\$200	\$270
SCADA Applications Programmer	\$200	\$270
Field Service Engineer/Specialist	\$200	\$270
Network/Communications Engineer	\$230	\$285
Systems Architect/Systems Engineering Group	\$230	\$285

Service Rate Categories

The following define the service types identified in the above listed rate categories...

Standard Service Rate – These rates apply to standard scope and task order activities that are under TESCO's scheduling and resource planning control. Standard rates are reserved for negotiated, planned, and well-defined/specified scopes of work where standard approach methodologies for executing work activities apply. These rates may also apply to specialized preventative maintenance services. The Standard Service Rate category applies to standard 'project/product delivery' work. Please consult with a TESCO representative for applicable service rate.

Emergency Service Rate – These rates apply to tasks, work activities, and/or services that are rendered where personnel and resources need to be expedited and do not follow TESCO’s standard methodology for scheduling work. Such services may impact other work activities or other project work, and may require rescheduling of resources to accommodate an expedited schedule. These rates may also apply to services that need to be rendered after normal business hours, whether provided as technical phone support or onsite technical support. Please note that any onsite technical support or activity rendered as an Emergency Service Rate may be subject to additional surcharges as follows:

Emergency Onsite Service Surcharges

Mobilization surcharges are applied to each emergency call/request that results in onsite activities being rendered under the Emergency Service Rate classification as defined above. These surcharges do not apply to phone support or remote VPN access support services. The following surcharges are applied to the mobilization of onsite services based on operating business hours.

After-Normal Business Hours, On-Call Onsite Support.....\$1,150 per incident

During Normal Business Hours, On-Call Onsite Support\$850 per incident

After-hours service requests are managed through TESCO’s 24/7 On-Call Support Program and facilitated through TESCO’s call center and dispatched to on-call personnel. Please note that the utilization of Emergency Service Rates does not constitute an Emergency On-Call & Technical Support Service Contract or guarantee a level-of-service/response-time unless otherwise stipulated by an active service contract. Please contact TESCO for an Extended Maintenance And System Support (EMASS), Technical Support, and/or On-Call Emergency Service Contract which is structured with service-level-agreements and customized on a system-by-system basis. Although Emergency Services are expedited and scheduled promptly, mobilization is subject to availability and resource rescheduling lead-times.

Please consult with a TESCO representative for applicable service rates.

Rendering Services

Upon contracting into an agreement with Tesco Controls (i.e. Retainer Agreement, Service Contract, or Professional Services/Consulting Agreement), the indicated rate schedule shall be valid for the effective contract period. Services rendered will be provided on a Time-and-Material accrual basis, which may be estimated in advance with a specified Task Order and/or defined scope of activity(ies). The hours accrued for rendered services will be recorded and only those incurred hours will be billed against the service/contract agreement in addition to the cost of expenses, travel, per diem, ME&I costs, fees, expenditures, and any preauthorized hardware/material provided. Please refer to the Time-and-Material service provisions as well as the terms and conditions noted herein.

Clarifications

Please note the following clarifications:

- The above listed rates and referenced disciplines are for technical and professional services only, which do not include any trade installation, trade work, construction, or trade labor.

Service Provisions

Please note the following service provisions:

- Normal working hours are Monday through Friday, 8:00 a.m. to 5:00 p.m. Overtime at one and one-half the applicable rate is billed for services outside the normal working hours, excluding weekends and holidays.
- Saturday working hours are billed at two times the applicable rates.
- Sunday working hours are billed at three times the applicable rates.
- Holiday working hours are billed at three times the applicable rates.
- The above rates are billed at a minimum of two-hours and in half-hour increments per activity/mobilization.
- Portal-to-portal travel time is billed at the indicated hourly rate, plus \$0.85 per mile.
- Hardware components are billed at cost plus 20% overhead/procurement expenditures and 15% margin (delivery is subject to manufacturer availability). Taxes and fees will be applied where appropriate.
- Actual travel expenses (airfare, ground transportation, lodging, meals, etc.) are billed at cost plus 20% overhead and administration. Taxes and fees will be applied where appropriate.
- Authorized third party services will be billed separately at cost plus 20% overhead/subcontract administration and 15% margin (delivery is subject to service provider availability). Taxes and fees will be applied where appropriate.

Terms and Conditions

- TESCO carries liability insurance, with full worker's compensation coverage.
- Terms are net 45 days on approved credit accounts.
- Interest will be applied to all past due invoices.
- Site improvements and merchandise sold may be subject to lien laws.



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Consideration of Memorandum of Understanding between Porterville Developmental Center (PDC) and Porterville Fire Department Regarding Fire Investigations and Emergency Response Assistance

SOURCE: Fire

COMMENT: The Office of Protective Service (OPS) [California State Department of Developmental Services] at the Porterville Developmental Center (PDC) and the Porterville Fire Department (PFD) have identified the need to enter into a Memorandum Of Understanding (MOU) as it relates to fire investigations and emergency responses to PDC. It is the mutual desire of both the PFD and OPS to provide the highest level of service possible to all the residents, employees, and citizens who reside, work, or visit within the PDC, as well as provide for the continuity of fire prevention and fire suppression. PFD has agreed to assist investigating arson-related crimes which occur on PDC State property.

Due to the nuance of fire investigations, PDC does not have staff that is trained and/or experience to the same level as Porterville Fire Investigators in determining a fire's origin and cause. PFD investigators will assist OPS staff in investigating any possible arson-related fires on PDC property. The draft MOU outlines the duties and responsibilities of OPS and PFD personnel when responding and working at the facility.

PDC lies within the Porterville Fire Department jurisdiction, and the draft MOU also reinforces the Fire Department's commitment to responding to "All-Hazard" emergencies at the facility that require PFD assistance.

RECOMMENDATION: That the City Council approve the draft Memorandum of Understanding between Porterville Developmental Center and Porterville Fire Department.

ATTACHMENTS: 1. Draft Memorandum of Understanding

Appropriated/Funded:

Review By:

Department Director:
Bryan Cogburn, Fire Chief

Final Approver: John Lollis, City Manager

Memorandum

Date: November 21st, 2023

To: Porterville Fire Department
Attention: Fire Chief Bryan Cogburn

From: **DEPARTMENT OF DEVELOPMENTAL SERVICES**
Office of Protective Service, Porterville Developmental Center

File No: PDC.1110.Exec./23-128

Subject: MEMORANDUM OF UNDERSTANDING (MOU)

This MOU is made this 21st day of November 2023 between the Office of Protective Service (OPS) [California State Department of Developmental Services] at the Porterville Developmental Center (PDC), hereinafter referred to as OPS, and the Porterville Fire Department (PFD) [City of Porterville], hereinafter referred to as PFD.

1. As it is the mutual desire of both the PFD and OPS to provide the highest level of service possible to all the residents, employees, and citizens who reside, work, or visit within the PDC, as well as provide for the continuity of fire prevention and fire suppression, PFD has agreed to assist investigating arson-related crimes which occur on PDC state property.
2. All incidents of suspected arson shall be reported to the State Fire Marshal (SFM) by OPS. PFD arson investigators may assist in arson investigations occurring at PDC. SFM will assume lead arson investigations, and PFD arson investigators will provide support and resources to SFM's investigations. The OPS shall use the completed arson reports to document all fire-related crimes, miscellaneous fire-related incidents, or services provided on PDC state property consistent with OPS reporting requirements. The State Fire Marshal's Office may coordinate with PFD and OPS in any way to conduct suspected arson investigations.
3. SFM, PFD and OPS will work conjunctively to fully investigate arson activity, file arson-related crime reports with the Tulare County District Attorney's Office, apprehend, and prosecute arsonists in accordance with elements identified within California Penal Code Section(s) 451, 452 and all pertinent subsections.
4. OPS will work with SFM and PFD to determine the commitment status, physical and cognitive abilities, and medical status of any PDC resident(s) identified as a potential arson suspect(s). OPS will immediately communicate with SFM and PFD any potential concerns related to a resident who may be arrested for an arson-related criminal offense (incompetent to stand trial, severe mental disorder, inability to form intent, etc.) If warranted, SFM and PFD arson investigators have

Building Partnerships, Supporting Choices

full authority to affect an arrest at PDC. OPS, SFM, and PFD may work collaboratively in relation to logistics involved with booking and transporting a person (resident, visitor, employee) identified as a suspect in an arson.

5. Beginning upon signing and until further notice, PFD will respond to all calls at PDC involving fires, emergent situations, or other catastrophic events that require the assistance of PFD. These incidents may involve firefighting operations, rescue, emergency medical care, and other emergency services. OPS personnel will assist in escorting PFD personnel to the west sally port to enter the Secured Treatment Program (STP) if PFD entry is required.
6. No firearms, including department-issued firearms, will be authorized into the STP without authorization from the OPS Commander. All firearms shall be secured in the gun lockers located within the west sally port kiosk before entering the STP. All persons and vehicles entering the STP, including first responders and their department-assigned vehicles, are required to be thoroughly searched for weapons or contraband before entering and exiting the STP.
7. When a fire-related call and/or basic life-saving call is received from PDC, both PFD and OPS shall respond to the incident. OPS involvement will consist of assisting PFD in assessing the situation, stopping criminal activity, controlling the scene, and providing overall support and security. PFD will assume primary fire suppression and assist SFM and OPS with arson investigation responsibilities.
8. When a call is received where there is an immediate emergent threat to the safety of individuals at PDC and outside of the scope of expertise of OPS employees, the shift supervisor should contact and request the PFD respond to the incident.
9. OPS shall retain primary law enforcement responsibilities at PDC concerning crime prevention, emergency preparedness, emergency action planning, facility surveys, workplace violence, and other associated employee safety programs. Additionally, OPS may contact PFD to assist in emergency preparedness training, drills, and planning.
10. This MOU is personal to the parties and shall not be assigned. Any attempt to assign this MOU by either party shall automatically terminate it.
11. This MOU constitutes the entire agreement between the parties relating to this MOU. Any prior agreements, promises, negotiations, or representations not expressly set forth in this MOU are of no force and effect. Any amendments to this MOU shall be of no force and effect unless it is in writing and signed by all parties named above.

12. To the fullest extent permitted by law, OPS shall indemnify, defend, and hold harmless PFD, its officers, employees, agents and volunteers ("City indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of OPS's performance of its obligations under this agreement or out of the operations conducted by OPS, including PFD's active or passive negligence, EXCEPT for such loss or damage arising from the sole negligence or willful misconduct of PFD. In the event the City indemnitees are made party to any action, lawsuit, or other adversarial proceeding arising from OPS's operations or performance of this agreement, OPS shall provide a defense to the City indemnitees, or at PFD's option, reimburse the City indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims. To the fullest extent permitted by law, PFD shall indemnify, defend, and hold harmless OPS, its officers, employees, agents and volunteers ("OPS indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of PFD's performance of its obligations under this agreement or out of the operations conducted by PFD, including OPS's active or passive negligence, EXCEPT for such loss or damage arising from the sole negligence or willful misconduct of OPS. In the event the OPS indemnitees are made party to any action, lawsuit, or other adversarial proceeding arising from PFD's operations or performance of this agreement, PFD shall provide a defense to the OPS indemnitees, or at OPS's option, reimburse the OPS indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims.
13. Each party and its legal counsel have had the opportunity to participate fully in the review and revision of this MOU. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this MOU. The language in this MOU shall be interpreted as to its fair meaning and not strictly for or against any party. This MOU is entered into and to be performed in Tulare County, California.
14. Nothing in the provisions of this MOU is intended to create duties or obligations to or rights in third parties that are not parties to this MOU or to affect the legal liability of either party to the MOU by imposing any standard of care.
15. It is expressly understood that the parties are entering into this MOU and will provide all services independent contractors and not as employees of the other party. The parties specifically warrant that they will have in full force and effect, valid insurance, with sufficient coverage levels for general liability, auto liability, and workers compensation with regard to their own respective employees undertaking responsibilities in accord with this MOU.
16. The term of this MOU commences on the date of its execution by both parties. This MOU may be modified at any time upon the mutual MOU of OPS and PFD. Any Agency shall have the right

MOU

Page 2

November 21st, 2023

to terminate their participation under this MOU by providing thirty (30) days advanced written notice.

P.A. BISACCA, SSI-II

Commander

Office of Protective Service

B. COGBURN, Fire Chief

Porterville Fire Department



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Consideration of Amendment to Reclamation Area Lease

SOURCE: Public Works

COMMENT: On November 1, 2019, the City entered into a Reclamation Area Lease Agreement with Rick Perigo Roadsiding which is set to expire on October 31, 2024. Amendment No. 4 to the Agreement was signed on March 16, 2022. The Amendment reduced the total gross acres of the lease agreement to 617.15 acres of farmland located in the wastewater treatment facility reclamation area. The lease amount is \$165 per acre for an annual sum of \$101,829.75.

Under the existing Reclamation Area Lease Agreement, the annual rental payment shall be reduced upon construction of a recycled water treatment facility or facilities that permanently reduces secondary effluent flows to the leased properties. Following the commencement of the .308 MGD Tertiary Water System Facility (TWSF), the gross irrigated lands will be reduced by the operation of the TWSF. The Lessee shall be compensated for the reduction of effluent available to irrigate the gross irrigated acres.

Amendment No. 5 will take effect upon the commencement of the TWSF. The calculated compensation for the reduction of effluent available to irrigate the gross irrigated acres is 43.79 acres, which reduces the total gross acres for the annual lease payment to 573.36 acres. The lease amount is \$165 per acre for a new annual sum of \$94,604.40.

RECOMMENDATION: That the City Council approve Amendment No. 5 of the 2019 Reclamation Area Lease Agreement with Rick Perigo Roadsiding.

ATTACHMENTS:

1. Draft Amendment No. 5
2. Reclamation Area Lease Agreement

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Public Works Director

Final Approver: John Lollis, City Manager

AMENDMENT NO. 5

To the Agreement between the
City of Porterville and Rick Perigo Roadsiding effective November 21, 2023

This Amendment No. 5 is made to the Reclamation Area Lease Agreement dated November 21, 2019, between the City and Rick Perigo Roadsiding and in accordance with Section 1.7 of the Agreement, which allows written amendment to the original Agreement.

The following sections are changed to read as follows:

Section:

5.1.4. Upon the commencement of the .308 MGD tertiary water treatment facility (TWSF) the gross irrigated lands will be reduced by the operation of the TWSF. The Lessee shall be compensated for the reduction of effluent available to irrigate the gross irrigated acres by the following formula:

$$\frac{\text{Most recent 2 year average effluent flow (MGD)}}{\text{Gross Irrigated acres (Section 5.1)}} = \frac{\text{Annual Recycled Flow to TWSF (MGD)}}{X}$$

X = Reduction of acres

5.1.4.1 The calculated reduction of acres (Section 5.1.4) will be deducted from the gross irrigated acres (Section 5.1) and the new annual rental payment will be calculated as follows: Total gross acres x \$165 per acre.

5.1.4.2 An amendment to the Agreement will be required for any addition or reduction to the total gross acreage.

5.1.4.3 Upon future construction of a recycled water facility or facilities, the credit and new annual payment will be calculated using the formula in Section 5.1.4.

All other terms and conditions of the Agreement and Amendment Nos. 1, 2, 3 and 4, not inconsistent with this Amendment, shall remain in full force and effect.

City of Porterville

By _____
Martha A. Flores, Mayor

Date: _____

Lessee

By _____
Rick Perigo Roadsiding, Owner

Date: _____

**City of Porterville Reclamation Area Lease Agreement Extension
Porterville, CA**

(City of Porterville – Perigo Roadsiding, Lessee)

THIS AGREEMENT, is effective in Porterville, California, on November 1, 2019, (hereinafter “Effective Date”) by and between the City OF PORTERVILLE, (hereinafter “Lessor”), and Perigo Roadsiding, (hereinafter “Lessee”).

WITNESSETH:

WHEREAS:

1. THE CITY Reclamation Area Lease Agreement and ensuing amendments thereto expire October 31, 2024.
2. THE CITY Reclamation Area Lease Agreement and ensuing amendments thereto allowed parties to farm Reclamation Area property for the specific purpose of dispersing effluent from THE CITY wastewater operations to irrigate crops not used for human consumption; and
3. Lessee has acknowledged it is capable of such farming and operational management of the Reclamation Area, and dispersion of effluent on the City land; or contracted land.
4. THE CITY desires to contract with Lessee for these purposes.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1. Premises

- 1.1. The Premises is defined as the area leased to Lessee for the purposes of this Agreement and further described in Provisions hereinbelow.
- 1.2. The Premises is described as “The Reclamation Area” on Exhibit A and includes:
 - 1.2.1.Parcel 1: APN 302-080-011 Airport
 - 1.2.2.Parcel 2: APN 302-110-059 City Lease Purchase East
 - 1.2.3.Parcel 3: APN 302-100-015 City Lease Purchase West
 - 1.2.4.Parcel 4: APN 302-130-028 City
 - 1.2.5.Parcel 5: APN 302-130-008 Underhill West
 - 1.2.6.Parcel 6: APN 302-130-007 Underhill East
 - 1.2.7.Parcel 7: APN 302-130-019 Hunsaker West
 - 1.2.8.Parcel 8: APN 302-130-021 Hunsaker East
- 1.3. For operational purposes, Exhibit B divides the Premises into portions identified as Field Numbers 5N; 5S; 7; 8; 9; 10; 27; 28; 29; 30; 31; 32; 33; 34; 35; 46; 160A, B, C, & D;
- 1.4. Exhibit A and B are attached hereto and by this reference incorporated herein.
- 1.5. The City makes no covenants or warranties regarding the condition of the Premises, the soils thereon, the effluent, or the improvements and appurtenances thereto.
- 1.6. Lessee has inspected the Premises and improvements thereon, knows the extent and condition thereof, and accepts the same in their present condition, including all defects, latent and/or patent.
- 1.7. The City shall have the right to reduce or expand the acreage of the Premises and remove or add to this area for Lessee’s use.

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- 1.7.1. At least 90 days prior to reduction or enlargement of the lease area, the City shall provide Lessee written notice stating:
 - 1.7.1.1. The effective date of the reduced or enlarged area.
 - 1.7.1.2. A description and drawing that identifies the reduced or enlarged area and remaining lease area.
 - 1.7.1.3. A revised rental rate to begin the effective date.
 - 1.7.1.4. A request to meet with Lessee to provide additional information.
- 1.7.2. Lessee shall have 60 days from the date of the City's written notice to terminate this Agreement by providing written notice to the City and if so terminated:
 - 1.7.2.1. Lessee's date of termination shall be the same as the effective date.
 - 1.7.2.2. Lessee shall have the right to harvest existing crops within the Premises through the 90 days to the effective date of the notice to terminate.
 - 1.7.2.3. Lessee shall be required to pay the rent due within the 90 day period in the manner described in Paragraph 5 herein below but said payment shall be pro-rated for the number of days after that last rent payment (either July 1st or January 1st) to the effective date of termination.
 - 1.7.2.4. Upon such early termination, the City shall pay to Lessee, or credit Lessee's last rent payment, the market value of any improvements made or put upon said premises by the Lessee in accordance with Section 68 of the City Charter.

2. Off-Premises and Easement Areas

- 2.1. Lessor shall permit Lessee the non-exclusive right to use existing roads on Section lines and quarter Section lines on the Premises.
 - 2.1.1. Lessor and Lessor's easement holders and invitees may also use said roads for vehicular traffic.
 - 2.1.2. Lessee shall not remove said roads and shall keep said roads open and maintained to allow two-wheel drive travel.
- 2.2. Lessee is aware that various easements cross the Premises and that from time to time easement holders have the right to enter the Premises, conduct their operations, and may temporarily hinder Lessee's operations.
- 2.3. Lessee has inspected the farm connection road, dirt roads, easement areas, and other off-Premises areas that Lessee may use or benefit from, knows the extent and condition thereof, and accepts same in their present condition, including all defects, latent and /or patent.

3. Purpose

- 3.1 The purpose of this Agreement is for Lessee to reuse and disperse the wastewater from the City exclusively on the Premises in order to irrigate and farm the Premises.
 - 3.1.1 The City effluent is controlled by the California Region Water Quality Control Board (CRWQCB) Waste Discharge Requirements (R5-2008-0034).
 - 3.1.2 Lessee shall not farm or grow crops to be used for human consumption.
 - 3.1.3 No grazing of cows shall be permitted on the Premises.
- 3.2 Lessee shall not use the Premises or effluent for any other purposes, except as provided elsewhere in this Agreement.

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4. Term

- 4.1. The term hereof shall commence on November 1, 2019, or as soon as the prior lessee has been vacated from the Premises, and terminate on October 31, 2024.
 - 4.1.1. Upon mutual agreement between Lessee and Lessor, Reclamation Lease Agreement may be extended for five (5) years.
- 4.2. Early termination of the Agreement may be instituted by:
 - 4.2.1. Lessee, by providing to the City written notice at least 90 days prior to the new date of termination.
 - 4.2.1.1. In such case, Lessee shall pay to the City rent for the remaining 90 days.
 - 4.2.1.2. Lessee shall continue to farm and disperse effluent and abide by the terms as stated in this Agreement through the noticed date of termination.
 - 4.2.2. The City, by providing to Lessee written notice 30 days prior to the new date of termination if:
 - 4.2.2.1. Lessee has demonstrated reckless or dangerous operations on the Premises and has not corrected those operations immediately upon written notice by the City, or.
 - 4.2.2.2. Lessee assigns or sublets any portion of the Premises without written permission by the City.
 - 4.2.3. The City, by providing to Lessee written notice at least 90 days prior to the new date of termination.
 - 4.2.3.1. Upon such early termination, the City shall pay to Lessee, or credit Lessee's last rent payment, the market value of any improvements made or put upon said premises by the Lessee in accordance with Section 68 of the City Charter.
 - 4.2.3.2. After the new termination date described in the 90-day notice, Lessee understands that the City will not be required to recompense Lessee for any losses of income or damages incurred by Lessee in such instance.
 - 4.2.4. Mutual written agreement of both parties.

5. Rent and Payment Requirements

- 5.1. Beginning December 1, 2019, Lessee shall pay to the City, in lawful money of the United States, an annual rental in the amount of \$112,596 for 682.4 acres based on \$165.00 per acre for Lessee's use of the Premises and effluent water.
 - 5.1.1. At least fifty percent (50%) of the annual rental amount shall be paid prior to July 31 of each year. This includes a full fifty percent (50%) of the annual rental amount on July 31 of the final year of the agreement.
 - 5.1.2. The remainder of the annual rent, to equal 100%, shall be paid prior to December 31 of each year, except the final year of the agreement when the agreement will expire on October 31.
 - 5.1.3. Payments later than 7/31 and 12/31, respectively, shall be assessed a late fee of one half of one percent (.005 time 50% of the annual rent) per day through the day the required payment is made.
 - 5.1.4. Upon mutual agreement by both parties, payment based on acreage calculations shall be reduced upon the construction of a recycled water treatment facility or facilities that permanently reduce secondary effluent flows to the leased properties. The annual rental payment shall be reduced by calculating the yearly average secondary effluent flow over the most recent two year period and recording the actual yearly flow to recycled water facility (extraction from secondary effluent system). The gross irrigated lands (682.4 acres), in theory, will be reduced upon

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construction of a recycled water facility or facilities. Upon completion of such a facility or facilities, the annual rental payment shall be reduced proportionally to the average annual flow over the most recent to year period and the actual recorded annual flow to such a facility as defined by the following formula:

$$\frac{\text{Most recent 2 year total of secondary effluent flow/2}}{682.4 \text{ acres}} = \frac{\text{Actual Annual Recorded Recycled Water Flow}}{X}$$

X= Reduction of Annual Lease area (acres)

- 5.2. Rent shall be paid by check made out to City of Porterville and mailed or delivered in person to the City of Porterville, 291 Main Street, Porterville, CA 93257.
 - 5.3. As security for this Lease, Lessee must provide an Irrevocable Letter of Credit, equal to 6 months' rent, as shown on Exhibit C which is attached hereto and by this reference incorporated.
 - 5.4. The cost of work or improvements done by Lessee outside the scope of Paragraph 8, may only be deducted from the next scheduled payment if:
 - 5.4.1. The work is performed at the request of the City;
 - 5.4.2. The City has given prior written approval to a written estimate provided by Lessee for the not to exceed cost of work or improvements; and
 - 5.4.3. Upon completion of the work or improvements, Lessee provides the City with an invoice of the final actual cost amounts, including units and cost per unit as appropriate.
 - 5.4.4. Such work requested by the City may be subject to prevailing wages.
 - 5.4.5. City to provide materials for projects that are to be considered improvements to the properties subject to the lease, unless mutually agreed otherwise.
6. Operations
- 6.1. Lessee shall conduct all operations according to good farm husbandry practices.
 - 6.2. Lessee shall manage operations in compliance with all applicable federal, state, and county laws, regulations and ordinances, including local water board discharge requirements and the local air district rules.
 - 6.3. Lessee shall conduct operations in a business-like manner and not harm or degrade the City and its operations.
 - 6.4. Lessee shall not do or permit any act or thing that constitutes a nuisance by the City either on or off the Premises.
 - 6.4.1. Lessee shall take immediate action to correct any such nuisance discovered by Lessee or through notification by the City within three (3) days of discovery or notification.
 - 6.4.2. Lessee shall promptly perform the correction efforts in a manner to prevent its reoccurrence.
 - 6.5. Each year, upon notification by the City, Lessee agrees to meet with representatives of the City to discuss the operation of the farm and plans for the next calendar year and submit for approval a rolling 5-year cropping plan.
 - 6.6. By the 10th of the applicable month, the Lessee shall provide monthly, quarterly, and annual (due January 10th) reports for each field on nitrogen applications and removal, water uses and crop data as required for the Waste Discharge Requirements (WDR) reporting.

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- 6.7. In addition to the terms and provisions provided herein, and unless otherwise stated in this Lease, Lessee shall be required to perform all obligations as set forth in the "Reclamation Area Lease – Request for Proposal", which is attached hereto as Exhibit D and fully incorporated herein by reference.

7. Improvements

- 7.1. Lessor does not warrant or guarantee the safety, condition, or effectiveness of the improvements on the Premises.
- 7.2. Existing improvements owned by the City and available for use by the Lessee include:
 - 7.2.1. Pressurized pipeline and appurtenances
 - 7.2.2. Percolation Ponds and Fencing
 - 7.2.3. Storage Yard
 - 7.2.4. One-third (1/3) interest in an Irrigation Well (5N) with a 75 horsepower motor. Sun Pacific Farming owns a two-thirds (2/3) interest in irrigation well (5N).
 - 7.2.5. One (1) extraction well (Hunsaker) with a 150 horsepower motor.
 - 7.2.6. One (1) Irrigation Wells without a pump and not connected to an irrigation system (Field 7)
- 7.3. Lessee with prior written approval from the City will meet with the lessor, to discuss the cost and expense, before altering, adding to, and replacing, removing, or demolishing any part of the improvement for or in conjunction with efficient and prudent farming operations and dispersal of effluent
 - 7.3.1. Alterations include changes to the physical land such as removing, adding; or significantly changing ditches, embankments, ponds, and reservoirs as well as drilling and major trenching.
 - 7.3.2. Additions include construction or installation of new buildings, structures, checks, weirs, levees, culverts, roads, head gates, wells, and fences.
 - 7.3.3. Repairs and replacements include those for fences and above and underground pipes and valves and pumps.
 - 7.3.4. Demolishment includes partial or entire destruction and/or removal of any improvements such as fences, posts, structures, etc. and Lessee understands that Lessee shall be solely responsible to properly remove and dispose of such demolished material
- 7.4. Such alterations, additions, replacements, removals, or demolishment described or implied in Paragraph 7.3 hereinabove shall only occur after written approval is provided by the City for the specific action to be taken and Lessee has received all other approvals by any governing or regulatory body that exercise control for such changes.

8. Upkeep and Property Management

- 8.1. Lessee shall be responsible for the general upkeep and maintenance of the Premises. Failure to maintain premises resulting in operational failure or damage to the premises will be corrected at the sole expense of the lessee and will perform all of its responsibilities set forth herein at its own expense unless otherwise noted.
- 8.2. STANDING WATER: Lessee shall grade, level, drain and otherwise maintain the Premises in a manner to level any low areas in order to prevent standing and stagnating water on the Premises.
- 8.3. STORM WATER: Lessee shall properly manage and/or dispose of any storm water entering the Premise.

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- 8.4. TRASH: Lessee shall be responsible for regular and prudent trash, debris, weed, and brush removal from the Premises.
- 8.5. ROADS: Lessee shall maintain and keep all roads on the Premises, and the farm connection road stated in Paragraph 2 herein above, in good condition and repair and at proper elevation and compaction to limit erosion and provide reasonable two-wheel drive travel.
- 8.6. EARTHEN IMPROVEMENTS: Lessee shall maintain and keep in good condition and repair all ditches, sumps, ponds reservoirs, and embankments in order to keep the ditches, sumps, ponds, reservoirs, and embankments watertight. Failure to maintain premises resulting in operational failure or damage to the premises will be corrected at the sole expense of the lessee. If City forces are used to assist in correcting operational failure or damage (Effluent Spill) the City will be reimbursed by Lessee for all costs incurred to mitigate damages.
 - 8.6.1. Lessee must keep effluent discharged within the designated disposal area at all times to comply with Standard Provisions A.12 of WDR R-5-2008-0034.
 - 8.6.2. Lessee must grade the reclamation area to prevent runoff onto adjacent properties not owned or controlled by the City to comply with Recycling Specifications D.4 of the WDR R-5-2008-0034.
 - 8.6.3. Lessee must properly operate and maintain facilities and systems of treatment and control (irrigation valves) used to achieve compliance with the conditions of Provision H.5 of the WDR R-5-2008-0034.
- 8.7. WEEDS: Lessee shall remove weeds, trash, and debris from and near all ditches, sumps, ponds, reservoirs and embankments, roads, wells, pump stations, and irrigation structures.
- 8.8. EFFLUENT WATER DISTRIBUTION SYSTEM: Lessee shall at his expense, maintain and keep in good condition and repair existing aboveground and underground water distribution system, which includes pipelines, risers, and valves required for proper irrigation (See Exhibit C for definition of effluent distribution system. All other pipelines not shown on the exhibit shall be considered secondary irrigation distribution systems).
 - 8.8.1. Prior to performing repairs, the lessee must have prior written approval from the City. Any repairs to distribution system must comply with current city codes.
 - 8.8.2. Repairs exceeding \$5,000 to the effluent distribution system, not including minor repairs to the irrigation system will be at Lessor expense.
 - 8.8.3. The City may ask Lessee to perform major repairs on distribution and/or irrigation pipeline and compensate Lessee for work performed.
- 8.9. PUMP/MOTORS: At the discretion of Lessor, Lessee shall at his expense, maintain, repair, replace, or add pumps/motors used at the irrigation wells, tailwater sumps and elsewhere on the Premises after first receiving specific written approval from the City.
 - 8.9.1. Prior to repair, replacement, or adding of pumps/motors lessee must have prior written approval from the City. Any repairs to pumping system must comply with current city codes.
- 8.10. RODENTS: Lessee shall make frequent and reasonable efforts to minimize ground squirrel population on the Premises
- 8.11. FENCES AND GATES:
 - 8.11.1. Lessee shall promptly maintain and repair all fences and gates on or that borders the Premises and shall hold the City free and harmless from any liability or loss sustained by Lessee due to trespassers on the Premises.
 - 8.11.2. The City shall replace gates and any sections of fence it deems necessary.
- 8.12. NON-CROP AREAS :

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- 8.12.1. Lessee shall remove weeds, trash, and debris from and near Percolation Ponds.
- 8.12.2. Lessee shall maintain and keep in good condition and repair embankments in order to keep the sumps, ponds, and ditches watertight.
- 8.12.3. Lessee shall conduct farming and non-crop activities to comply with all air pollution control standards and to minimize dust.

9. Hazardous Waste and Chemicals

- 9.1. Lessee shall not use the Premises to dump gas, oils, dairy waste, chemicals or other hazardous waste and shall contact the City immediately if such a release occurs or is found.
 - 9.1.1. Any such release shall be the sole responsibility of Lessee.
 - 9.1.2. Lessee shall be responsible to clean up and cure such release in a timely manner.
- 9.2. Lessee shall only use chemicals that are reasonable and typically used for farming operations, weed control, and pest control.

10. Electricity

- 10.1 Lessor shall be responsible to pay utility costs for an extraction well (Hunsaker) from April – September. Lessee shall reimburse the Lessor for irrigation utility costs if extraction well (Hunsaker) is used from October – March.
- 10.2 Lessee shall be responsible for registering shared irrigation well (5N) for service, under Lessee's name, with Southern California Edison. Lessee is responsible for paying its share of utility costs. Lessee is responsible for contacting Sun Pacific Farming and forwarding utility costs for payment if irrigation well is used by Sun Pacific Farming.
- 10.3 Lessee shall be responsible for registering two (2) tailwater sump pumps on fields 160A and 35, under Lessee's name with Southern California Edison and paying all utility costs.

11. Water

- 11.1 Lessee shall control the flow, reuse, and dispersal of all effluent supplied by the City year round as surface water onto the Premises in a prudent and efficient manner to farm the Premises unless provided specific allowance by the City in writing to disperse a portion of the wastewater elsewhere.
 - 11.1.1. Lessee understands that the City production of effluent may vary significantly but may produce peak flows up to 5 million gallons of effluent per day.
 - 11.1.2. Notwithstanding Paragraph 11.1.1 hereinabove and Paragraph 5.1.4, Lessor expects the typical effluent produced on the Effective Date to be approximately 4.4 million gallons per day, based on the average daily flows from 2013-2018, although Lessor does not guarantee any specific amount of wastewater suitable for irrigation and shall not be liable for any damages to crops due to insufficient, excess, or oil or chemically contaminated wastewater.
 - 11.1.3. Lessee agrees that the City may decrease or increase the gallons per day of effluent and also agrees to manage any such decreases and increases and to utilize all the effluent on the Premises.
- 11.2 As required by WDR, Lessee shall provide to the City a written report that shall identify the source of all water and the volume of water in acre-feet used on each field no later than the 10th calendar day of the following month.
 - 11.2.1 Lessee may supplement the effluent with well water from the Premises or other water sources that have first been approved in writing by the City.

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11.2.1.1 Lessee shall provide a written report that provides the amount of supplemental water (water not supplied by the City) used and dispersed by the Lessee on the Premises.

11.3 Water from existing or new wells on the Premises shall only be used on the Premises for the purposes of this Agreement and shall not be dispersed or sent off the Premises.

11.4 The City does not and shall not supply potable or drinking water to the Premises.

12. Crops

12.1. Lessee shall use the Premises and effluent to irrigate the farm, grow and harvest non-human consumable crops, and maintain an agronomic nitrogen balance with the effluent and bio-solids applied to the farmed area.

12.2. In the third quarter of each calendar year of this Agreement, Lessee shall, if notified by the City, meet with the City to discuss the operation of the farm for the next calendar year.

12.3. Lessee shall have the right to harvest all existing crops up to the date of expiration or termination of this Agreement and shall leave the Premises in good condition.

12.4. Lessee shall maintain all crops per the BMP and may not damage or plow under any crops at the end of the Lease Agreement.

12.5. If Lessee chooses to plant any crops that have registered seed agreements that extend past the term of the Lease Agreement, the seed registration must be transferred to the new Lessee without cost to the City or the new Lessee. Lessor shall bear no responsibility whatsoever for any obligations undertaken by Lessee under such agreements.

12.6. Lessor shall not be liable for any crop loss sustained by Lessee for any reason.

12.7. As required by the WDR, Lessee shall provide tissue analysis results and crop yield for each field to the City at Lessee's expense.

13. Biosolids, Fertilizers, and Soil Amendments

13.1. Lessee shall use biosolids and soil amendments on the Premises in accordance with good farming practices, and schedules provided.

13.2. Lessee shall not accept or allow any placement of bio-solids, sludge, septage, or similar materials on the Premises from parties other than Lessor and Lessee shall notify Lessor immediately of any unauthorized placement.

13.3. As required by the WDR, Lessee shall provide to the City a written report that states the pounds of nitrogen and any other materials applied to each field over the previous calendar year.

13.4. The five-year biosolids application and management plan shall be followed.

13.5. Any Amendment, requested by the lessee, to the biosolids management plan shall be submitted to the City in writing and must be approved by the city prior to October 1st of each year.

13.6. The Lessee will provide the City with all relevant information required verifying compliance with the approved plan for reporting to the governing agencies (CRWQCB and US EPA) by January 15 of each year.

13.7. As required by the WDR, Lessee shall provide the City with annual soil analysis results at Lessee's expense.

14. Percolation Ponds

14.1. The City-owned percolation ponds are to be operated and maintained at the lessee's expense.

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- 14.2. The ponds are available for use by the Lessee at all times provided less than 50% of all effluent delivered annually to the reclamation area is percolated in the ponds.
 - 14.3. The ponds shall not be operated in such a manner as to have, or threaten to have a negative impact upon the Teapot Dome landfill from rising groundwater levels.
 - 14.4. The pond bottoms shall be kept open and free of weeds, algae, noxious odors, or other such nuisances.
 - 14.5. Rodent control is the responsibility of the Lessee, in order to avoid breaching of levees and/or loss of the pond embankments.
 - 14.6. Lessee must provide mosquito abatement in all pipes, ponds, and other collection areas of the percolation ponds.
 - 14.7. As required by the WDR, Lessee shall provide to the City a written report that states the amount of effluent in acre-feet disbursed to the percolation ponds no later than the 10th calendar day of the following month.
15. Security
- 15.1. Lessor does not supply security for the Premises and Lessees operation thereon.
 - 15.2. Lessor does not warrant that the fences and gates within or around the Premises will prevent trespassers.
 - 15.3. Lessee shall keep all gates closed and locked when not in use during the day and closed and locked during the night.
16. Health and Notice
- 16.1. Lessee shall notify its employees, sub-contractors, and visitors to the Premises that the irrigation water used on the Premises is treated wastewater and is not to be used for drinking or other human consumption and to follow good hygiene practices.
 - 16.2. This notification shall be documented and signed and dated by all Lessee's employees, sub-contractors, and visitors to the Premises and such documentation shall be kept on file with Lessee and shall be presented to the City if requested.
 - 16.3. Lessee shall provide for all employees who work at the Premises immunization in accordance with any requirements of the Tulare County Health Department.
 - 16.4. Lessee shall comply with all rules and regulation regarding mosquito control on the Premises and shall bear any and all costs regarding mosquito abatement on the Premises.
17. Inspection and Testing
- 17.1. Lessee shall allow:
 - 17.1.1. The City, the county of Tulare, the State of California, or any other regulatory agency to enter onto the Premises to visit the Premises and to perform any soil, air, water or other tests and samplings
 - 17.1.1.1. Such testing shall be performed in a reasonable manner to minimize any damage to crops.
 - 17.1.1.2. Lessee is aware that such testing could result in partial or complete termination of Lessee's farming operation on the Premises.
 - 17.1.2. The City, the county of Tulare, the State of California, or any other regulatory agency to install monitoring wells on the Premises.
 - 17.1.2.1. The City shall recommend that the agencies work with Lessee to install such wells in locations to minimize hindrance or damage to Lessee's farming operation, but makes no guarantee of locations.

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- 17.1.2.2. Lessee is aware that such testing could result in partial or such complete termination of Lessee's farming operations on the Premises.
- 17.2. Lessee shall provide to the City a copy of any reports involving a test of soil, air, crops, or water within the Premises performed by or for Lessee immediately after receipt of such reports by Lessee.
18. Discharge of Claims, Liens, Taxes
- 18.1. Lessee shall discharge or provide for the discharge of all claims that it has authorized or incurred for labor, materials, and supplies furnished for or in connection with the Premises.
- 18.2. Lessee agrees to keep and shall keep the Premises and improvements thereon free and clear from any liens or encumbrances, including mechanics or material men's liens, or any kind or nature for any work done, labor performed, or material furnished for the Premises or Lessee's operations thereon or from any other cause.
- 18.3. Lessee agrees to indemnify and save harmless the City, its agents, officers, and employees from and against any and all claims, liens, demands, costs and expenses of whatsoever nature for any such work done, labor performed, or material furnished.
- 18.4. The premises may be subject to possessory interest tax. Lessee agrees to pay all taxes (real, personal, possessory interest tax, or whatever other tax) and assessments that may be levied or charged upon the property/possessory interest rights of Lessee under this Agreements and Lessees' operation hereunder.
- 18.5. Lessee shall also obtain and pay for all other Agreements or permits necessary or required by law for the conduct of its operation hereunder.
19. Indemnification
- 19.1 To the fullest extent permitted by law, Lessee shall indemnify, defend (upon request by the City) and hold harmless the City, its agents, officers, employees, and volunteers ("City indemnities"), and each of them, from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of or in any way connected with Lessee's possession of the premises, Lessee's performance of its obligations under this Lease Agreement, or out of any operations conducted by Lessee, including the City's active or passive negligence, EXCEPT for such loss or damage arising from the sole negligence or willful misconduct of the City.
- 19.2 In the event the City indemnities are made a party to any action, lawsuit or other adversarial proceeding arising from Lessee's performance of this agreement, the Lessee shall provide a defense to the City indemnities (at City's request), or, at City's option, reimburse the City indemnities their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims.
20. Insurance: Lessee, in order to protect the City and its council members, officials, agents, officers, and employees against all claims liability for death, injury, loss and damage as a result of Lessee's actions in connection with the performance of Lessee's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Lessee shall not perform any work under this Agreement until Lessee has obtained all insurance required under this Paragraph and the required certificates of insurance have been filed with and approved by the City. Lessee shall pay any deductibles and self-insured retentions under all required insurance policies.

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- 20.1. Workers Compensation and Employer's Liability Insurance Requirement – Lessee shall submit written proof that lessee is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the Labor Code.
- 20.1.1. In signing this Agreement, Lessee makes the following certification, required by section 1861 of the Labor Code.
- 20.1.2. "I am aware of the provision of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provision of that code, and I will comply with such provisions before commencing the performance of the work of this Agreement."
- 20.1.3. Lessee shall require any sub-contractors to provide workers' compensation for all to the subcontractors' employees unless the sub-contractors' employees are covered by the insurance afforded by Lessee.
- 20.1.4. If any class of employees engaged in work or services performed under this Agreement is not covered by Labor Code section 3700, Lessee shall provide and/or require each sub-contractor to provide adequate insurance for the coverage of employees not otherwise covered.
- 20.1.5 Lessee shall also maintain employer's liability insurance with limits of two million dollars (\$2,000,000) for bodily injury or disease.
- 20.2. Liability Insurance Requirements:
- 20.2.1. Lessee shall maintain in full force and effect, at all times during the term of this Agreement, the following insurance:
- 20.2.1.1. Commercial General Liability Insurance, including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provision of this Agreement), Products-Completed Operations Hazard, Liquor Liability, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Lessee's performance of work under this Agreement. Said insurance coverage shall have minimum limits for Bodily Injury and Property Damage liability of two million dollars (\$2,000,000) Combined Single Limit (CSL) each occurrence and two million dollars (\$2,000,000) aggregate and shall include an endorsement naming the City and the City's council members, officials, officers, agents and employees as additional insured for liability arising out of this Agreement and any operations related thereto.
- 20.2.1.2. Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage cover all owned, leased, hired and non-owned vehicles used in the performance of services pursuant to this Agreement with minimum limits for Bodily Injury and Property Damage liability of one million dollars (\$1,000,000) each occurrence and shall include an endorsement naming the City and the City's council members, officials, officers, agents and employees as additional insured for liability arising out of this Agreement and any operations related thereto.
- 20.2.2. If any of the insurance coverage required under this Agreement is written on a claims-made basis, the insurance policy shall provide an extended reporting period of not less than four (4) years following the termination of this Agreement or completing of Lessee's work specified in this Agreement, whichever is later.

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- 20.2.3. Prior to Lessee commencing any of its obligations under this Agreement, evidence of insurance in compliance with the requirements above shall be furnished to the City by Certificate of Insurance naming the City as “additional insured”. Receipt of evidence of insurance that doesn’t comply with above requirements shall not constitute a waiver of the insurance requirements set forth above.
- 20.3. Cancellation of Insurance – The above stated insurance coverage required to be maintained by Lessee shall be maintained until the completion of all the Lessee’s obligations under this Agreement, and shall not be reduced, modified, or canceled, without thirty (30) days prior written notice to the City. Lessee shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.
- 20.4. All insurance shall be issued by a company or companies admitted to do business in California and listed in the current “Best’s Key Rating Guide” publication with a minimum of an “A-VII” rating. Any exception to these requirements must be approved by the City Risk Manager or the City employee with Risk Management responsibilities.
- 20.5. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve Lessee for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the City from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.
- 20.6. Failure by Lessee to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Lessee. The City, at its sole option, may terminate this Agreement and obtain damages from Lessee resulting from said breach. Alternatively, the City may purchase such required insurance coverage, and without further notice to Lessee, the City shall deduct from sums due to Lessee any premiums and associated costs advanced or paid by the City for such insurance. If the balance of monies obligated to Lessee pursuant to this Agreement is insufficient to reimburse the City for the premiums and any associated cost, Lessee agrees to reimburse the City for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by the City to take this alternative action shall not relieve Lessee of its obligation to obtain and maintain the insurance coverage required by this Agreement.
21. Assignment, Subletting, Merger
- 21.1. Assignment by Lessee of any or all rights under this Agreement may only occur upon written consent of the City.
- 21.1.1. Lessee shall submit to the City a written request for assignment or to sublet and provide any information about the proposed assignee or party to sublet that the City may require.
- 21.1.2. Lessee shall submit in advance a non-refundable sum of \$2,500 to the City for each request for assignment or sublet in order to cover costs for processing such request.
- 21.1.3. The City shall answer Lessee’s request for assignment or sublet within 60 days of receipt of such notification by Lessee.
- 21.1.4. The City may reject the proposed assignment or sublet for any reason and, if so and notwithstanding Paragraph 21.1.2 hereinabove, the City shall refund \$1,500 to the lessee.

City of Porterville Reclamation Area Lease Agreement Extension
Porterville, CA

- 21.2. At least 120 days in advance of any proposed merger between Lessee and a corporation or any other entity, Lessee shall provide to the City written notice of its intention to participate in such merger and provide any information required by the City in regards to the merger.
- 21.3 This Agreement shall be binding upon and shall inure to the benefit of the heirs, administrators, executors, successors and assigns of the respective parties hereto.

22. Breach and Default

- 22.1. Each of the following shall be a default by Lessee and breach of this Agreement:
- 22.1.1. Lessee shall become insolvent, or shall take the benefit of any present or future insolvency statute, or shall make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or a petition or answer seeking an arrangement for its reorganization, or the readjustment of its indebtedness under the federal bankruptcy laws or under any other law or statute of the United States, or of any state law, or consent to the appointment of a receiver, trustee, or liquidator, and such act prevents Lessee from conducting its operations under this Agreement for a period of thirty (30) calendar days or more.
- 22.1.2. By order or decree of a court, Lessee shall be adjudged bankrupt, or an order shall be made approving a petition filed by any other creditors seeking the reorganization of its indebtedness under federal bankruptcy laws, or under any law or statute of the United States, or any state thereof and such act prevent Lessee from conducting its operations under this Agreement for a period of thirty (30) calendar days or more.
- 22.1.3. A petition under any part of the federal bankruptcy laws, or an action under any present or future solvency law or statute shall be filed against Lessee and shall not be dismissed within ninety (90) days after the filing thereof and such act prevents Lessee from conducting its operation under this Agreement for a period of thirty (30) calendar days or more.
- 22.1.4. Pursuant to or under authority of any legislative act, resolution or rule or any offer or decree of any court, governmental board, agency, or officer having jurisdiction, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of lessee, and such possession or control shall continue in effect for a period of ninety (90) days and prevents Lessee from conducting its operations under this Agreement for a period of thirty (30) calendar days or more.
- 22.1.5. Any lien (including, without limitation, mechanic's and materials' liens) is filed against the Premises because of any act or omission of the lessee and is not removed within thirty (30) day.
- 22.1.6. Lessee's voluntary abandonment, desertion, vacating, or discontinuation of its operations as authorized by this Agreement.
- 22.1.7. Failure to perform any term, covenant, or condition of this Agreement.
- 22.1.8. Lessee fails to punctually make any payments due to the City under this Agreement.
- 22.2. Notwithstanding any other remedies of the City under this Agreement, should lessee default or breach this Agreement, and as permitted per California Civil Code Section 1951.2, the City may terminate this Agreement immediately, re-enter the Premises and take full possession thereof, and remove all persons connected with Lessee therefrom and Lessee shall have no further claim thereon or hereunder.
- 22.3. The remedies given to the City in Paragraph 22.2 shall be in addition and supplement to all other rights or remedies that the City may have under the laws then in force.

**City of Porterville Reclamation Area Lease Agreement Extension
Porterville, CA**

- 22.4. Lessee hereby waives any and all rights for redemption granted by or under any present or future law, or statute, arising in the event it is evicted or dispossessed for any cause or in the event the City obtains or retains possession of the Premises in any lawful manner.
- 22.5. No waiver the City of any default or breach on the part of Lessee in the performance of any of the terms, covenants, or conditions hereof to be performed, kept, or observed by Lessee shall be or be construed to be a waiver by the City of any other or subsequent default or breach in performance of any of said terms, covenants, or conditions contained in this Agreement.
- 22.5.1. The subsequent acceptance of rent by the City shall not be deemed a waiver of any preceding breach by Lessee of any term, covenant or condition of this Agreement, including the failure of Lessee to pay the particular rental so accepted, regardless of the City's knowledge of such preceding breach at the time of acceptance of such rent.
- 22.5.2. No covenant, term or condition of this Agreement shall be deemed to have been waived by the City unless the City provides such waiver in writing.
23. Negation of Partnership
- 23.1. The City shall not become or be deemed a partner or joint venture with Lessee or associate in any relationship with Lessee other than that of Lessor and Lessee by reason of the provisions of this Agreement.
- 23.2. Lessee shall not for any purpose be considered an agent, officer, or employee of the City.
- 23.3. To whatever extent the City, its agents, officers, or employees may be deemed to be associated with the Lessee or the Lessee's agents, officers, or employees because of any activity or operation pursued by Lessee or its agents, officers or employees on the Premises, then to such extent Lessee shall be deemed an independent contractor of the City.
24. Workers Compensation: Lessee shall comply with the workers' Compensation Act of this State and shall indemnify and save and hold harmless the City from any and all liability under the said Act.
25. Compliance With Law: Lessee shall, at its expense, promptly comply with any and all laws, ordinances, rules, regulations, requirements, and orders whatever, present or future, of the federal, state, or City government which may in any way apply to the use, maintenance, occupation of, or operations on the Premises, including but not limited to the Americans with Disabilities Act.
26. Nondiscrimination: Lessee, in the operation to be conducted pursuant to the provision to this Agreement and otherwise in the use of Premises, shall not discriminate or permit discrimination against any person or class of persons by reason of race, color, creed, sex or national origin or by any arbitrary reason.
27. Notices: All notices herein provided to be given, or which may be given, by either party to the other shall be deemed to have been fully given when made in writing and deposited with the United States Postal Service, Registered or Certified, postage prepaid and addressed as follows:

**City of Porterville Reclamation Area Lease Agreement Extension
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To the Lessee:

To the Lessor (the City of Porterville)

City of Porterville
291 Main Street
Porterville, CA 93257

The address to which the notices may be mailed to either party may be changed by written notice. Nothing, however, shall preclude the giving of any such notice by personal service.

28. Definitions and Terminology

- 28.1. In this Agreement, the capitalized term “Paragraph” shall indicate the numerical subject headings or sub-headings of this Agreement (such as this Paragraph is identified as 28.1)
- 28.2. In this Agreement the capitalized terms “Section” or “Sections” shall indicate the actual physical location for the certain real property locations, as they exist in Tulare County. (As such, the only Sections to be mentioned in this Agreement will be the Sections as originally stated in Paragraph 1.2 hereinabove.)
- 28.3. In the context of this Agreement the terms “wastewater” and “effluent” may be used interchangeably and shall be defined as untreated sewage water that has been channeled to the City treatment plant, treated to certain requirements, and discharged from the treatment plant as non-potable water to be used on the Premises to grow fiber and fodder crops.

29. Damage to Premises:

- 29.1. In the event more than 20% of the Premises or more than 100 acres of farmed land is declared a disaster area by Federal, State, or local authorities:
 - 29.1.1. Lessee may, within 15 days of such declaration, provide to the City evidence of the declaration, the location and number of acres affected, and petition for temporary relief from rent until the affected real property can reasonably and in a timely manner be restored by Lessee, at its expense, to a condition again usable for Lessee’s farming operations, and
 - 29.1.2. The City shall review such petition or request and if found credible shall pro-rate Lessee’s rent by:
 - 29.1.2.1. Determining the number of currently farmed acres,
 - 29.1.2.2. Determining the number of current acres deemed not farmable due to the disaster,
 - 29.1.2.3. Determining the number of days the farmed acres are out of production until Lessee can reasonably put the acres back into production,
 - 29.1.2.4. Regarding this Paragraph 29.1, determine an acreage percentage and divide the result by 365 days to determine a day’s percentage,

**City of Porterville Reclamation Area Lease Agreement Extension
Porterville, CA**

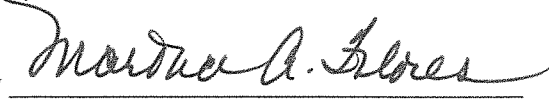
- 29.1.2.5. Multiply the acreage percentage times the day's percentage to determine an overall percentage,
- 29.1.2.6. Multiply the overall percentage times the annual rent to determine rent credit to Lessee (no more than 30% of the annual rent), and
- 29.1.3. Within 15 days after the City determines the affected real property can reasonably be farmed by Lessee, the City shall notify Lessee the amount of rent reduction and whether it will be refunded to Lessee soon thereafter by check or credited towards Lessee's next rental payment.
- 29.2. Should the City determine the Premises or significant parts thereof are rendered unusable for a period of more than 30 days due to no fault of Lessee, the City may determine a refund of rent based on the formula determined in Paragraph 29.1 of this Agreement and pay or credit Lessee for the time period beyond the 30 day period mentioned heron above (NOTE - in this instance the pro-rated rent shall take effect 30 days after the City's reasonable determination of the date the acreage was determined unusable.)
- 30. Surrender of Premises: On the last day of the term, or sooner termination of this Agreement, Lessee shall peaceably and quietly leave, surrender and yield up to the City the Premises and improvements thereon in good condition, reasonable use and wear thereof, and damage by earthquake, public calamity, by the elements, by act of God or by fire or other circumstances over which Lessee has no control.
- 31. Authorized Agent of THE CITY: The City Manager, or his designee, is the duly authorized agent of the City for purposes of this Agreement and any obligations assumed hereby by Lessee shall be performed to his satisfaction.
- 32. Disposition of Improvements and Equipment: Upon termination or expiration of this Agreement, Lessee, may, at Lessee's sole cost and expense, remove its farm equipment and trade fixtures which have been placed on the Premises but not permanently affixed thereto. No real property or improvements to real property shall be removed by Lessee without Lessee first obtaining written approval to remove such real property or improvements to real property.
- 33. Lost, Stolen, Damaged Property: The City is in no way responsible for Lessee's lost, stolen, or damaged property unless the City or the City's agents take possession of Lessee's property.
- 34. Right of Ingress and Egress:
 - 34.1. Lessee shall have the reasonable non-exclusive right of way for pedestrian and vehicular travel for ingress and egress to the Premises over property owned and controlled by the City.
 - 34.2. Lessee's right of way is subject to such reasonable rules and regulations as the City may make from time to time.
 - 34.3. The City and its invitees shall have the right, at any time, to enter and inspect the Premises, Lessee's operations, and conduct studies, surveys, and tests.
- 35. Incorporation of Prior Agreements and Amendments:
 - 35.1 This Agreement contains all agreements of the parties with respect to any matter mentioned.
 - 35.2 No prior agreement or understanding pertaining to any such matter shall be effective.

**City of Porterville Reclamation Area Lease Agreement Extension
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- 35.3 This Agreement can only be modified as a written agreement, signed by the parties in interest at the time of the modification.
36. Venue: The parties agree that this Lease Agreement is entered into and to be performed in Tulare County, California, and to fullest the extent permitted by law, the parties agree that for any action to enforce the terms hereof, the venue shall be Tulare County, California.
37. Severability: the invalidity of any provision of this Agreement, as determined by a Court of competent jurisdiction, shall not affect the validity or any other provision hereof.
38. Captions: Paragraph headings in this Agreement are used solely for convenience and shall be wholly disregarded in the construction of this Agreement.
39. Covenants and Conditions: Each provision of this Agreement performable by Lessee shall be deemed both a covenant and a condition.
40. Time of Essence: Time is hereby expressly declared to be of the essence of this agreement and of each and every provision thereof, and each such provision is hereby made and declared to be material, necessary, and an essential part of this Agreement.
41. Attorney's Fees. If any litigation is commenced between the parties to this Lease concerning the Lease or the rights and duties of either in relation to the Lease, the party prevailing in that litigation shall be entitled, in addition to any other relief that may be granted in the litigation, to its cost for the litigation including expert witness fees and a reasonable sum for its attorneys' fees in the litigation, which shall be determined by the court in that litigation or in a separate action brought for that purpose.

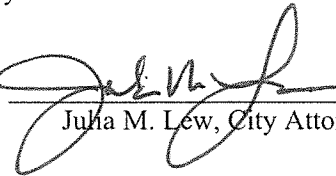
**City of Porterville Reclamation Area Lease Agreement Extension
Porterville, CA**

City of Porterville

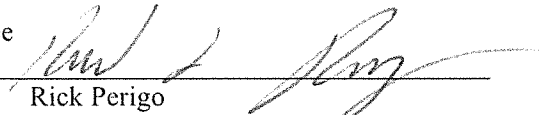
By 
Martha A. Flores, Mayor

Date: 8/6/19

APPROVED AS TO FORM
City of Porterville

By 
Julia M. Lew, City Attorney

Date: 8/6/19

Lessee
By 
Rick Perigo

Date: 7-16-19

Title Owner

Business Name Rick Perigo Roadsiding
Perigo Roadsiding

APPROVED AS TO FORM

By _____
Legal Counsel for Lessee

Date: _____

Exhibit A – Reclamation Area Legal Descriptions
Exhibit B – Map of Reclamation Area, infrastructure
Exhibit C – Letter of Credit for Lessee



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Assignment of Airport Lease - Lot No. 32B

SOURCE: Finance

COMMENT: Eddie Boriack, Administrator of the Estate of Ray Boriack, the current leaseholder of Lot No. 32B at the Porterville Municipal Airport, has sold the hangar located on the lot and is requesting the transfer of the lease agreement to the new owner, Mason Daniel Racing. Mason Daniel Racing is requesting City Council Authorization to assume the existing lease agreement between the City and Ray Boriack, which expires on April 30, 2025. The hangar will be utilized for storage and parking of aircraft.

RECOMMENDATION: That the City Council:

1. Approve the Assignment of Lease for Lot No. 32B at the Porterville Municipal Airport from Eddie Boriack, Administrator of the Estate of Ray Boriack to Mason Daniel Racing; and
2. Authorize the Mayor to sign the Lessor's Consent to Assignment of Lease Agreement on behalf of the City.

ATTACHMENTS:

1. Draft Lessor's Consent to Assignment of Lease Agreement
2. Draft Assignment of Lease
3. Letter of Request
4. Bill of Sale
5. Locator Map

Appropriated/Funded:

Review By:

Department Director:
Maria Bemis, Finance Director

Final Approver: John Lollis, City Manager

**LESSOR'S CONSENT TO ASSIGNMENT OF LEASE AGREEMENT
PORTERVILLE MUNICIPAL AIRPORT
AIRPORT HANGAR LOT NO. 32B**

The City of Porterville, a municipal corporation of the State of California, being the Landlord under the Lease for Airport Hangar Lot No. 32B, described in the foregoing Assignment, hereby consents to Assignment of Lease Agreement from Ray Boriack to Mason Daniel Racing, for the parking and storage of aircraft, upon the expressed condition that there shall be no further assignment without the prior written consent of the Landlord.

Dated this 19th day of December, 2023.

CITY OF PORTERVILLE

BY: _____
Martha A. Flores
MAYOR, CITY OF PORTERVILLE

"LESSOR"

ATTEST: _____
John D. Lollis, CITY CLERK

APPROVED AS TO FORM:

BY: _____
Julia Lew, City Attorney

**ASSIGNMENT OF LEASE
PORTERVILLE MUNICIPAL AIRPORT**

THIS AGREEMENT, made this 19th day of December, 2023, by and between Eddie Boriack, Administrator of the Estate of Ray Boriack, [REDACTED], Springville, CA, owner of a hangar on Lot 32B at the Porterville Municipal Airport, as the Assignor, and Mason Daniel Racing, [REDACTED], Porterville, CA, as the Assignee.

In consideration of the mutual covenants herein contained, each act to be performed hereunder, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Effective November 10, 2023, Assignor hereby assigns, transfers and conveys to Assignee all of his right, title and interest as Lessee, in, to and under a certain Lease Agreement dated May 1, 2015 (hereinafter "Lease"), executed by and between the City of Porterville, as Lessor, and Donald Deaton, as the original Lessee, and assumed by Ray Boriack, on April 2, 2019, providing for the letting of certain premises located at the Porterville Municipal Airport, Porterville, California, being more particularly described as follows:

Airport hangar Lot No. 32B, containing a total area of approximately 2,100 square feet, and establishing a Lease terminating on April 30, 2025.

2. Effective November 10, 2023, Assignee hereby accepts and assumes all of the obligations, responsibilities and liabilities of Assignor under said Lease, and agrees to perform said Lease Agreement according to its terms, covenants and conditions, without exception, and Assignee understands and agrees that Landlord makes no warranty or representation that either Assignor or Assignee would be given an exclusive use in the Porterville Municipal Airport for the use thereof by Assignor and/or Assignee, except as provided in the Lease.

3. Upon execution of this Assignment of Lease and Landlord's consent hereto, the parties' Noticed Address shall be as set forth herein above. The parties further understand there is a \$150 assignment fee, payable to the City of Porterville, and the Assignee must provide proof of aircraft and hangar owner's liability insurance within thirty (30) days of Council approval.

4. Assignor hereby covenants said Lease as valid and existing and hereby warrant that Assignor is not in default as of the date of this Assignment.

5. This Assignment shall be binding upon and shall inure to the benefit of the respective parties, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Lease as of the date first above written.

ASSIGNOR:
Estate of Ray Boriack

ASSIGNEE:
Mason Daniel Racing

BY: _____
Eddie Boriack, Administrator

BY: _____
Mason Daniel, Owner

11-27-23

On 9/25/2023 my father, passed away & with I am next of kin. He left me an airplane hanger 32b at the porterville airport. I sold the hanger on 11/10/23 to Mason Daniel Racing, [REDACTED], Porterville Ca 93257 his phone # is 5 [REDACTED]. I would like to transfer the lease of the land to him.

Received 11/30/23

BILL OF SALE

Date 11-10-23

I, the undersigned seller, Eddie Boriack
for the sum of \$ _____
sell to the undersigned buyer, _____
the following property:

Airplane hanger 32B @ Porterville Airport, As Is

The undersigned seller affirms that the above information about this property is accurate to the best his/her knowledge.

The undersigned buyer accepts receipt of this Bill of Sale and understands that the above property is sold in "as is" condition with no guarantees or warranties, either expressed or implied, for the property.

Seller's Name (print): Eddie Boriack
Seller's Signature: Eddie Boriack
Street Address: _____ Apt: _____
City / Town: Springville State: Ca ZIP: 93265
Phone #: _____

Buyer's Name (print): Mason Daniel Racing
Buyer's Signature: _____
Street Address: _____ Apt: _____
City / Town: Porterville State: CA ZIP: 93257
Phone #: 559- _____

AIRPORT LEASE SITES



TAXIWAY

TAXIWAY

HANGAR ROAD

HOPE ROAD

THUNDERBOLT DR.

ADMIN.
BLD.

44A 44B 44C

40 41 42 43
36 37 38 39

45

46A 46B 46C 46D

35

A B C 34 D E F

33

32A

B C

31C

31A

31B

30B

30A1

30A2

30A3

SUBJECT
LOCATION



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Consideration of Amending Section IV(G) of the City Council's Procedural Handbook Regarding Proclamations

SOURCE: City Attorney

COMMENT: At its meeting of December 5, 2023, the City Council considered amendments to the process by which Proclamations are issued. The proposed amendments consisted of adding language to clarify that Proclamations are expressions and do not set or direct City policy; to require a majority vote at a properly noticed meeting for the approval of a "City Proclamation" with City Seal; to allow "Council Member Proclamations" without a majority vote that may be signed by more than two Council Members; and to clarify that it is not mandatory that the Mayor sign a Proclamation.

RECOMMENDATION: That the City Council consider the modifications to Section IV(G) of the City Council's Procedural Handbook regarding the processing of Proclamations.

ATTACHMENTS: 1. Draft Proclamation Process Revisions

Appropriated/Funded:

Review By:

Department Director:
Julia Lew, City Attorney

Final Approver: John Lollis, City Manager

E. Personal Correspondence

Council Members who wish to send their own correspondence using City stationery shall include a provision clearly defining that the correspondence represents the views and/or feelings of the specific Council member signing the letter. Copies of all such letters on City Letterhead shall be provided to all other Council members. Letterhead stationery is available upon request from the City Manager's secretary, and if the Council Member wishes to have a copy of their letter in their file, they should submit a copy to the City Manager's staff for filing.

F. Out-of-District Requests

On occasion, Council Members will be contacted by citizens residing outside of their respective districts. When this occurs, City Council Members agree to advise the appropriate Council Member of the contact and matter of concern. **A Council Communication Log (see Appendix G) is provided for Council's convenience and optional use.**

G. Requests for Proclamations

The City routinely receives requests for proclamations. To qualify as a proclamation, the language should be ceremonial and not convey legislative action or represent that it is establishing City policy or directives. Proclamations are ceremonial statements of Council Members which do not convey legislative action or policy of the Council. Each individual Council Member has the authority to grant and sign proclamations on their own respective behalf if they are processed in accordance with this Section. The City Council may grant and sign "City Proclamations," only if the proclamation is approved by the City Council at a noticed and public City Council meeting in accordance with the Ralph M. Brown Act, and these proclamations shall be deemed to be "City Proclamations" and have the City Seal affixed.

-Within one business day of receipt of a Request for Proclamation, staff shall scan and email the request to all City Council Members. If a Council Member is interested in granting the request, they shall individually notify staff of their interest. If more than one Council Member responds, the first responsive notification received by staff shall be the grantor. Upon receipt of the affirmative response, sStaff shall then advise the remaining Council Members as to interest in signing the proclamation, and inquire whether they would also like to sign the proclamation. ~~The~~ Council Members shall have one business day to reply, after which the proclamation will be drafted with the appropriate number of signature blocks for execution by the Council Members. ~~-, and the grantor and signers shall be notified of its availability for signature.~~ Approved City Proclamations may be signed by the Mayor, although the Mayor's signature shall not be

compelled. Additionally, the City Council may provide express authority regarding additional members who wish to also be signatories.

All signed proclamations will be made available in the Office of City Clerk for pick up by the requestor unless arrangements have been made for presentation at a certain event. Upon finalization of the proclamation, staff shall notify the requestor and arrange for its delivery, pick up, or presentation at an event, as requested. Proclamations shall not be included on the Council Agenda nor presented at a Council Meeting unless so approved by a majority of the Council. Staff shall provide a monthly informational report identifying the proclamations granted for the preceding month.



CITY COUNCIL AGENDA – DECEMBER 19, 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 December 5, 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.

On August 2, 2023, Council Member Meister was made aware of the lack of drinking water and apparent lack of occasional water availability in the Del Oro Water Company system in the Springville area. During the March 2023 floods, six of the twelve water systems wells were damaged, several of which were damaged beyond repair. City staff was contacted by the Office of State Senator Shannon Grove in regard to the City-County Well Agreement, which dictates that at the request of the State and County, the City shall provide 3,000,000 gallons of water per month for the purpose of meeting emergency water needs in County jurisdiction and shall not charge the State or County for the water. Senator's Grove's Office has been coordinating with the State and Self-Help Enterprises in the potential placement of temporary tanks until Del Oro has completed its repair projects to sufficiently meet its customer demands.

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. At its meeting on August 2, 2022, the Council authorized \$1,074,948 for the drilling phase of Well 34 (Akin). At its meeting on October 3, 2023, the Council accepted the drilling phase as complete, with the final construction cost of \$865,402. The equipping phase is the next step in having this well online by the 2024 calendar year.

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. City-County Well Agreement - May 10, 2016
3. United States Department of Agriculture Drought Natural Disaster Area Designation: March 5, 2021
4. State of California State of Emergency Proclamation: April 21, 2021
5. County of Tulare Drought Local Emergency Resolution: April 27, 2021
6. State Water Resources Control Board: Emergency Regulation - Water Conservation; January 4, 2022
7. Governor Newsom Executive Order N-7-22: March 28, 2022
8. State Water Resources Control Board: Emergency Regulation - Water Conservation; June 10, 2022
9. Governor Newsom Executive Order N-5-23: March 24, 2023
10. 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

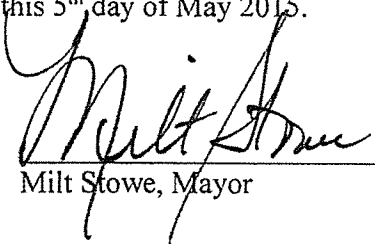
WHEREAS: the long-term ramifications of the current drought will have a significant impact on the city of Porterville and potentially pose a danger to the health and welfare of its residents; and

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

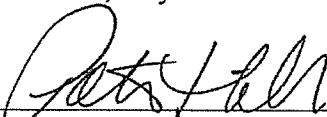
BE IT FURTHER RESOLVED: that the City Council of the City of Porterville requests the Governor and California Department of Water Resources make available California Disaster Assistance Act funding for the State of Local Emergency proclaimed on May 5, 2015, and seek all available forms of Federal assistance, 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

TULARE COUNTY – CITY OF PORTERVILLE WELL AGREEMENT

THIS AGREEMENT is entered into this day of, May 10, 2016, between the COUNTY OF TULARE, referred to as COUNTY, and the CITY OF PORTERVILLE, referred to as CITY, with reference to the following:

- A. WHEREAS, East Porterville/Doyle Colony area properties within the COUNTY's jurisdiction and within the CITY's Urban Development Boundary are experiencing serious water shortages due to the historical drought conditions. Attached hereto as Exhibit 'A' is a map defining the East Porterville/Doyle Colony and Vandalia areas; and
- B. WHEREAS, CITY and COUNTY have been and are collaborating to jointly develop a new municipal water well; and
- C. WHEREAS, COUNTY shall secure complete funding for a new well to be solely owned, operated and maintained by the CITY for the purpose of providing long-term capacity to enable permanent water connections to properties that comply with CITY'S Annexation and Extension of Municipal Services policy, with certain exceptions for specific properties in excess of the maximum lot size. These procedures are defined by two Resolutions, 74-2014 and 19-2016, which are attached hereto as Exhibit 'B'; and
- D. WHEREAS, the COUNTY owns a parcel at the southeast corner of the Tule River and Olive Avenue (APN 240-120-017), represented in Exhibit 'C', and has drilled a municipal supply well, and will equip said well utilizing CITY standards, after which the COUNTY shall convey the land to CITY at a cost of \$1; and
- E. WHEREAS, CITY operates an existing municipal water system, with limited infrastructure already established in the East Porterville/Doyle Colony and Vandalia areas, and has experience and qualifications necessary to provide such services; and
- F. WHEREAS, CITY and COUNTY mutually agree that a regional, collaborative solution to leverage and expand CITY'S municipal water system into the East Porterville/Doyle Colony and Vandalia areas is the most feasible means to address the area's water needs; and
- G. WHEREAS, CITY is willing to enter into this Agreement with COUNTY upon terms and conditions set forth herein; and
- H. WHEREAS, CITY and COUNTY mutually understand that due to the limited resources of the CITY's municipal water system, all future connections must comply with the CITY's Annexation and Extension of Municipal Services policies, with certain exceptions for specific properties in excess of the maximum lot size, attached hereto and made a part thereof as Exhibit 'B'.

ACCORDINGLY, IT IS AGREED:

- 1. **TERM:** This agreement shall become effective as of the date the agreement is fully executed by both agencies.
- 2. **SERVICES TO BE PERFORMED & PAYMENT FOR SERVICES – EQUIPPING MUNICIPAL WELL FACILITY:** Refer to attached Exhibit 'D'.

TULARE COUNTY AGREEMENT NO. 27596

3. **SERVICE TO BE PERFORMED IN PERPETUITY:** The services described below shall be performed in perpetuity upon completion of all tasks enumerated in Exhibit 'D' and upon COUNTY securing the funds for equipping the well to CITY standards and requirements:
- A. CITY shall provide to STATE and/or COUNTY, upon STATE and COUNTY's request, a maximum of three million (3,000,000) gallons of water per month upon integration of the well provided under this Agreement, for the purposes of meeting emergency water needs in COUNTY's jurisdiction. CITY shall not charge COUNTY or STATE for said water.
 - B. CITY shall utilize water produced by the well provided under this Agreement as source capacity for new service connections and agreements in East Porterville/Doyle Colony and Vandalia areas. CITY agrees to provide source water for up to four hundred twenty-three (423) new connections in the East Porterville/Doyle Colony area subject to the CITY'S Annexation and Extension of Municipal Services policies, with certain exceptions for specific properties in excess of the maximum lot size, and up to 80 new connections in the Vandalia area. The 423 new connections noted above are inclusive of those properties immediately adjacent to an existing water main, estimated at 40 parcels, which can be connected to the City's water system immediately upon execution of this agreement and the Memorandum(a) of Understanding between CITY, COUNTY, and STATE. Upon connection to CITY services, the listed properties will be exempt from payment of CITY water impact fees, but will be subject to standard fees, such as, but not limited to, water service and meter installation, unless otherwise financed by STATE or other funding sources, and associated monthly fees. This section shall not be construed to limit additional connections beyond the above referenced 503 properties provided for herein, where CITY provides consumption documentation that determines additional source capacity is available as a result of the connection of this well to CITY's system.
 - C. CITY expressly agrees to own, operate, maintain, repair and otherwise care for the well provided under this Agreement, in order to maintain it in proper working order and to the highest standard, for the duration of the well's useful life.
 - D. COUNTY shall grant the parcel on which the well is located to the CITY by Grant Deed at a cost of \$1 upon formal acceptance of the project. A 50-foot control zone around the well site is a requirement of the State Water Resources Control Board, Drinking Water Program, therefore establishing the minimum parcel size to be conveyed to the CITY. Existing COUNTY infrastructure may encroach through or conflict with the subject parcel and if so, ownership, maintenance, repair and replacement of these facilities shall transition to the City's responsibility by separate maintenance agreement upon acceptance of the project.
 - E. CITY shall not be entitled to compensation by COUNTY, or any State or Federal agency providing funding for the activities enumerated in Exhibit 'D', for any ongoing costs related to owning, operating, maintaining, repairing, or replacing this well. CITY and COUNTY expressly agree that CITY's ongoing compensation for such ongoing costs shall be the use of the well for CITY's use within its water system, unrestricted except as noted in "A"

above. No part of this paragraph shall be construed to limit or restrict in any way CITY's ability to seek any grant funding or collect rates and fees from users of CITY's water system.

- F. All recipients of water are subject to CITY water policies, such as, but not limited to, water conservation and watering schedules. Connections made as noted in "B" above may be subject to further water conservation thresholds as required by the STATE.

4. This Agreement represents the entire agreement between CITY and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

5. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY: County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare
Administrative Building
2800 W. Burrel Avenue
Visalia, CA 93291

(Fax No.: (559) 733-6318 / Phone No. (559) 636-5005)

CITY: City Manager
291 N. Main St.
Porterville, CA 93257

(Fax No.: (559) 715-4013/ Phone No. (559) 782-7466)

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

6. 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.
7. Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.
8. This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. This Agreement is entered into and shall be performed in Tulare County, California. CITY waives the removal provisions of California Code of Civil Procedure Section 394.
9. The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party or either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.
10. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

11. This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court of other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall 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 shall continue in full force and effect.
12. Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to affect the purposes of this Agreement.
13. CITY expressly agrees that it will not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.
14. Insurance
15. Permit
16. Dispute Resolution: If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.
17. Indemnification: CITY shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including COUNTY property, arising from, or in connection with, the performance by CITY or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against COUNTY by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against COUNTY alleging civil rights violations by CITY under Government Code sections 12920 et seq. (California Fair Employment and Housing Act), and any fines or penalties imposed on COUNTY for CITY's failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

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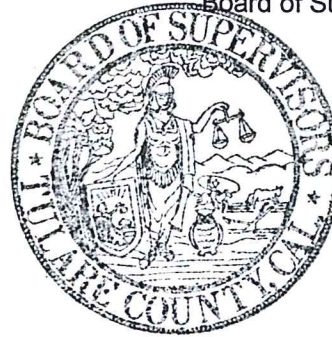
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THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

BY Mike Ennis
Mike Ennis Chairman,
Board of Supervisors



ATTEST: Michael C. Spata,
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By Danisa A. Ybana
Deputy Clerk

Approved as to Form
County Counsel

By M. Grice for LMT
Deputy 20151902

CITY OF PORTERVILLE

BY Milt Stowe
Milt Stowe, Mayor

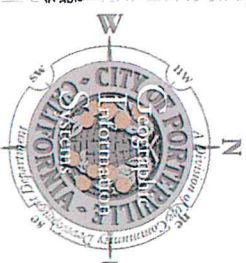
ATTEST:
City Clerk of the City of Porterville

BY J. L. Lolis
John Lolis, City Manager

Approved as to Form

BY [Signature]
City Attorney

EXHIBIT 'A'



 East Porterville Project Boundary

Parcels Within Project Boundary Area (1,776)

CityLimits

UDB

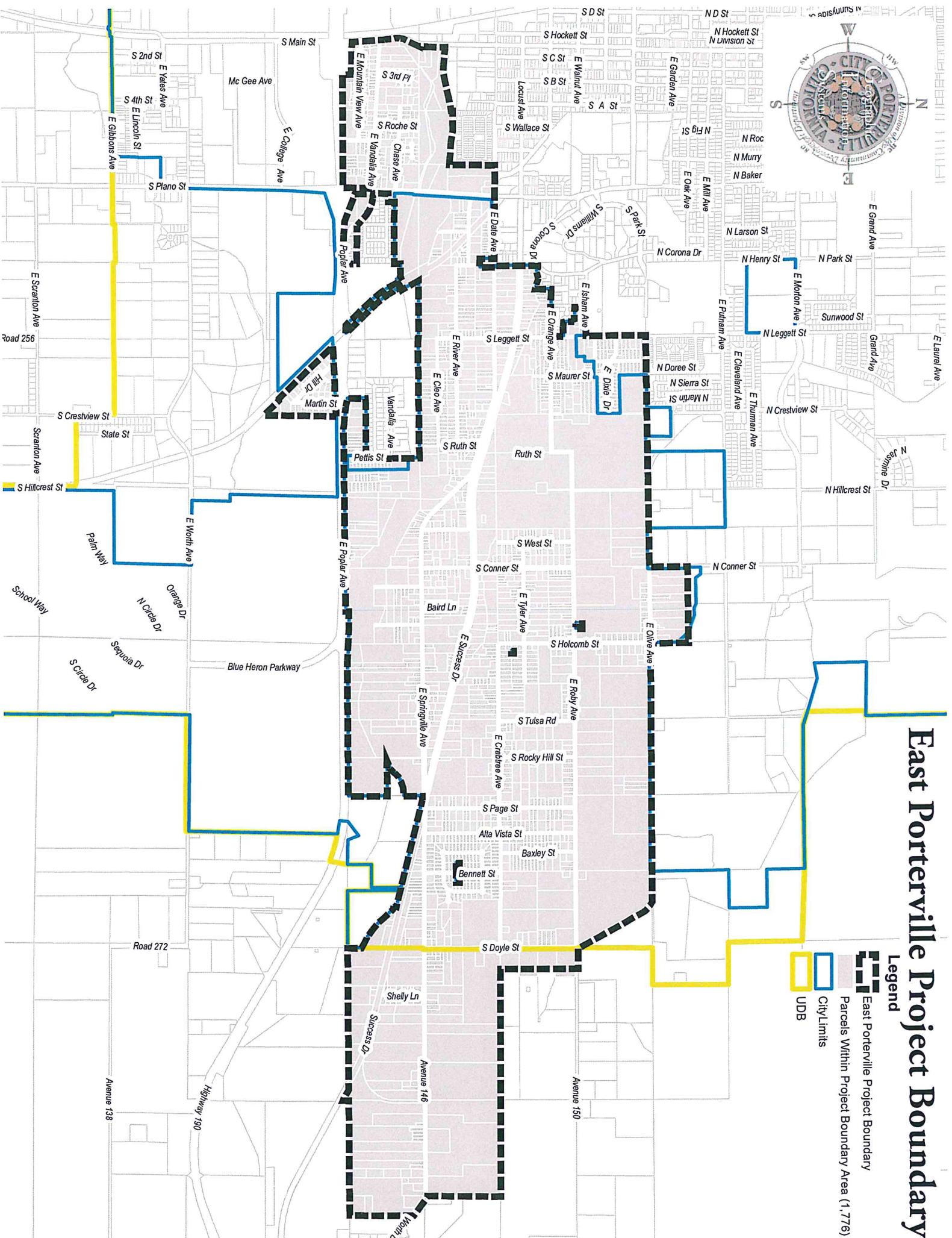


EXHIBIT 'B'

RESOLUTION NO. 74 -2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE DEFINING OBJECTIVES AND POLICIES FOR ANNEXATIONS AND MUNICIPAL SERVICES

WHEREAS: The City of Porterville established a policy concerning annexation and provision of municipal services in 1986, noting that “the City, in order to grow for reasons of economies of scale and quality of services must expand its boundaries within reason, generally encourages the owners of properties contiguous to the city of Porterville to annex to said City of Porterville”; and

WHEREAS: Since 1990, the population of the city of Porterville has increased 53% according to the California Department of Finance, and the land area of the city proper has increased by 38% according to City annexation records; and

WHEREAS: The City of Porterville accepts its responsibility to provide municipal services to those residents, businesses, and other land uses within the limits of the city. The City of Porterville has taken the position that the costs of all physical improvements within the city have been paid by property owners, and other taxes derived in the city, and, therefore, these same people should not be required to bear the expense of additional physical improvements needed to serve newly annexed areas.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby define the following objectives related to annexations and municipal services:

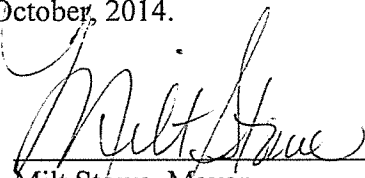
1. To promote orderly development while discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services.
2. To honor the City’s fundamental responsibility to provide efficient and sustainable public services to the inhabitants of the city, and where appropriate, to provide those services beyond the limits of the city within the Urban Development Boundary, and only in extreme cases to those properties beyond the Urban Development Boundary within the Urban Area Boundary.
3. To provide for land development and growth in a manner consistent with the General Plan, particularly as it relates to land use and circulation.
4. To consider an application upon its own merits, and identify what benefits would accrue to the City as an agency and service provider, to the residents of the city of Porterville, and to the applicant.
5. To identify the problems involved in any proposal considered for annexation or request for extra-territorial services and resolve them in the manner most beneficial to the properties within the city of Porterville.
6. To develop factual information to permit informed discussion between City representatives and property owners/residents of unincorporated territories.

BE IT FURTHER RESOLVED, that the City Council of the City of Porterville does hereby establish the following policies for consideration of annexations and municipal services:

1. It shall be the policy of the City of Porterville to consider annexation proposals only within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County Local Area Formation Commission (LAFCo).

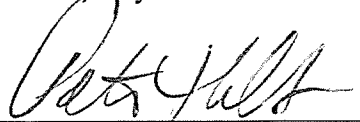
2. It shall be the policy of the City of Porterville to consider extra-territorial service requests primarily within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County LAFCo.
3. It shall be the policy of the City of Porterville, only where necessary in order to respond to an existing or impending threat to public health or safety of affected residents, to consider extra-territorial service requests within the Urban Area Boundary, as adopted by City Council and identified on the City of Porterville Zoning Map.
4. It shall be the policy of the City of Porterville to consider annexation proposals and extra-territorial service requests in a manner consistent with the policies and regulations adopted by the Tulare County LAFCo and the State of California, as applicable.
5. It shall be the policy of the City of Porterville to discourage single-family one (1) lot annexation proposals that may have an adverse fiscal impact on the City of Porterville.
6. It shall be the policy of the City Council that territory shall not be annexed to the city of Porterville, which as a result of such annexation, unincorporated territory is completely surrounded, or substantially surrounded by the city of Porterville.
7. It shall be the policy of the City of Porterville that annexation proposals shall be in conformance with the Cortese-Knox-Hertzberg Act of 2000, as amended.
8. It shall be the policy of the City Council to consider each petition/consent for annexation upon its relationship to what economic benefits will accrue to the City of Porterville, and to the area residents/property owners.
9. It shall be the policy of the City Council that the costs of all physical improvements will be borne by the property owners/resident or developer.
10. It shall be the policy of the City of Porterville to maintain the viability of agricultural productivity; i.e. protecting and conserving as much agricultural land as possible in the area surrounding the Porterville community.
11. It shall be the policy of the City of Porterville that the applicant for annexation present proposals to the Project Review Committee and explain the particulars of the area under consideration for possible annexation, including a plan for services.
12. It shall be the policy of the City of Porterville to consider any requests for annexation or extra-territorial services in a manner consistent with the procedures adopted by resolution of the City Council.

PASSED, APPROVED AND ADOPTED this 21st day of October, 2014.


Milt Stowe, 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 regular meeting of the Porterville City Council duly called and held on the 21st day of October, 2014.

THAT said resolution was duly passed, approved, and adopted by the following vote:

Council:	REYES	WARD	STOWE	HAMILTON	GURROLA
AYES:	X		X	X	X
NOES:		X			
ABSTAIN:					
ABSENT:					

JOHN D. LOLLIS, City Clerk


By: Luisa M. Zavala, Deputy City Clerk

RESOLUTION 19-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ESTABLISHING PROCEDURES FOR ANNEXATIONS AND EXTENSION OF
MUNICIPAL SERVICES

WHEREAS: On October 21, 2014, the City Council of the City of Porterville adopted two resolutions that defined objectives and policies, and established procedures for annexations and municipal services, respectively; and

WHEREAS: The on-going, severe drought of the past few years has created a situation where hundreds of parcels in the East Porterville area are experiencing dry wells, or wells of substandard water quality. State and regional agencies have come together with the City to identify and develop a long-term solution to this crisis, which will involve a significant infrastructure project to allow extension of municipal water services to the area. Not all parcels within the subject area meet the mandatory findings for extra-territorial service agreements as identified in the City's current procedures.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby amend existing procedures to submit application for municipal services, and to have said application(s) processed as outlined in Exhibit "A", attached. The exemption identified for the East Porterville Feasibility Study Project Area will apply to the area represented in Exhibit "B".

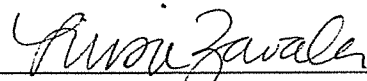
PASSED, APPROVED AND ADOPTED this 19th day of April, 2016.



Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

BY 

Luisa Zavala, Deputy City Clerk

All properties requesting annexation or extraterritorial services are subject to the procedures established below unless otherwise stated. Compliance with City of Porterville procedures does not guarantee approval by LAFCo of annexations or extra-territorial service agreements. Upon request for an annexation or extraterritorial services request, staff will evaluate whether the applicant's property is within the City's Urban Development Boundary or Urban Area Boundary and explain the process.

ANNEXATION APPLICATION PROCEDURE

1. A complete annexation application packet includes: fees, an Irrevocable Agreement to Annex, information as needed to define a deed restriction specific to land use and zoning, Application for Annexation, and other materials as required with those applications respectively.
2. On receipt of an application as outlined above, all materials will be considered by the Project Review Committee, who will coordinate in a pre-consultation process with LAFCO staff and the County Public Works Department for review and recommendation.
3. During review by the Project Review Committee of the necessary application and data, staff will prepare a report and findings on all aspects of the proposed action(s).
4. An environmental document will be prepared pursuant to the California Environmental Quality Act (CEQA), reviewing the potential environmental effect of the proposed activities. The Zoning Administrator will make an initial determination of the level of environmental review required.
5. After proper noticing, a public hearing will be held for the City Council to hear comments related to the project at a regularly scheduled meeting. The Council will authorize staff to initiate the application with LAFCo. Documents will be filed in accordance with the Cortese-Knox-Hertzberg Act of 2000, as amended, and submitted to the Local Agency Formation Commission for its review, recommendation and action.
6. On consummation by the City Council, the City Clerk shall submit the necessary materials to the State Board of Equalization with the appropriate acreage fees, which are paid by the Applicant.
7. In the event the annexation fails, either by dissenting votes of the City Council or at hearing at LAFCo, the City Council may approve an extraterritorial service agreement within the Urban Development Boundary, subject to conditions identified in the deed restriction.

ANNEXATION EXEMPTION PROCEDURE

Where a certain property meets all of the following criteria, they may proceed with an Extraterritorial Service Agreement for water or storm-water drainage without first attempting annexation, subject to the conditions of Extraterritorial Service Agreements as defined below.

1. Previously developed single family residences on parcels 24,999 square feet or smaller, OR a school developed by a State funded school district.
2. The parcel requesting services must be immediately adjacent to a municipal main providing the requested service, or the property owner shall provide for the extension of the main line to City standards at their expense.

EXTRATERRITORIAL SERVICES APPLICATION PROCEDURE

Extraterritorial Service connections may be made subject to the following conditions. Note specific parameters and the required findings for connections in the Urban Development Boundary and the Urban Area Boundary.

1. Application: A complete extraterritorial services application packet includes: fees, an Irrevocable Agreement to Annex, information as needed to define a deed restriction specific to land use and zoning, and other materials as required with those applications respectively.
2. General Plan Consistency:
 - a. Proposed Uses and Improvements: Service connections are to be withheld from proposed uses and improvements that would not be consistent with the adopted Land Use Element of the Porterville Area General Plan and the City of Porterville General Plan.
 - b. Existing Uses and Improvements: Service connections to existing uses and improvements which are not consistent with the adopted Land Use Element of the Porterville Area General Plan and the City of Porterville General Plan shall be considered at the discretion of the City Council, and may be subject to other restrictions.
3. Agreements and covenants:
 - a. A deed restriction specific to land use and zoning must be approved by the property owner and the City Council, and recorded with the County of Tulare upon the property, at the applicant's cost.
 - b. An irrevocable agreement to annex must be signed by the property owner and recorded with the County of Tulare upon the property, at the applicant's cost.
4. Time limitations: The City Manager or his designee, or the City Council may condition the approval of applications for service connections by establishing a time frame within which connections must be made to avoid re-application.
5. Improvement Plans: Applications for service connections, which necessitate the extension of one or more municipal facilities to property in order to make such connections, shall be conditioned by the City Manager or his designee, or the City Council to require that Construction Drawings of the intended public improvements be submitted to the City Engineer for plan check and approval. Costs incurred for the preparation of improvement plans, and certain off-site construction and/or installation costs related to extending facilities, shall be the responsibility of the applicant.
6. Fees: Prior to the issuance of a Connection Permit, payment must be made to the City of Porterville of all fees pertinent to the respective service connection, or connections, approved by the City Manager or his designee, or the City Council.

Within the Urban Development Boundary:

For connection of water or storm-water facilities, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. The City of Porterville Wastewater Facility is a regional facility and as such, an extraterritorial service request cannot be denied; however, the requesting party must fund a fair share of the extension of infrastructure if it does not already exist in order to connect. Contract services for police, fire, or building inspection services shall be approved by resolution of the City Council.

For connection of water or storm-water facilities, the following findings must be made in order for the Council approve an extraterritorial service connection:

- That the subject property is a previously developed single family residence on a parcel 24,999 square feet or smaller, OR a school developed by a State funded school district.
- That failure to connect to municipal services would result in a threat to public health or safety of affected residents.
- That connection of the subject property would not result in a negative impact to the City of Porterville water and/or storm-water system.
- That the subject property is not within an island as defined by Tulare LAFCo.
- That an attempt to annex the subject site is not realistic given current city limit boundaries. Specifically, the parcel is too far removed from the city limit, and/or the number and valuation of adjacent parcels would result in a failed annexation effort.

Within the Urban Area Boundary:

For connection of water or storm-water facilities, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. The City of Porterville Wastewater Facility is a regional facility and as such, an extraterritorial service request cannot be denied; however, the requesting party must fund a fair share of the extension of infrastructure if it does not already exist in order to connect. Contract services for police, fire, or building inspection services shall be approved by resolution of the City Council.

For connection of water or storm-water facilities, the following findings must be made in order for the Council approve an extraterritorial service connection:

- That the subject property is a previously developed single family residence on a parcel 24,999 square feet or smaller, OR a school developed by a State funded school district.
- That failure to connect to municipal services would result in a threat to public health or safety of affected residents.
- That connection of the subject property would not result in a negative impact to the City of Porterville water and/or storm-water system.

EXEMPTIONS AND EXCEPTIONS

1. PVPUD: Connections to Porterville Regional Sewage Treatment Facilities serving uses and improvements to property within the boundaries and jurisdiction of the Porter Vista Public Utility District (PVPUD) are exempted from application to the City of Porterville. Interested parties should contact the PVPUD for information on connection requirements and fees pertaining

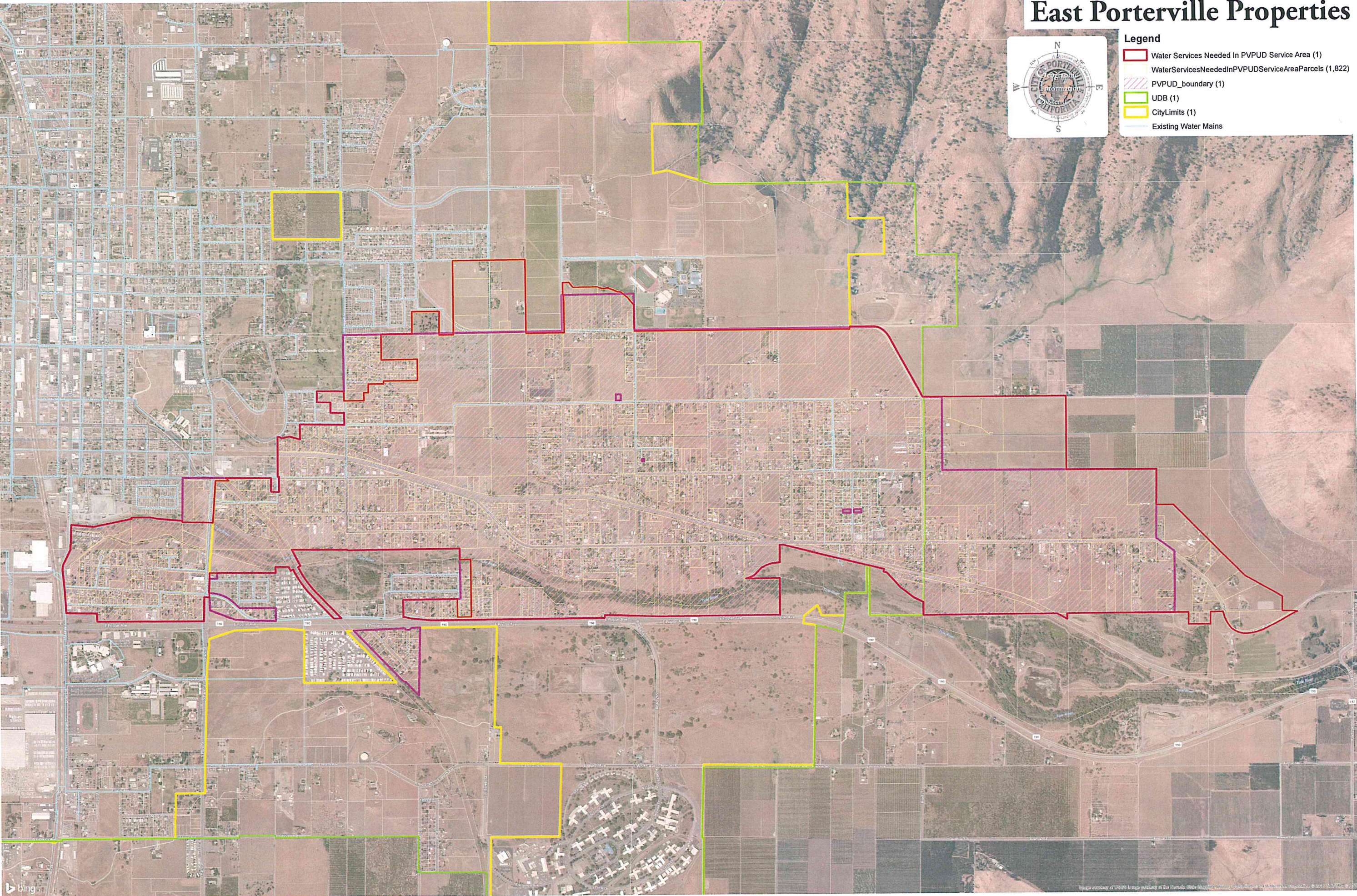
to sewer services. This exemption does not apply to requests for connection to Municipal Water and/or Master Storm Drain Facilities.

2. PRIOR APPROVALS: Porterville City Council approval of requests for connection to Regional Sewage Treatment, Municipal Water and/or Master Storm Drain Facilities as authorized prior to the adoption and effective date of the respective policies set forth herein shall remain valid and in force according to the terms and conditions initially specified at the time of approval, and re-application will not be required.

3. PROPERTIES WITHIN THE EAST PORTERVILLE FEASIBILITY STUDY PROJECT AREA: The California State Water Resources Control Board, in coordination with the Department of Water Resources Drought Task Force, is charged with preparing a feasibility study to define a long-term solution to the water related issues in East Porterville. Properties within that boundary would be permitted to apply for connection, whether in association with DWR, SWRCB, or at a later date, on their own. Such connections would be subject to the mandatory findings as outlined in this procedure, with the following exceptions:

- Rather than require that the subject property be a developed single-family residence on a parcel 24,999 square feet or smaller, neither the land use nor the parcel size would be restricted neither the land use nor the parcel size would be restricted for legal and legal non-conforming structures and land uses existing as of April 29, 2016.
- Further, properties within certain islands in the EPFS Project Area would not be required to annex prior to connection. This exception does not limit the City of Porterville's authority to pursue annexation in the future, but rather waives the requirement that annexation must be approved prior to connection.

East Porterville Properties



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 regular meeting of the Porterville City Council duly called and held on the 19th day of April, 2016.

THAT said resolution was duly passed, approved, and adopted by the following vote:

Council:	REYES	WARD	STOWE	HAMILTON	GURROLA
AYES:	X	X	X	X	
NOES:					
ABSTAIN:					
ABSENT:					X

JOHN D. LOLLIS, City Clerk

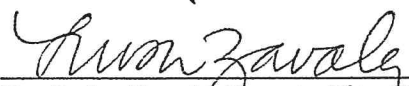

By: Luisa Zavala, Deputy City Clerk

EXHIBIT 'C'



EXHIBIT 'D'

Scope of Work

Task	Description	Cost
1.2	Prepare Well Drilling Plans, Specifications, and Estimates	\$468.00
3.2	Prepare Well Equipping Plans, Specifications, and Estimates	\$1,526.00
5	Ph. 1 Preconstruction Meeting	\$1,357.43
Total:		\$3,351.43

Consulting Engineering work will be reimbursed directly to Dee Jaspar & Associates under Tulare County Agreement No. 1276, including the following Tasks:

Task 4.1	Project Evaluations and Field Surveying	\$58,326.00
Task 4.2	Prepare Well Equipping Plans, Specifications, and Estimates	\$30,000.00
Task 4.3	Prepare and Assist with SCE Application & Telephone Service	\$5,000.00
Task 4.4	SCE Costs	\$15,000.00
Total:		\$108,326.00



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

March 5, 2021

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

Dear Governor Newsom:

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

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

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

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

Local FSA offices can provide affected farmers with further information.

Sincerely,

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

Thomas J. Vilsack
Secretary

Enclosure

Disaster Designation Areas for California and Contiguous States

Primary Counties:

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

Contiguous Counties:

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

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

Contiguous Counties in Adjacent States:

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

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

State of Emergency Proclamation

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

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

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

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

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

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

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

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

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

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

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

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

IT IS HEREBY ORDERED THAT:

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

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

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

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

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

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

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

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

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

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

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



GAVIN NEWSOM
Governor of California

ATTEST:

DR. SHIRLEY WEBER
Secretary of State

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

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

RESOLUTION NO. 2021-0290

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOES: NONE

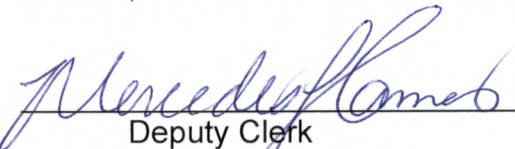
ABSTAIN: NONE

ABSENT: NONE

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



BY:


Deputy Clerk

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

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

WHEREAS:

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

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

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

THEREFORE BE IT RESOLVED THAT:

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

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

CERTIFICATION

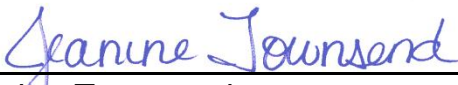
The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on January 4, 2022.

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

NAY: None

ABSENT: Chair E. Joaquin Esquivel

ABSTAIN: None



Jeanine Townsend
Clerk to the Board

ADOPTED TEXT OF EMERGENCY REGULATION

Title 23. Waters

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

Chapter 3.5. Urban Water Use Efficiency and Conservation

Article 2. Prevention of Drought Wasteful Water Uses

§ 995. Wasteful and Unreasonable Water Uses.

(a) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) As used in this subdivision:

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

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

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

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

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

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

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

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

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

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

Authority: Section 1058.5, Water Code.

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

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

EXECUTIVE ORDER N-7-22

WHEREAS on April 12, 2021, May 10, 2021, July 8, 2021, and October 19, 2021, I proclaimed states of emergency that continue today and exist across all the counties of California, due to extreme and expanding drought conditions; and

WHEREAS climate change continues to intensify the impacts of droughts on our communities, environment, and economy, and California is in a third consecutive year of dry conditions, resulting in continuing drought in all parts of the State; and

WHEREAS the 21st century to date has been characterized by record warmth and predominantly dry conditions, and the 2021 meteorological summer in California and the rest of the western United States was the hottest on record; and

WHEREAS since my October 19, 2021 Proclamation, early rains in October and December 2021 gave way to the driest January and February in recorded history for the watersheds that provide much of California's water supply; and

WHEREAS the ongoing drought will have significant, immediate impacts on communities with vulnerable water supplies, farms that rely on irrigation to grow food and fiber, and fish and wildlife that rely on stream flows and cool water; and

WHEREAS the two largest reservoirs of the Central Valley Project, which supplies water to farms and communities in the Central Valley and the Santa Clara Valley and provides critical cold-water habitat for salmon and other anadromous fish, have water storage levels that are approximately 1.1 million acre-feet below last year's low levels on this date; and

WHEREAS the record-breaking dry period in January and February and the absence of significant rains in March have required the Department of Water Resources to reduce anticipated deliveries from the State Water Project to 5 percent of requested supplies; and

WHEREAS delivery of water by bottle or truck is necessary to protect human safety and public health in those places where water supplies are disrupted; and

WHEREAS groundwater use accounts for 41 percent of the State's total water supply on an average annual basis but as much as 58 percent in a critically dry year, and approximately 85 percent of public water systems rely on groundwater as their primary supply; and

WHEREAS coordination between local entities that approve permits for new groundwater wells and local groundwater sustainability agencies is important to achieving sustainable levels of groundwater in critically overdrafted basins; and

WHEREAS the duration of the drought, especially following a multiyear drought that abated only five years ago, underscores the need for California to redouble near-, medium-, and long-term efforts to adapt its water management and delivery systems to a changing climate, shifting precipitation patterns, and water scarcity; and

WHEREAS the most consequential, immediate action Californians can take to extend available supplies is to voluntarily reduce their water use by 15 percent from their 2020 levels by implementing the commonsense measures identified in operative paragraph 1 of Executive Order N-10-21 (July 8, 2021); and

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

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code sections 8567, 8571, and 8627, do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in my April 21, 2021, May 10, 2021, July 8, 2021, and October 19, 2021 Proclamations remain in full force and effect, except as modified by those Proclamations and herein. State agencies shall continue to implement all directions from those Proclamations and accelerate implementation where feasible.
2. To help the State achieve its conservation goals and ensure sufficient water for essential indoor and outdoor use, I call on all Californians to strive to limit summertime water use and to use water more efficiently indoors and out. The statewide Save Our Water conservation campaign at [SaveOurWater.com](https://www.SaveOurWater.com) provides simple ways for Californians to reduce water use in their everyday lives. Furthermore, I encourage Californians to understand and track the amount of water they use and measure their progress toward their conservation goals.
3. By May 25, 2022, the State Water Resources Control Board (Water Board) shall consider adopting emergency regulations that include all of the following:
 - a. A requirement that each urban water supplier, as defined in section 10617 of the Water Code, shall submit to the Department of Water Resources a preliminary annual water supply and demand assessment consistent with section 10632.1 of the Water Code no later than June 1, 2022, and submit a final annual water

supply and demand assessment to the Department of Water Resources no later than the deadline set by section 10632.1 of the Water Code;

- b. A requirement that each urban water supplier that has submitted a water shortage contingency plan to the Department of Water Resources implement, at a minimum, the shortage response actions adopted under section 10632 of the Water Code for a shortage level of up to twenty percent (Level 2), by a date to be set by the Water Board; and
- c. A requirement that each urban water supplier that has not submitted a water shortage contingency plan to the Department of Water Resources implement, at a minimum, shortage response actions established by the Water Board, which shall take into consideration model actions that the Department of Water Resources shall develop for urban water supplier water shortage contingency planning for Level 2, by a date to be set by the Water Board.

To further conserve water and improve drought resiliency if the drought lasts beyond this year, I encourage urban water suppliers to conserve more than required by the emergency regulations described in this paragraph and to voluntarily activate more stringent local requirements based on a shortage level of up to thirty percent (Level 3).

- 4. To promote water conservation, the Department of Water Resources shall consult with leaders in the commercial, industrial, and institutional sectors to develop strategies for improving water conservation, including direct technical assistance, financial assistance, and other approaches. By May 25, 2022, the Water Board shall consider adopting emergency regulations defining “non-functional turf” (that is, a definition of turf that is ornamental and not otherwise used for human recreation purposes such as school fields, sports fields, and parks) and banning irrigation of non-functional turf in the commercial, industrial, and institutional sectors except as it may be required to ensure the health of trees and other perennial non-turf plantings.
- 5. In order to maximize the efficient use of water and to preserve water supplies critical to human health and safety and the environment, Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division are hereby suspended, with respect to the directives in paragraphs 3 and 4 of this Order and any other projects and activities for the purpose of water conservation to the extent necessary to address the impacts of the drought, and any permits necessary to carry out such projects or activities. Entities that desire to conduct activities under this suspension, other than the directives in paragraphs 3 and 4 of this Order, shall first request that the Secretary of the Natural Resources Agency make a determination that the proposed activities are eligible to be conducted under this suspension. The Secretary shall use sound discretion in applying this Executive Order to ensure that the suspension serves the purpose of accelerating conservation projects that are necessary to address impacts of the drought, while at the same time

protecting public health and the environment. The entities implementing these directives or conducting activities under this suspension shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.

6. To support voluntary approaches to improve fish habitat that would require change petitions under Water Code section 1707 and either Water Code sections 1425 through 1432 or Water Code sections 1725 through 1732, and where the primary purpose is to improve conditions for fish, the Water Board shall expeditiously consider petitions that add a fish and wildlife beneficial use or point of diversion and place of storage to improve conditions for anadromous fish. California Code of Regulations, title 23, section 1064, subdivisions (a)(1)(A)(i)-(ii) are suspended with respect to any petition that is subject to this paragraph.
7. To facilitate the hauling of water for domestic use by local communities and domestic water users threatened with the loss of water supply or degraded water quality resulting from drought, any ordinance, regulation, prohibition, policy, or requirement of any kind adopted by a public agency that prohibits the hauling of water out of the water's basin of origin or a public agency's jurisdiction is hereby suspended. The suspension authorized pursuant to this paragraph shall be limited to the hauling of water by truck or bottle to be used for human consumption, cooking, or sanitation in communities or residences threatened with the loss of affordable safe drinking water. Nothing in this paragraph limits any public health or safety requirement to ensure the safety of hauled water.
8. The Water Board shall expand inspections to determine whether illegal diversions or wasteful or unreasonable use of water are occurring and bring enforcement actions against illegal diverters and those engaging in the wasteful and unreasonable use of water. When access is not granted by a property owner, the Water Board may obtain an inspection warrant pursuant to the procedures set forth in Title 13 (commencing with section 1822.50) of Part 3 of the Code of Civil Procedure for the purposes of conducting an inspection pursuant to this directive.
9. To protect health, safety, and the environment during this drought emergency, a county, city, or other public agency shall not:
 - a. Approve a permit for a new groundwater well or for alteration of an existing well in a basin subject to the Sustainable Groundwater Management Act and classified as medium- or high-priority without first obtaining written verification from a Groundwater Sustainability Agency managing the basin or area of the basin where the well is proposed to be located that groundwater extraction by the proposed well would not be inconsistent with any sustainable groundwater management program established in any applicable Groundwater Sustainability Plan adopted by that Groundwater Sustainability

Agency and would not decrease the likelihood of achieving a sustainability goal for the basin covered by such a plan; or

- b. Issue a permit for a new groundwater well or for alteration of an existing well without first determining that extraction of groundwater from the proposed well is (1) not likely to interfere with the production and functioning of existing nearby wells, and (2) not likely to cause subsidence that would adversely impact or damage nearby infrastructure.

This paragraph shall not apply to permits for wells that will provide less than two acre-feet per year of groundwater for individual domestic users, or that will exclusively provide groundwater to public water supply systems as defined in section 116275 of the Health and Safety Code.

10. To address household or small community drinking water shortages dependent upon groundwater wells that have failed due to drought conditions, the Department of Water Resources shall work with other state agencies to investigate expedited regulatory pathways to modify, repair, or reconstruct failed household or small community or public supply wells, while recognizing the need to ensure the sustainability of such wells as provided for in paragraph 9.
11. State agencies shall collaborate with tribes and federal, regional, and local agencies on actions related to promoting groundwater recharge and increasing storage.
12. To help advance groundwater recharge projects, and to demonstrate the feasibility of projects that can use available high water flows to recharge local groundwater while minimizing flood risks, the Water Board and Regional Water Quality Control Boards shall prioritize water right permits, water quality certifications, waste discharge requirements, and conditional waivers of waste discharge requirements to accelerate approvals for projects that enhance the ability of a local or state agency to capture high precipitation events for local storage or recharge, consistent with water right priorities and protections for fish and wildlife. For the purposes of carrying out this paragraph, Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division, and Chapter 3 (commencing with section 85225) of Part 3 of Division 35 of the Water Code and regulations adopted pursuant thereto are hereby suspended to the extent necessary to address the impacts of the drought. This suspension applies to (a) any actions taken by state agencies, (b) any actions taken by local agencies where the state agency with primary responsibility for the implementation of the directives concurs that local action is required, and (c) permits necessary to carry out actions under (a) or (b). The entities implementing these directives shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.
13. With respect to recharge projects under either Flood-Managed Aquifer Recharge or the Department of Water Resources Sustainable

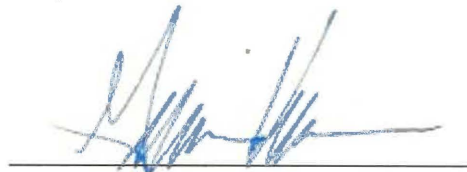
Groundwater Management Grant Program occurring on open and working lands to replenish and store water in groundwater basins that will help mitigate groundwater conditions impacted by drought, for any (a) actions taken by state agencies, (b) actions taken by a local agency where the Department of Water Resources concurs that local action is required, and (c) permits necessary to carry out actions under (a) or (b), Public Resources Code, Division 13 (commencing with section 21000) and regulations adopted pursuant to that Division are hereby suspended to the extent necessary to address the impacts of the drought. The entities implementing these directives shall maintain on their websites a list of all activities or approvals for which these provisions are suspended.

14. To increase resilience of state water supplies during prolonged drought conditions, the Department of Water Resources shall prepare for the potential creation and implementation of a multi-year transfer program pilot project for the purpose of acquiring water from willing partners and storing and conveying water to areas of need.
15. By April 15, 2022, state agencies shall submit to the Department of Finance for my consideration proposals to mitigate the worsening effects of severe drought, including emergency assistance to communities and households and others facing water shortages as a result of the drought, facilitation of groundwater recharge and wastewater recycling, improvements in water use efficiency, protection of fish and wildlife, mitigation of drought-related economic or water-supply disruption, and other potential investments to support short- and long-term drought response.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

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

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 28th day of March 2022.



GAVIN NEWSOM
Governor of California

ATTEST:

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

**State of California
Office of Administrative Law**

In re:
State Water Resources Control Board

Regulatory Action:

Title 23, California Code of Regulations

Adopt sections: 996

Amend sections:

Repeal sections:

**NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION**

Government Code Sections 11346.1 and
11349.6

OAL Matter Number: 2022-0606-03

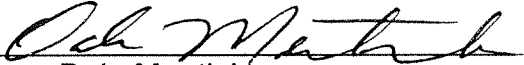
OAL Matter Type: Emergency (E)

This emergency action by the State Water Resources Control Board adopts a new regulation which requires urban water suppliers to submit preliminary supply and demand assessments to the Department of Water Resources and to implement Level 2 demand reduction actions (actions intended to result in a 10 to 20 percent savings). The regulation bans the irrigation of non-functional turf with potable water in commercial, industrial, and institutional sectors and establishes that such irrigation is an infraction punishable by a fine of up to five hundred dollars for each day in which the violation occurs pursuant to Water Code section 1058.5(d).

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code. Pursuant to Water Code section 1058.5(b), the Finding of Emergency in this matter was exempt from Office of Administrative Law Review.

This emergency regulatory action is effective on 6/10/2022 and, pursuant to Water Code section 1058.5(c), will expire on 6/10/2023. The Certificate of Compliance for this action is due no later than 6/9/2023.

Date: June 10, 2022


Dale Mentink
Assistant Chief Counsel

For: Kenneth J. Pogue
Director

Original: Eileen Sobeck, Executive
Director

Copy: Garrett Lenahan

EMERGENCY

For use by Secretary of State only

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2022-0606-03E	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

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

JUN 10 2022

2:06 PM

AGENCY WITH RULEMAKING AUTHORITY
State Water Resources Control Board

AGENCY FILE NUMBER (If any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Water Demand Reduction Emergency Regulation		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT 996 AMEND REPEAL	
TITLE(S) 23			
3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) ☒ Emergency (Gov. Code, §11346.1(b)) ☐ 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. ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ File & Print ☐ Print Only ☒ Other (Specify) <u>Water Code Section 1058.5</u>			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) ☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a)) ☒ Effective on filing with Secretary of State ☐ \$100 Changes Without Regulatory Effect ☐ Effective other (Specify)			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY ☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify)			
7. CONTACT PERSON Garrett Lenahan		TELEPHONE NUMBER (916) 341-5179	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional)

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.

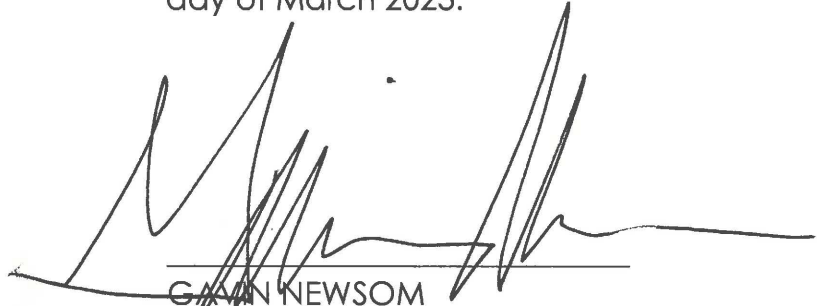
9. Paragraph 6 of my State of Emergency Proclamation dated May 10, 2021, and Paragraph 9 of my State of Emergency Proclamation dated July 8, 2021, are withdrawn and replaced with the following text:

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")



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

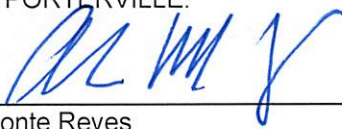
Each party may change its contact upon written notice to the other party. While Party Contacts are contacts for day-to-day communications regarding Project work, the Recipient must provide official communications and notices to the Division's Deputy Director.

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.

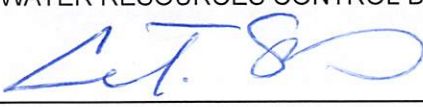
IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

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 – DECEMBER 19, 2023

SUBJECT: Update Regarding Consideration of Potential Local Regulations Addressing Regulation of Camping, the Protection of Critical Infrastructure and Public Access to Open Spaces, and Request to Schedule Study Session

SOURCE: City Attorney

COMMENT: As discussed by the City Council at its meeting on October 17, 2023, this item has been brought back to provide additional information to the Council regarding questions the Council Members posed. Staff recommends that the Council schedule a Study Session (potentially January 30, 2024) for further consideration and to provide direction concerning the development of local regulations and potential expanded resources.

At its October 17th meeting, members of Council asked about the regulations the City currently has within its Municipal Code that address camping. Questions were also raised concerning the regulation of shopping carts and the City's determinations and handling of abandoned property. Finally, there were questions concerning whether the City could set camping boundary restrictions at a lesser amount than 500 feet (such as 250 feet).

CITY'S CURRENT REGULATIONS

This office reviewed the City's current Municipal Code for regulations that directly or indirectly affect individuals experiencing homelessness. Three areas in the Code were identified – 1) Section 19-11, pertaining to Park Closing Hours, 2) Article VII related to "Squatter Camps," and 3) Article X, "Shopping Carts" (which will be discussed separately).

Currently, per Section 19-11 the City restricts individuals from entering, remaining in, or refusing to leave Murry Park, Westview Park, Olivewood Park, Noon Lions' Park or Zalud Park between 10:00p.m. and 5:00a.m. (with the Zalud Park tennis courts excluded). This section was last adopted/revised in 1980 and apparently has not been modified. Additional parks/hours restrictions may have been established via Resolution. The regulation on its face would be legal, so long as there are other public places where individuals experiencing homelessness can sleep.

Article VII, "Squatter Camps," was adopted in 2007, predating the recent case law affecting camping. The camps are defined as areas of public or private land upon which an individual has settled, located or occupied, without having a bona fide claim or color of title to, or without express consent of the owner or legal occupant, AND which are occupied or inhabited in violation of certain uniform building or housing codes (which included any tent camp space, shelter

structure, vacant structure, or structure deemed to be substandard or unsuitable for habitation by City building officials). The Article purports to prohibit individuals from occupying any land without proper claim or title, or without express permission from the owner, or from constructing any tent or structure on the property. The Article, aside from deeming violations to be misdemeanors or infractions, also declares the violations public nuisances and establishes a specific abatement process, which after posting and “serving” notice purports to allow removal of personal belongings after three days and discard unclaimed belongings after ten (10) days. This Article is clearly outdated and has some issues. For example, in addition to the case law previously discussed at the last meeting, the uniform building and housing code sections referred to have also been modified since the adoption of this Ordinance back in 2007. Additionally, the property disposal provisions in this Ordinance are no longer appropriate. As discussed at the last meeting, absent an immediate threat to public health or safety, seized property cannot be disposed of without first maintaining the property in a secure location for a period of at least ninety (90) days. In *Lavan v. City of Los Angeles* (9th Cir. 2012) the Court affirmed that the notice and timing procedures established via lower court cases including one involving the City of Fresno apply. Under those cases, public entities may only seize personal property that the entity reasonably believes has been abandoned, presents an immediate threat to the public health and safety, or is evidence of a crime or contraband; AND absent an immediate threat to the public health or safety, the seized property cannot be destroyed without holding the property in a secure location for no less than ninety (90) days. These cases also provide that entities should establish policies that require notification of pending removal prior to the seizure, and opportunity for the individual to remove and store their personal property, and if the entity removes items the entity must document the particular items removed along with where those items can be recovered.

SHOPPING CARTS

The City made comprehensive additions/revisions to its shopping cart regulations via Ordinance adopted in 2018. Article X of the Municipal Code provides that the cart owners are responsible for keeping their carts contained to the business premises and provides that it is unlawful for a person to remove a cart from a business premises. If carts are removed, cart owners (the businesses) are required to retrieve abandoned carts that have been retrieved by the City, after receiving notice. For repeat offenders (businesses), the City may require that the business operate and maintain an onsite cart containment system. Business owners are also required to affix cart identification signs.

CRITICAL INFRASTRUCTURE PROXIMITY RESTRICTIONS

At the October 17th meeting, questions were raised concerning the “500 foot” proximity requirement that several jurisdictions have adopted, and whether this could be reduced to 250 feet. The Council can determine what the appropriate restriction should be. For example, some jurisdictions have utilized a much smaller boundary restriction, such as the City of Stockton which adopted a distance of thirty (30) feet from critical infrastructure (levees, sloughs, river, canals, waterways, council-designated property or facilities) or within thirty

(30) feet of the property line of any parcel enclosing critical infrastructure, or within thirty (30) feet of a vehicular or pedestrian entrance or exit of critical infrastructure. Stockton also prohibits camping on portions of right of way required by authorities to be free of obstruction for first responders, or in a wildfire risk area.

CURRENT SHELTERS AND SERVICES AND LONG-TERM PLANNING

There are currently four shelters within the city that provide emergency beds for individuals experiencing homelessness. The projects are supported with federal and state funds accessed through the Continuum of Care on Homelessness, County of Tulare, private donations, health plans, and the City of Porterville. In addition to those shelters, there are other projects that are scattered sites that provide permanent supportive housing (PSH) and a multi-family housing project that is dedicated PSH housing. The City directly supports the Porterville Navigation Center with a current capacity for fifteen (15) emergency beds and fifteen (15) bridge housing beds. The City also currently supports the Porterville Armory Temporary Evacuation Point and Shelter, although not a homeless shelter, serves to house individuals who are homeless as a result of the 2023 atmospheric flood, providing overnight shelter to approximately thirty (30) individuals every night with a capacity of fifty (50) beds.

Additionally, the City supports and collaborates with local service providers, to assist homeless individuals and families. Funding priorities concentrate on supporting existing projects that support the Housing First model, Permanent Supportive Housing (PSH), Bridge Housing, Navigation Centers, Emergency Shelters, Housing Navigators, and other programs that help individuals experiencing housing move from an unhoused situation to permanent housing.

RECOMMENDATION: That the City Council consider scheduling a Study Session early next calendar year to consider and provide further direction concerning proposed changes to the City's current regulations, and the development and planning for additional shelter space.

ATTACHMENTS:

1. Municipal Code - Chapter 19, Section 11: Closing Hours in Parks
2. Municipal Code - Chapter 18, Article VII. Squatter Camps
3. Municipal Code - Chapter 18, Article X. Shopping Carts
4. City of Stockton Ordinance

Appropriated/Funded:

Review By:

Department Director:
Julia Lew, City Attorney

Final Approver: John Lollis, City Manager

19-11: CLOSING HOURS IN PARKS:

A. It shall be unlawful for any person to enter, to remain in, or to refuse to leave Murry park, Westview park, Olivewood park, Noon Lions' park, North park, or Zalud park between the hours of ten o'clock (10:00) P.M. and five o'clock (5:00) A.M.

B. The Zalud park tennis courts shall be excluded from such restriction as stated in subsection A of this section.

C. Any person in violation of this section shall be guilty of a misdemeanor. (Ord. 1219 §§ A–C, 10-28-1980)

ARTICLE VII. SQUATTER CAMPS

SECTION:

18-76: Purpose

18-77: Definitions

18-78: Unlawful Occupancy

18-79: Enforcement

18-80: Nuisance

18-81: Procedure For Abatement Of Nuisance

18-82: Penalty

18-83: Severability

18-76: PURPOSE:

The purpose of this article is to assist code/law enforcement in minimizing the impact that squatter camps have on the city's quality of life. Squatter camps are unsightly, accumulating over time on public and private property causing blight and similar conditions resulting in depreciation of property values and deterioration of the city's neighborhoods. Such encampments are also detrimental to the public health, safety, and welfare, and constitute a public nuisance and, hence, the city herewith provides a means by which they can be eliminated. (Ord. 1719 § 1, 4-17-2007)

18-77: DEFINITIONS:

Unless otherwise stated herein, whenever used in this article, the following terms shall be defined as follows:

HEALTH OFFICER: The health officer of the city, as appointed by the city manager, and the health officer's duly authorized representatives and deputies.

SQUATTER: One who settles or locates on land enclosed or unenclosed with no bona fide claim or color of title or without the express consent of the owner or person legally in charge of the land.

SQUATTER CAMP: An area of land, public or private, upon which any person has settled or located, or which he/she occupies, without having a bona fide claim or color of title thereto, or without the express consent of the owner or person legally in charge thereof or the agent of the same, and which is occupied or inhabited in violation of section 103 of the California building code or chapter 10 of the uniform housing code as adopted by the city of Tulare. It includes any tent camp space, house court and every other kind of camp, tent, shelter, structure, or collection of tents, shelters, or structures of any kind established, constructed, maintained, or operated thereon. It also includes the inhabiting of any vacant structure without permission of the property owner, or the inhabiting of any structure deemed substandard and/or unsuitable for habitation by city building officials. (Ord. 1719 § 1, 4-17-2007)

18-78: UNLAWFUL OCCUPANCY:

No person shall settle or locate on or occupy any land without a bona fide claim or color of title thereto, or without the express consent of the owner or person legally in charge of said land, or erect or construct any tent, shelter, or structure of any kind thereon. (Ord. 1719 § 1, 4-17-2007)

18-79: ENFORCEMENT:

It shall be the duty of the chief of police or the city health officer to enforce the provisions of this article. (Ord. 1719 § 1, 4-17-2007)

18-80: NUISANCE:

Every "squatter camp" as defined in this article is hereby declared to be a public nuisance, and may be abated by the city in the manner provided in this article. (Ord. 1719 § 1, 4-17-2007)

18-81: PROCEDURE FOR ABATEMENT OF NUISANCE:

The health officer and the chief of police are hereby authorized to abate such a nuisance as follows:

A. **Service Of Notice:** Notice must be served upon the owner or person in charge of the property upon which said squatter camp is located. Such notice shall be in writing, signed by the health officer or chief of police, and served upon the owner or the person in charge of the property upon which said squatter camp is located according to the provisions of section 1162 of the Code of Civil Procedure of California. Such notice shall require that said squatter camp be completely abandoned, abated, closed and vacated and demolished within three (3) days from the date of service of notice upon the owner or operator or person in charge thereof. Failure or refusal on the part of any such owner or person in charge of such squatter camp to abate, vacate, and close it in compliance with such written notice shall constitute a violation of this article. Where public property is involved, the notice shall be served upon the squatter(s).

B. **Posting Of Notice:** Upon the failure or refusal on the part of the owner or person in charge of the land, upon which the squatter camp is located, to comply with the notice, the health officer or chief of police may post notices notifying all squatters that said squatter camp is condemned as a public nuisance and that all persons shall, within three (3) days, vacate the premises upon which such squatter camp space is located. Any person who shall thereafter enter in or upon or make any use of such squatter camp shall be guilty of a violation of this article.

C. **Notice Of Condemnation; Removal Of Belongings:** If the health officer or chief of police is unable to ascertain or find the owner

of the land upon which any such squatter camp is located, or where no person is in charge of the same, the health officer or chief of police may notify all squatters within such squatter camp, in writing, that the same has been condemned and to remove all personal belongings therefrom within three (3) days. In addition, the health officer or chief of police shall post a written notice in a conspicuous place, within said squatter camp, notifying all squatters to remove all personal belongings and vacate said squatter camp within three (3) days, after which the city may remove all remaining personal belongings and shall hold such for ten (10) days. The city may discard all items not claimed within the ten (10) day holding period.

D. Failure To Comply A Violation: Failure or refusal of any person to comply with any notice provided according to this article shall be a violation of this article. (Ord. 1719 § 1, 4-17-2007)

18-82: PENALTY:

Every "squatter camp", as defined by this article, is hereby declared a public nuisance, and as such may be abated in the manner provided for in this article. Furthermore, all violations of this article shall be considered misdemeanors, punishable according to section 1-9 of this code. Upon the recommendation of the prosecuting attorney, the court may reduce the charged offense from a misdemeanor to an infraction, punishable under California Penal Code section 19.8. (Ord. 1719 § 1, 4-17-2007)

18-83: SEVERABILITY:

If any provision, clause, sentence, or paragraph of this article or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this article are declared to be severable. (Ord. 1719 § 1, 4-17-2007)

ARTICLE X. SHOPPING CARTS

SECTION:

18-100: Findings And Purpose

18-101: Definitions

18-102: Enforcement Authority And Remedies

18-103: Prohibition Against Removing, Possessing And Altering Carts

18-104: Prohibition Against Abandoning Carts

18-105: Impoundment Of Abandoned Carts

18-106: Cart Identification Signs

18-107: Cart Containment System Required

18-108: Retrieval Services

18-109: Penalty

18-110: Prosecution For Theft Not Precluded

18-111: Severability

18-100: FINDINGS AND PURPOSE:

The City Council finds that abandoned shopping carts on public and private property create conditions that are unsightly, interfere with pedestrian and vehicular traffic, accumulate over time on public and private property, promote blight, resulting in reduction of property values and deterioration of neighborhoods, are detrimental to the public health, safety and welfare, and constitute a public nuisance. This article is intended to ensure that measures are taken to prevent the removal of the shopping carts from the owner's premises and facilitate the retrieval of abandoned shopping carts in a manner consistent with State law. (Ord. 1848, 8-7-2018)

18-101: DEFINITIONS:

ABANDONED CART: Shall mean any cart that has been removed, without the written consent of the owner, from the owner's business premises or parking area of the retail establishment on which the cart owner's business premises are located, is located on either public or private property, and is no longer in the possession or under the physical control of the person who removed the cart. A cart abandoned by a person, other than the owner, shall not constitute a relinquishment of ownership of the cart by the owner.

BUSINESS PREMISES: Means the interior of a cart owner's commercial establishment, adjacent walkways, any loading area, and parking areas, as defined herein. The owner's business premises may include a multi-store shopping center with shared areas of parking and public access. The entire area owned, rented, leased or utilized by a business establishment that provides shopping carts for customer use, including parking areas.

CART: A basket or platform which is mounted on wheels or a similar device generally used in a business establishment by a customer for the purpose of transporting goods of any kind or used in a coin-operated laundry or dry-cleaning retail establishment by a customer or an attendant for the purpose of transporting fabrics and the supplies necessary to process them. This includes, but is not limited to, laundry, grocery or shopping carts.

CART IDENTIFICATION SIGN: Means a sign or engraved surface which is permanently affixed to a shopping cart containing all of the information specified in section 22435.1 of the California Business and Professions Code.

CART OWNER: Means the owner or operator of a commercial establishment which provides carts for use by its customers for the purpose of transporting goods of any kind. Any person, business establishment or entity that owns, possesses or has the power to make a shopping cart available to customers. For the purpose of this article, owner includes, but is not limited to, the store owner, manager, on-site manager, on-duty manager or other designated agent of a business establishment providing shopping carts for customer use.

CART REMOVAL WARNING: Means a placard, sign or painted text which meets the requirements specified in section 18-106 of this article.

CART RETRIEVAL SERVICE: Means a third party commercial service in the business of retrieving and returning shopping carts.

DIRECTOR: The City Manager or his or her designee.

ENFORCEMENT OFFICER: Means any officer or employee of the City designated with the authority to enforce the applicable provisions of this Code.

INDIVIDUAL CART IDENTIFICATION NUMBER: Means a number unique to each cart owned or provided by a cart owner.

ON-SITE CART CONTAINMENT PROGRAM: Means one or more of the following measures:

A. Disabling devices on all shopping carts which prevent them from being removed from the business premises by locking the wheels or otherwise preventing the movement of the carts.

B. An on-site security guard to deter customers who attempt to remove carts from the business premises.

C. Bollards and chains around the business premises to prevent cart removal, if permitted by the applicable zoning and the site plan, and if approved by the Fire Marshal.

D. Obtaining a security deposit from customers for the on-site use of shopping carts.

E. The rental or sale of carts that can be temporarily or permanently used for the transport of goods.

F. Any other measure approved by Community Development as a means to contain carts on the premises.

PARKING AREA: Means a parking lot or other property provided by a commercial establishment for use by a customer for parking an automobile or other vehicle. In a multi-store complex or shopping center, "parking area" includes the entire parking area used by or controlled by the complex or center.

PERSON: Any person, corporation, partnership, association, joint-stock company, limited liability company, limited liability partnership and other entity capable of being sued.

PHYSICAL CONTAINMENT SYSTEM: Means one of the following, as approved by the Director of Community Development:

A. Disabling devices on all shopping carts which prevent them from being removed from the business premises by locking the wheels or otherwise preventing the movement of the carts.

B. Any other system of equipment approved by the Community Development Director or designee which physically contains shopping carts on the premises.

SHOPPING CART OR CART: Means a basket which is mounted on wheels or a similar device provided by the operator of a commercial establishment for the use of customers for the purpose of transporting goods of any kind. A cart sold by a commercial establishment to a retail customer for that customer's personal use is not a shopping cart for the purposes of this article.

SHOPPING CART OR LAUNDRY CART RETRIEVAL BUSINESS: To search for, gather and restore possession to the owner, or an agent thereof, for compensation or in expectation of compensation, of shopping carts or laundry carts located outside the premises or parking area of a retail establishment.

STREET: Any street, avenue, road, alley, lane, highway, boulevard, concourse, driveway, culvert, crosswalk, sidewalk, park, parking lot, parking area and place used by the general public. (Ord. 1848, 8-7-2018)

18-102: ENFORCEMENT AUTHORITY AND REMEDIES:

A. This article shall be administered and enforced by the Director with the assistance of the Police Chief, Fire Chief and their designated agents and Code Enforcement Officers. The Director is hereby authorized and directed to promulgate and implement rules, regulations and procedures necessary or appropriate for the enforcement of this article. The Director, Police Chief, Fire Chief and their designated agents and Code Enforcement Officers are authorized as follows:

1. To enter upon and inspect any public and private property or premises to ascertain whether the provisions of this article or applicable State laws are being obeyed. As used herein, public property includes the outdoor common area of any building, business premises, apartment building or complex or other premises or portion thereof which is adjacent to public property, open to the public and which contains a shopping cart or shopping carts visible at street or ground level from the adjacent public property. All inspections, entries and examinations shall be done in a reasonable manner. If an owner, tenant, occupant or agent or other responsible party refuses to grant the City permission to enter or inspect, the City may seek an inspection warrant pursuant to the procedures provided for in the California Code of Civil Procedure. Nothing contained in this section shall be deemed a limitation upon the Director to enter private property pursuant to permission from the owner or occupant thereof or pursuant to a duly issued inspection warrant or other court order;

2. To examine a shopping cart or parts thereof, or to obtain information as to the identity of the owner of any shopping cart, or to retrieve shopping carts in accordance with the provisions of this article;

3. To determine whether a violation of this article exists and to take appropriate action to gain compliance with the provisions of this article and applicable State laws; and

4. To issue administrative citations and to impose civil penalties for any violation of this article.

B. The Police Chief, City police officers and designated City employees, who shall be designated by a separate resolution pursuant to the provisions of California Penal Code section 836.5, shall have the authority to issue criminal citations for violations of this article. The City Attorney and the District Attorney shall have the authority to file criminal complaints to enforce this article.

C. In addition to the above listed authority, the City may exercise the following remedies:

1. Pursuant to Business and Professions Code section 22435.7, any owner that fails to retrieve its abandoned cart(s) within three (3) business days after receiving notice from the City, shall pay the City's administrative costs for retrieving the cart(s) and providing the notification to the owner. Any owner who fails to retrieve abandoned carts in accordance with this article in excess of three (3) times during a specified six-month period shall be subject to a fifty dollar (\$50.00) fine for each occurrence. An occurrence includes all carts owned by the owner that were impounded by the City for a one-day period.

2. If a cart is not retrieved by its owner within thirty (30) days after the owner has received notice of the cart being impounded, including a failure to pay costs and fines, or if the cart's owner cannot be determined, the cart will be sold, destroyed or otherwise disposed of as the City sees fit.

3. Following the City having retrieved more than ten (10) carts in any thirty-day period or the issuance of more than ten (10) administrative citations in any twelve-month period, the Director of Community Development may require the owner to install a physical containment system.

4. Violations by any person of section 18-103 of this article may be enforced through any of the penalties for violations of this Code specified in section 1-9 of this Code. (Ord. 1848, 8-7-2018)

18-103: PROHIBITION AGAINST REMOVING, POSSESSING AND ALTERING CARTS:

It is unlawful for any person except the owner of a cart or the owner's agent to do any of the following acts:

A. No person shall be deemed to be authorized to remove a cart with cart identification from the business premises unless he or she possesses written authorization from the cart owner. Removal authorization shall be valid for a period not to exceed twelve (12) hours. The authorization shall include: the date and time of removal, the name, address, and phone number of the store where the cart was removed, as well as the name, title and signature of the person authorizing the removal. This section shall not apply to the possession of a shopping cart removed from the business premises at the direction of the cart owner for the purposes of repair, maintenance, or when found in the possession of a cart retrieval service returning it to the cart owner;

B. To be in possession of any cart while that cart is not located on the premises or parking lot of the owner of the cart without the express written consent of the owner. Written permission to remove a shopping cart shall be valid for a period not to exceed twelve (12) consecutive hours;

C. It shall be unlawful for a person to possess a shopping cart with a cart identification sign on sidewalks, streets, trails, other public property open to the public, or on private property open to public view, without written authorization from the cart owner, unless the person has written permission of the cart owner to repair or maintain the cart, is a cart retrieval service in the process of returning an empty cart to the cart owner, or is moving the cart so it can be picked up by a cart retrieval service;

D. To be in possession of any shopping cart with serial numbers removed, obliterated or altered; or

E. To alter, convert or tamper with a cart, or to remove any part or portion thereof or to remove, obliterate or alter serial numbers or the cart identification sign on a cart. (Ord. 1848, 8-7-2018)

18-104: PROHIBITION AGAINST ABANDONING CARTS:

It is unlawful for any person to leave, abandon or store any cart upon any sidewalk, street or other public place, or upon private property exposed to public view, at a location other than the premises of the owner. (Ord. 1848, 8-7-2018)

18-105: IMPOUNDMENT OF ABANDONED CARTS:

A. The City of Porterville hereby adopts California Business and Professions Code section 22435 in reference to the impoundment of abandoned carts. Pursuant to the provisions of the Business and Professions Code, a cart that has a sign affixed to it in accordance with California Business and Professions Code section 22435.1 may be impounded by the City provided both of the following conditions have been satisfied:

1. The shopping cart is located outside the premises or parking area of a retail establishment. The parking area of a retail establishment located in a multi-store complex or shopping center shall include the entire parking area used by the complex or center.

2. Except as provided in subsection G of this section, the shopping cart is not retrieved within three (3) business days from the date the owner of the shopping cart, or his or her agent, receives actual notice from the City of the shopping cart's discovery and location.

B. In instances where the location of a shopping cart will impede emergency services, the City is authorized to immediately retrieve the shopping cart from public or private property.

C. When the City impounds a shopping cart under the authority provided in subsections A and B of this section, the City is authorized to recover its actual costs for providing this service.

D. Any shopping cart that is impounded by the City pursuant to subsections A and B of this section shall be held at a location that is both:

1. Reasonably convenient to the owner of the shopping cart; and
2. Open for business at least six (6) hours of each business day.

E. The City shall fine the owner of a shopping cart in an amount as set by the Porterville City Council for each occurrence in excess of three (3) during a specified six-month period for failure to retrieve shopping carts in accordance with this section. An occurrence includes all shopping carts impounded in accordance with this section in a one-day period.

F. The City may sell or otherwise dispose of any shopping cart not reclaimed from the City within thirty (30) days of receipt of a notice of violation by the owner of the shopping cart.

G. Notwithstanding subsection A2 of this section, the City may impound a shopping cart that otherwise meets the criteria set forth in subsection A1 of this section without complying with the three-day advance notice requirement provided that all of the following occur:

1. The owner of the shopping cart, or his or her agent, is provided actual verbal or written notice within twenty four (24) hours following impound of the cart and that notice informs the owner, or his or her agent, as to the location where the shopping cart may be claimed.

2. Any shopping cart so impounded shall be held at a location in compliance with subsection D of this section.

H. Any shopping cart reclaimed by the owner or his or her agent, within three (3) business days following the date of actual notice as provided pursuant to subsection G1 of this section, shall be released and surrendered to the owner or agent at no charge whatsoever, including the waiver of any impound and storage fees or fines that would otherwise be applicable pursuant to subsection C or E of this section. Any cart reclaimed within the three (3) business day period shall not be deemed an occurrence for purposes of

subsection E of this section.

I. Any shopping cart not reclaimed by the owner or his or her agent, within three (3) business days following the date of actual notice as provided pursuant to subsection G1 of this section, shall be subject to any applicable fee or fine imposed pursuant to subsection C or E of this section commencing on the fourth business day following the date of the notice.

J. Any shopping cart not reclaimed by the owner or his or her agent, within thirty (30) days of receipt following the date of actual notice as provided pursuant to subsection G1 of this section, may be sold or disposed of in accordance with subsection F of this section. (Ord. 1848, 8-7-2018)

18-106: CART IDENTIFICATION SIGNS:

A. Removal Prevention And Retrieval: Every owner who provides or intends to provide carts to be used by customers shall do the following:

1. Pursuant to Business and Professions Code section 22435.1, each shopping cart owned or used within the City shall have permanently affixed to it and easily visible a cart identification sign or engraved surface which includes all of the following information: the name of the cart owner; the telephone number of the cart owner and/or commercial establishment to which the cart belongs; a valid toll-free phone number for cart retrieval; the procedure (if any) to be followed to obtain permission to remove the cart from the business premises; and a notice to the public that unauthorized removal of the cart from the business premises is a violation of State law and City ordinance.

2. In addition to the cart identification and cart removal notice required on each cart, the cart owner shall post a notice in substantially the following form prominently and conspicuously in the area where carts are stored for customer use. Post prominently and conspicuously at all public entrances and exits where there is frequent cart activity, a notice no smaller than 12 inches by 18 inches, or approved by the Director, in the following form:

REMOVAL OF SHOPPING CARTS (OR LAUNDRY CARTS, IF APPLICABLE,) FROM THESE PREMISES IS PROHIBITED BY LAW (PMC § 18-103) AND WILL SUBJECT THE VIOLATOR TO A FINE OF UP TO \$1,000.00 OR SIX MONTHS IN JAIL OR BOTH THE FINE AND THE JAIL TERM.

The notice required by this section shall be considered exempt from chapter 21, article 305 of this Code.

B. Maintenance Of Signs: It shall be the responsibility of each cart owner to comply with subsections A1 and A2 of this section, and to continuously maintain, or cause to be maintained all signs so that all of the required information is accurate and clearly legible.

C. Identification Of Ownership Required: A cart without a sign attached, pursuant to subsection A of this section, shall bear some form of identification to establish ownership. Every business that utilizes shopping carts during normal operations within the City of Porterville shall provide the Director with a valid, current telephone number of the owner or provider of the cart.

D. Chain Stores: Carts provided by individual stores or retailers that are owned by or affiliated with the same company and share the same name (chain stores) shall bear some form of identification which identifies the specific store that the cart is assigned to.

E. Presumption Of Abandonment: A cart that does not have a sign attached as required by subsection A of this section or fails to provide information to the Director as required in subsection C of this section is presumed to be abandoned if it has been left standing unattended on any public or private property other than the owner's or the owner's agent. The City may impound, sell or otherwise dispose of such a cart immediately upon discovery of the cart. (Ord. 1848, 8-7-2018)

18-107: CART CONTAINMENT SYSTEM REQUIRED:

Every cart owner shall operate and maintain an on-site cart containment program as defined in section 18-101 of this article. A cart owner may be exempted from this requirement if he or she provides proof of contracting with a qualified cart retrieval service and submits information to the Community Development Director or designee which demonstrates to the satisfaction of the Director that the qualified cart retrieval service will: a) actively locate shopping carts within the City limits of Porterville seven (7) days per week, eight (8) hours per day; and b) respond to complaints from the public in a manner which results in the retrieval of shopping carts within twenty four (24) hours after receiving complaint(s). (Ord. 1848, 8-7-2018)

18-108: RETRIEVAL SERVICES:

A. Any person who engages in the business of shopping cart or laundry cart retrieval, as defined in this article, in the City shall have a City business license and shall retain records showing written authorization from the cart owner, or an agent thereof, to retrieve the cart or carts and to be in possession of the cart or carts retrieved, unless the person is an employee of the cart owner.

B. A copy of the record showing written authorization shall be maintained in each vehicle used for shopping cart or laundry cart retrieval.

C. Each vehicle employed for the retrieval of shopping carts or laundry carts shall display a sign that clearly identifies the retrieval service or the cart's owner.

D. Any person who violates the provisions of this section is guilty of a misdemeanor and subject to punishment in accordance with section 1-9 of this Code. (Ord. 1848, 8-7-2018)

18-109: PENALTY:

Any person who violates any provision of this Code, or the California Business and Professions Code as referenced above shall be guilty of a misdemeanor and subject to punishment in accordance to California Penal Code section 19. Upon recommendation of the Prosecuting Attorney, the court may reduce the charged offense from a misdemeanor to an infraction, punishable under section 1-9 of this Code. An administrative fine may also be imposed as set forth in section 2-144 of this Code. Nothing in this article shall prevent the City from pursuing criminal, civil, administrative or any other legal remedy to address violations of this article. (Ord. 1848, 8-7-2018)

18-110: PROSECUTION FOR THEFT NOT PRECLUDED:

The provisions of this article are not intended to preclude the application of any other laws relating to prosecution for theft. (Ord. 1848, 8-7-2018)

18-111: SEVERABILITY:

If any provision, clause, sentence or division of this article or the application thereof to any person or circumstance shall be held invalid, the invalidity shall not affect the other provisions or application of the provisions of this article which can be given effect without the invalid provisions or application and, to this end, the provisions of this article are declared to be severable. (Ord. 1848, 8-7-2018)

ORDINANCE NO. 2022-09-27-1202

AN ORDINANCE ADDING TITLE 8, CHAPTER 8.100, TO THE STOCKTON MUNICIPAL CODE RELATING TO PROTECTION OF CRITICAL INFRASTRUCTURE AND WILDFIRE RISK AREAS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF CODE

Title 8, Chapter 8.100, Sections 8.100.010, 8.100.020, 8.100.030, 8.100.040, 8.100.050, and 8.100.060 are added to the Stockton Municipal Code and shall read as follows:

8.100.010 Findings and purpose.

The City Council finds as follows: (1) a principal threat to the public health, safety, and welfare is the potential destruction of, damage to, or interference with, infrastructure that is critical to the provision of public services such as law enforcement, fire prevention, transportation, and utilities including communication, water, wastewater, stormwater, and waste disposal; (2) destruction of, damage to, or interference with, critical infrastructure is caused by fire, contamination, obstructing access, or other causes; and (3) destruction of, damage to, or interference with, critical infrastructure is often caused by persons whose activities are not permitted or authorized in, on, or near critical infrastructure.

The purpose of this chapter is to mitigate the threat of fire and other potential causes of destruction and damage to, and interference with, critical infrastructure, in order to protect the health, safety, and welfare of the public, by authorizing the removal of persons and their personal property in, on, or near critical infrastructure.

8.100.020 Definitions.

When used in this chapter, the following words and phrases have the following meanings:

“Camp” means to place, pitch or occupy camp facilities; to live temporarily in a camp facility or outdoors; to use camp paraphernalia.

“Camp facilities” include, but are not limited to, tents, huts, vehicles, vehicle camping outfits or temporary shelter.

“Camp paraphernalia” includes, but is not limited to, bedrolls, tarpaulins, cots, beds, sleeping bags, hammocks, cooking facilities, and similar equipment.

“Critical infrastructure” means each of the following:

1. Levees;

2. Sloughs, rivers, canals, and waterways; or

3. Real property or a facility, whether privately or publicly owned, as approved by action of the City Council, that the City Manager designates as being so vital and integral to the operation or functioning of the City that its damage, incapacity, disruption, or destruction would have a debilitating impact on the public health, safety, or welfare.

Critical infrastructure may include, but is not limited to, government buildings, such as fire stations, police stations, jails, or courthouses; hospitals; structures, such as antennas, bridges, roads, train tracks, or drainage systems; or systems, such as computer networks, public utilities, electrical wires, natural gas pipes, telecommunication centers, or water sources; and parks.

“Debris” means building and construction materials, garbage, refuse, wreckage, spoiled or ruined household goods, and similar material.

“Facility” means a building, structure, equipment, system, or asset.

“Garbage” means discarded household items, objects, or materials for which there is no use or reuse intended.

“Hazardous waste” has the same meaning as in California Public Resources Code section 40141.

“Infectious waste” has the same meaning as in California Code of Regulations, title 14, section 17225.36.

“Solid waste” means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage; ashes; industrial waste; demolition and construction waste; discarded home and industrial appliances; abandoned vehicles and vehicle parts; dewatered, treated, or chemically fixed sewage that is not hazardous waste; manure; dirt; soil, rock, gravel, sand, or other aggregate material; and other discarded solid and semisolid waste.

“Wildfire risk area” has the same meaning as in California Code of Regulations, title 24, part 9, section 202.

8.100.030 Prohibited activities.

A. It is unlawful and a public nuisance for any person to camp, occupy camp facilities, or use camp paraphernalia, or for a property owner to allow such activity to occur, at the following locations:

1. Critical infrastructure;
2. Within 30 feet of critical infrastructure;
3. Within 30 feet of the property line of any parcel enclosing critical infrastructure;
4. Within 30 feet of a vehicular or pedestrian entrance or exit of critical infrastructure;
5. On those portions of a right-of-way that are required by local, state, or federal law to be free of obstruction to first responders, including but not limited to members of law enforcement, fire prevention, or emergency medical services agencies; or
6. In a wildfire risk area.

B. It is unlawful and a public nuisance for any person to store personal property, including camp facilities and camp paraphernalia, in the following locations without the written consent of the owner, except as otherwise provided by action of the City Council:

1. Critical infrastructure;
2. Within 30 feet of critical infrastructure;
3. Within 30 feet of the property line of any parcel enclosing critical infrastructure;
4. Within 30 feet of a vehicular or pedestrian entrance or exit of critical infrastructure;
5. On those portions of a right-of-way that are required by local, state, or federal law to be free of obstruction to first responders, including but not limited to members of law-enforcement, fire-prevention, or emergency-medical-services agencies; or
6. Wildfire risk area.

C. Nothing in this chapter is intended to prohibit or make unlawful the activities of an owner of private property or other lawful user of private property that are normally associated with and incidental to the lawful and authorized use of private property for residential or other purposes; and nothing is intended to prohibit or make unlawful the activities of a property owner or other lawful user if such activities are expressly authorized by the Stockton Development Code or other laws, ordinances, and regulations.

8.100.040 Summary abatement.

A. Any violation of section 8.100.030 may be abated by the City upon 24 hours of prior notice by way of posting notice conspicuously on or in front of property; but a violation of section 8.100.030 may be abated immediately by the City without prior notice, if the violation poses an imminent threat to public health or safety.

B. Abatement pursuant to subsection A may include, but is not limited to, removal of camp facilities, camp paraphernalia, personal property, garbage, hazardous waste, infectious waste, junk, or debris; and securing the perimeter of the property with fencing, gates, or barricades to prevent further occurrences of the nuisance activity.

8.100.050 Interference with summary abatement.

No person shall willfully prevent, delay, resist, obstruct, or otherwise interfere with a City official, employee, contractor, or volunteer in their execution of an abatement pursuant to this chapter.

8.100.060 Violation—Penalty.

A. In addition to any other remedy allowed by law, any person who violates a provision of this chapter is guilty of a misdemeanor and subject to criminal sanctions pursuant to Chapter 1.08.

B. Violations of this chapter are hereby declared to be a public nuisance.

C. Any person who violates a provision of this chapter is liable for civil penalties in the minimum amount of \$250 and a maximum amount of \$25,000 for each day a violation continues.

D. Any person who violates a provision of this chapter is subject to administrative penalties to reimburse the City for all costs, including time, services, and materials, needed to abate a violation of this chapter and hold violator(s) accountable unless the City waives such reimbursement in whole or in part. The hourly rate used to compute the time spent to investigate, document, and abate a violation for purposes of reimbursement shall be the actual costs. Costs may be assessed against the violator and the owner of property where the violation occurred as a personal obligation, lien against the subject premises, or both. Administrative penalties may be appealed within 10 calendar days from the date of a notice of violation in accordance with Chapter 1.44.

E. All remedies prescribed under this chapter are cumulative and the election of one or more remedies does not bar the City from the pursuit of any other remedy to enforce this chapter.

//

SECTION II. CRITICAL INFRASTRUCTURE LIST

The City Council approves of the Critical Infrastructure List included as Attachment A to this ordinance. Properties and facilities on the Critical Infrastructure List shall be included in the definition of critical infrastructure for Chapter 8.100 of the code.

SECTION III. SEVERABILITY

If any section of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given without the invalid provisions or application, and to this end the provisions of this act are severable.

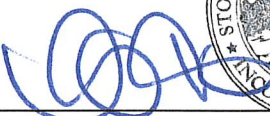
SECTION IV. EFFECTIVE DATE

This ordinance shall take effect and be in full force thirty (30) days after its passage.

ADOPTED: 9/27/2022

EFFECTIVE: 10/27/2022

ATTEST:



ELIZA R. GARZA, CMC
City Clerk of the City of Stockton





KEVIN J. LINCOLN, II
Mayor of the City of Stockton

ATTACHMENT A

City of Stockton - Critical Infrastructure List

In addition to those properties and facilities already defined as critical infrastructure by Chapter 8.100 of the Stockton Municipal Code (SMC), the following properties and facilities are deemed critical infrastructure for purposes of that chapter:

Utilities	Gov't Operations	Public Safety	Transportation	Gathering Areas	Vulnerable Pop.
- Storm and sanitary pump stations - Storm system access locations (e.g., catch basins, manholes, lampholes) - Open storm conveyances (e.g., ditches, lake structures, retentions, and detention basins) - Sanitary system access locations (e.g., manholes and lampholes) - Pipes, valves, meters, vaults, hydrants, and appurtenances - Water sampling stations and associated equipment - Well sites, all equipment, and tanks - Water storage reservoirs, all equipment, and sites - Intake pumping stations and pipes - Delta Water Treatment Plant (entire site) - North Stockton Pipeline Ammonia Facility - Groundwater Recharge Basin site, structure, and equipment - All Water Division sites and property - Regional Wastewater Control Facility - Sewer pump stations - Back-flow preventers, whether public or private - All discharge pipes, and associated appurtenances, into area waterways - All sewer system access (e.g., manholes, clean-outs, lampholes, etc.) - All underground pipe systems (with the H2S levels in the collection system a match or cigarette dropped in a manhole could trigger an explosion).	- City Permit Center - City Hall - Community centers	- Police stations and training facilities - Fire stations and training facilities	- Roads¹ - Sidewalks¹ - Bike paths¹ - Bridges - Underpasses - Parking lots	- Parks² - Sports fields and complexes - Stockton Civic Auditorium	- Libraries - Child Care Facilities (as defined in SMC § 16.240.020) - Schools and Colleges (as "Academic Schools" are defined in SMC § 16.240.020)

Footnotes:

¹ SMC section 8.100.030(A)(2)-(4) and (B)(2)-(4) do not apply.

² If there is no shelter space available in the City then for that particular day and the next day, SMC section 8.100.030 shall not be enforceable at parks with respect to the following: bedroll, cot, sleeping bag, and personal property (but not other camp facilities or camp paraphernalia), all occupying no greater than 75 square feet measured from the center of the primary living space, but not within 30 feet of any playground, restroom, or picnic shelter. All other restrictions apply.



CITY COUNCIL AGENDA – DECEMBER 19, 2023

SUBJECT: Consideration of Appointment of Large City Representative to the San Joaquin Valley Air Pollution Control District

SOURCE: City Manager's Office

COMMENT: The San Joaquin Valley Air Pollution Control District (SJVAPCD) seeks to fill a vacancy on its governing board that must be filled by a city representative from a "large" city, having a population of 100,000 or more within Tulare County.

According to the procedures adopted by the San Joaquin Valley Special City Selection Committee, all cities within Tulare County must select a candidate from the applicants for the vacant position. There is only a single city within Tulare County that fulfills the requirement for a "large" city and that is the City of Visalia, from which there is one applicant, Visalia Council Member Elizabeth Wynn.

Pursuant to the adopted procedures, it is requested that the City Council consider the draft Resolution in support of applicant Elizabeth Wynn.

RECOMMENDATION: That the City Council consider the draft Resolution to approve Applicant Elizabeth Wynn to fill the vacant seat on the San Joaquin Valley Air Pollution Control District.

ATTACHMENTS:

1. Draft Resolution
2. SJVAPCD Letter dated November 9, 2023

Appropriated/Funded:

Review By:

Department Director:
John Lollis, City Manager

Final Approver: John Lollis, City Manager

RESOLUTION NO. ____ - 2023

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE NOMINATING THE “AT LARGE”
REPRESENTATIVE TO THE SAN JOAQUIN VALLEY AIR POLLUTION
CONTROL DISTRICT GOVENRING BOARD**

WHEREAS, Health and Safety Code Section 40600.5 created a Special City Selection Committee for the appointment of city members of the San Joaquin Valley Air Pollution Control District (District) Governing Board, and

WHEREAS, the Special City Selection Committee has adopted procedures and a rotation schedule for making their appointments, and based upon the adopted rotation schedule a city council member representing a city with a population of 100,000 or more from Tulare County shall be appointed to the District Governing Board, and

WHEREAS, In selecting a nominee for appointment by the Special City Selection Committee to the District Governing Board, the City Council considered the applicant materials from the eligible candidates, and

WHEREAS, the vote to select a nominee took place as an item on the publicly notice agenda and was discussed during the normal city council meeting with time for public comment.

NOW, THEREFORE, BE IT RESOLVED, that the City of Porterville nominates Council Member Elizabeth Wynn to the Special City Selection Committee for the appointment to the District Governing Board.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT



GOVERNING BOARD

Vito Chiesa, Chair
Supervisor, Stanislaus County

Deborah Lewis, Vice Chair
Councilmember, City of Los Banos

Drew M. Bessinger
Councilmember, City of Clovis

David Couch
Supervisor, Kern County

Rosa Escutia-Braaton
Councilmember, City of Modesto

Robert Macaulay
Supervisor, Madera County

Buddy Mendes
Supervisor, Fresno County

Tania Pacheco-Werner, PhD.
Appointed by Governor

Lloyd Pareira
Supervisor, Merced County

Alvaro Preciado
Mayor, City of Avenal

Gilberto Reyna
Councilmember, City of Wasco

Robert Rickman
Supervisor, San Joaquin County

Rusty Robinson
Supervisor, Kings County

Alexander C. Sherriffs, M.D.
Appointed by Governor

Amy Shuklian
Supervisor, Tulare County

Samir Sheikh
Executive Director
Air Pollution Control Officer

Northern Region Office
4800 Enterprise Way
Modesto, CA 95356-8718
(209) 557-6400 • FAX (209) 557-6475

Central Region Office
1990 East Gettysburg Avenue
Fresno, CA 93726-0244
(559) 230-6000 • FAX (559) 230-6061

Southern Region Office
34946 Flyover Court
Bakersfield, CA 93308-9725
(661) 392-5500 • FAX (661) 392-5585

www.valleyair.org

November 9, 2023

John Lollis, City Clerk
291 N. Main
Porterville, CA 93257

RE: APPOINTMENT TO THE GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT – LARGE CITY REPRESENTATIVE

Dear Mr. Lollis:

There is currently a vacancy on the San Joaquin Valley Air Pollution Control District (District) Governing Board that must be filled by a city representative from a "large" city, having a population of 100,000 or more, within Tulare County.

Pursuant to the Health and Safety Code Section 40600.5, appointments to the District Governing Board will be made by the San Joaquin Valley Special City Selection Committee (Committee). According to the procedures adopted by the Committee, the next step in the appointment process is for all cities within Tulare County to select a candidate from the applicants for the vacant position, as follows:

• Councilmember Elizabeth Wynn, City of Visalia

Per the procedures adopted by the Valleywide Special City Selection Committee, your City Council must hold a vote to either nominate the applicant listed above to the Committee for appointment to the District Governing Board, or reject the applicant. The vote must take place as an item on your City Council's publicly noticed agenda, and be discussed during your regularly scheduled City Council meeting. Attached is a sample resolution for your consideration. Also attached is a copy of the proposed candidate's application.

In order for your city's vote to be counted towards nomination to the Committee, you must return a copy of your City Council Resolution on this matter to the District by January 5, 2024, to the following email address:

APPOINTMENT TO THE GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION
CONTROL DISTRICT – LARGE CITY REPRESENTATIVE

November 9, 2023

Page 2

Samir Sheikh Executive Director/APCO

c/o

Katrina Rojas, Deputy Clerk to the Board, Katrina.Rojas@valleyair.org

Thank you in advance for your timely action on this matter. Should you have any questions or concerns, please do not hesitate to contact Ms. Katrina Rojas, Deputy Clerk to the Boards, by phone at (559) 230-6001, or via email at katrina.rojas@valleyair.org.

Sincerely,



Samir Sheikh
Executive Director/APCO

Attachments:

Sample Resolution (1 page)

Elizabeth Wynn Candidate Application (3 pages)



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT

APPLICATION FOR APPOINTMENT AS A CITY REPRESENTATIVE ON GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

If you are an elected official on the city council for the City of Visalia, you may submit an application for appointment to the Governing Board of the San Joaquin Valley Air Pollution Control District.

<u>Applicant Name:</u>	Elizabeth Wynn
<u>Residence Address (Must live within the boundaries of the San Joaquin Valley APCD):</u>	██████████ Visalia, Ca 93277
<u>Mailing Address:</u>	
<u>Telephone:</u> (██████████) (██████████)	Primary Alt.
<u>Email Address:</u>	liz.wynn@visalia.city
<u>Applicant Signature:</u>	<i>Elizabeth Wynn</i> Date: 10/20/2023

Please submit this form along with a candidate statement and any other pertinent information (e.g., resume, education, experience) that you desire to be considered to the email below. **Please limit candidate statement to no more than one page.** Please complete this application and return it by **November 3, 2023**. Incomplete applications will not be accepted.

Samir Sheikh
Air Pollution Control Officer
San Joaquin Valley APCD
c/o
Katrina Rojas, Deputy Clerk to the Board
katrina.rojas@valleyair.org

RECEIVED

OCT 24 2023

CLERK OF THE BOARDS
SJVAPCD

**Elizabeth Wynn, Council Member
City of Visalia
2021 - Present**

My mission in life is to contribute to my community through work, social, and family relationships.

Council Activities: City representative on Tulare County LAFCO, Tulare County Transit Association (alternate), Tulare County Homeless Alliance. SJVAPCD Large City Rep.

Employment:

Kaweah Health Foundation, [REDACTED]
Foundation Director (1/2019 – present)

I currently serve as Foundation Director whose mission exists to support the needs of Kaweah Health. Under my leadership our volunteer board of directors has successfully completed three major campaigns through fundraising and serving as ambassadors in our community. As a result of these recent efforts over nine million dollars in new technology, state of the art medical equipment and patient improvements have been completed. As the largest community health care district in the State, Kaweah Health serves all residents with care and compassion regardless of ability to pay. With one of the largest Medi-Cal populations in the State, it is difficult for the District to provide funding to keep pace with rapidly changing medical technology and equipment. I believe everyone deserves quality healthcare and my role at the Foundation is to work with community members, private foundations and government entities to find ways to fund the needs of the District in their mission to provide excellence in healthcare.

Visalia Emergency Aid Council, [REDACTED]
Executive Director (7/1/2014 – 12/2018)

After spending nine years in the Seattle area I returned home to provide leadership and direction for Visalia Emergency Aid Council (VEAC). The mission of VEAC is to provide food, clothing and shelter for families in need throughout Visalia and Tulare County. I led the organization through a major building campaign for a 6,000 sq.ft. pantry and new administrative offices. As the COVID pandemic hit the Valley, the newly expanded warehouse was a critical resource in distributing food to record numbers of families in need in 2020-21. I also worked collaboratively with other social service organizations to form partnerships to avoid duplication of services and support the success of all.

July 2005 – June 2014 My husband and I moved to Seattle to support a growing church led by a close friend. During that time we helped with the expansion of a youth center, 2500 seat worship center and preschool. I established two non-profit organizations to serve youth and disadvantaged individuals that are still active.

Self-Help Enterprises (SHE) - P.O. Box 6520, Visalia, CA 93290 (Non-profit affordable housing developer)
Assistant Program Manager New Homes Division 1/2002 – 7/2005

QUAD/Knopf, 5110 W. Cypress, Visalia, CA 93277 (Planning/Engineering/Architectural Consultants)
Vice President/Planner III (9/83 - 10/97)

Education: B.A. Human Resources Fresno Pacific University, 1995
A.A., Business, College of the Sequoias, 1992
American Institute of Certified Planners, (AICP) 1997

Volunteer Activities:

City Council Member, Aug. 2021 - present
Planning Commissioner, City of Visalia, July 2004 – July 2005, June 2014- June 2019 (Chair)
Woman of the Year, 26th Assembly District, 2021
COS Hall of Fame Inductee, 2019
City of Visalia Housing Element Task Force 2016
Planning Policy Task Force, City of Visalia, November 2004- July 2005.
President – Rotary Club of Visalia 2021-2022
Board of Directors, Rotary Club of Visalia, 2015-2022
Established 501c3 for Downtown Rotary Foundation to secure funding for local and international non-profits.
Visalians for Measure A (school bond), Asst. Treasurer 2018
Children's ministry Volunteer – Neighborhood Church 2016-2021
Kaweah Delta Community Advisory Committee 2017 - 2019
Volunteer Mentor, Leadership Visalia 2015-2019
Visalia Economic Development Council – Interim Executive Director 2000-2001
Chairperson and committee member, Visalia Chamber of Commerce Christmas Tree Auction 1986-91.
Volunteer coach, board member and concession chair for numerous children's athletic groups.
Board Member, Visalia Education Foundation, 1996-2000.
Founding Board Member, Naz Sports, 1991 Established 501c3 for this large sport organization.
Young Visalian of the Year for community service, 1995, City of Visalia/Visalia Jaycees
Volunteered for numerous local political races for School Bonds, City Council, TC Sheriff, etc.



CITY COUNCIL AGENDA – DECEMBER 19, 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 December 5, 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 Bourdreaux 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 (MOU) 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. At its meeting on July 11, 2023, the County Board of Supervisors approved the MOU for TEP shelter services between the City and the County, retroactive from April 11, 2023 to May 5, 2023.

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 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 July 14, 2023, the Federal Emergency Management Agency (FEMA) made the determination to close the incident period effective July 10, 2023. Although the incident period has been closed, businesses and individuals may still apply for federal disaster assistance through September 1, 2023.

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.

On August 4, 2023, Governor Newsom issued Executive Order N-10-23 to streamline levee repairs and debris removal to help local communities recover from flooding and prepare for the next wet season.

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 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), which the Council approved at its meeting on June 6, 2023. Due to violations by TopKnotch Security of its agreement with the City for security services, City staff terminated the agreement effective immediately on Friday, July 14, 2023, causing the Police Department to provide security services at the Armory on Friday, July 14 through Sunday, July 16, 2023. Beginning on Monday, July 17, 2023, Good Guard Security, Inc. began providing security

services, which at its meeting on July 18, 2023, the Council approved an agreement for security services for approximately \$21,000 per month (2 personnel at \$28.95/hour for 12 hours per day for 30 days per month).

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. 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. Governor Newsom Executive Order N-10-23
8. Federal Disaster Declaration Fact Sheet - April 3, 2023
9. License to Use State Military Property - April 14, 2023
10. City and County Memorandum of Understanding for Shelter Support
11. County of Tulare CalOES Shelter Support Request Letter - April 14, 2023
12. License to Use State Military Property - May 16, 2023
13. Federal Disaster Declaration Notice - July 14, 2023
14. Armory Temporary Evacuation Point and Shelter - Daily Census
15. Resolution No. 15-2023
16. Rescue Source & Rescue 3 Invoice: Water Rescue Equipment
17. Royal Restrooms Invoice: Mobile Shower-Restroom Units
18. Rain for Rent Pump Invoice
19. Mike Clark Trucking Invoice
20. TopKnotch Security, Inc. Agreement
21. Good Guard Security, Inc. Agreement
22. Municipal Code Chapter 9 - Civil Defense and Disaster
23. 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:

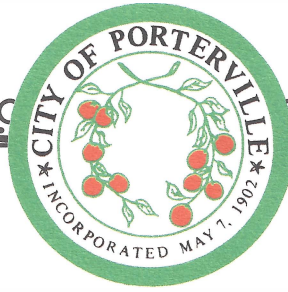
Fernando Gabriel-Moraga, Deputy City Clerk

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](https://www.tularecounty.ca.gov/emergencies).

A Temporary Evacuation point has been set up at Porterville College, 100 E College Avenue. Thank you.

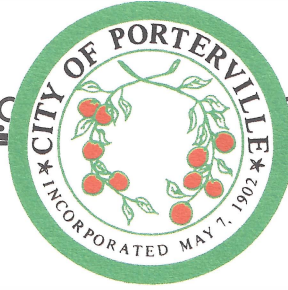
Jake Castellow
Chief of Police

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.

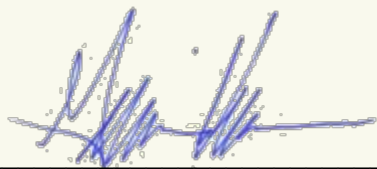
The Water Board shall post on its internet website all reports received pursuant to this subparagraph.

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

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-10-23

WHEREAS the State has experienced over thirty atmospheric rivers since December 2022, resulting in compounding and cumulative impacts across California, including record or near record amounts of snow in the Sierra Nevada; and

WHEREAS on January 4, 2023, I proclaimed a State of Emergency to exist in California as a result of severe winter storms related to an atmospheric river event beginning on December 27, 2022; and

WHEREAS on March 1, March 8, March 12, March 14, March 28, April 20, May 15, and June 16, 2023, I proclaimed a State of Emergency to exist in 53 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 April 21, May 10, July 8, and October 19, 2021, I proclaimed States of Emergency to exist due to drought conditions, and on February 13, 2023, I issued Executive Order N-3-23 and on March 10, 2023, I issued Executive Order N-4-23, to address evolving drought conditions due to the 2022-2023 Winter Storm Events and mitigate flooding by facilitating groundwater recharge; and

WHEREAS on March 31, 2023, I issued Executive Order N-6-23 to bolster the emergency response to the 2022-2023 Winter Storm Events, particularly in the Tulare Lake Basin that continues to be affected by historic flooding; and

WHEREAS on May 17, 2023, and on June 16, 2023, I issued Executive Order N-7-23 and N-9-23, respectively, to further bolster the emergency response to the 2022-2023 Winter Storm Events, in both the San Joaquin River and the Tulare Lake Basins; and

WHEREAS there remains a need for removal of floating vegetation and debris throughout impacted counties, including stretches of the Salinas River mainstem and tributaries, stretches of the Pajaro River mainstream and tributaries, and coastal streams along the Central Coast region from Santa Cruz County to Ventura County, and that removal must expeditiously occur before the next rainy season begins in fall 2023 in order to mitigate the risk of additional flooding and allow for continued recovery efforts; and

WHEREAS emergency repairs, debris removal, sediment removal, and vegetation management within waters of the United States are subject to federal approvals from the U.S. Army Corps of Engineers pursuant to section 404 of the federal Clean Water Act (33 U.S.C. § 1344), and the State Water Resources Control Board (Water Board) has previously issued state water quality certifications corresponding to the Corps Regional General Permits 8, 5, or 63 for Repair and Protection Activities in Emergency Situations and the Nationwide Permit 3 for Maintenance Part (a) for repair, rehabilitation, or replacement of structure of fill (collectively Emergency or Repair Corps Orders), which provide a

pathway for emergency activities in many instances (hereinafter referred to as Water Board Emergency or Repair 401 Certification Orders); 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 the 2022-2023 Winter Storm Events.

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 or withdrawn in subsequent proclamations and orders.
2. To protect health, safety, and the environment, and to reduce the risks of local catastrophic flooding, with respect to activities that take place in the San Joaquin River and tributaries, the Tulare Lake Basin and tributaries, including, but not limited to, the Kings, Tule, Kaweah, and Kern Rivers, the Salinas River and tributaries, the Pajaro River and tributaries, and other coastal streams between the Pajaro River (Santa Cruz/Monterey/San Benito Counties), to and including the Ventura River (Santa Barbara/Ventura County), but excluding tributaries to such other coastal streams, the following are suspended, subject to the conditions in Paragraphs 3 and 4, as applicable:
 - a. Chapter 6 (commencing with section 1600) of Division 2 of the Fish and Game Code, and regulations adopted pursuant to that Chapter.
 - b. Certain statutes, rules, and requirements applicable to activities under the jurisdiction of the Water Board and the California Regional Water Quality Control Boards (Regional Water Boards) as follows:
 - i. For an activity in a water of the United States that receives an authorization by the U.S. Army Corps of Engineers pursuant to section 404 of the Clean Water Act, any enrollment criteria that may limit the permitting of the activity under a Water Board Emergency or Repair 401 Certification Order, including criteria limiting the scope to only the Emergency or Repair Corps Orders, conditioned on compliance with all other provisions set forth in the relevant Water Board Emergency or Repair 401 Certification Order.

- ii. For an activity not covered by paragraph 2.b.i, sections 13260 and 13263 of the Water Code, and regulations adopted pursuant to those sections.
 - c. Division 13 (commencing with section 21000) of the Public Resources Code, and regulations adopted pursuant to that division.
- 3. The suspensions in Paragraph 2 apply only to (i) the repair or replacement of existing levees, weirs, and other conveyance and flood-control infrastructure, (ii) debris removal, (iii) sediment removal, and (iv) vegetation management, provided that the activity meets all of the following conditions, as applicable:
 - a. The activity is necessary to respond to conditions caused by the 2022-2023 Winter Storm Events and is necessary to avoid future damage from high streamflow events in the upcoming rainy season.
 - b. Removal of sediment or vegetation or both serves to either reestablish a functional low flow channel or reestablish channel capacity, or clear sediment and debris from the river channel near structures such as bridges.
 - c. Removal of sediment or vegetation or both is carried out in a manner that (i) does not involve excavation resulting in the establishment of a new low flow channel that did not exist prior to the 2022-2023 Winter Storm Events, (ii) maintains the natural contour of the stream, (iii) maintains the downstream slope of the stream flow line, and (iv) does not impede fish passage or cause fish stranding.
 - d. Removal of sediment or vegetation or both is limited to portions of the channel that are dry.
 - e. No more than 30% of the total native vegetation within the stream channel and bank is removed from each river mile.
 - f. Levees are either set back from their previous location (increasing channel capacity) or are rebuilt as configured prior to the 2022-2023 Winter Storm Events.
 - g. The activity does not involve disposal or placement of flood-delivered sediments into waters of the state or at locations or in a manner where sediments may be washed into waters of the state by rainfall or runoff.
 - h. The activity minimizes impacts to beneficial uses of the water body.
 - i. The activity is completed by November 1, 2023.
- 4. The suspensions in Paragraph 2.b.ii apply only if the activity meets all of the following further conditions:

- a. The project proponent shall provide notice to the appropriate Regional Water Board as early as possible, and no less than forty- eight (48) hours prior to initiating the project, that includes the scope and location of the activity, a description of the infrastructure, debris, sediment, and vegetation conditions relevant to the activity, with representative photos, and, as applicable, a description of how the activity serves to establish a functional low flow channel or reestablish channel capacity.
- b. Following any accidental discharge of a reportable quantity of a hazardous material (as defined in Health and Safety Code section 25501), sewage, or an unknown material, the project proponent shall follow the notification and reporting procedures set forth in condition A.3.c of Water Quality Order No. 2019-0044-Exec Clean Water Act Section 401 Water Quality Certification and Order.
- c. The activity shall be undertaken so as to avoid causing a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters, as adopted in any applicable Regional Water Board or Water Board water quality control plan or state policy for water quality control, but in the event of a violation of water quality standards, the project proponent shall eliminate the source of any such discharge as soon as practicable. Water diversion activities must not result in the degradation of beneficial uses or exceedances of water quality objectives of any of the receiving waters. Any temporary dam or other constructed obstruction must only be built from materials that will cause little or no siltation (e.g., clean gravel). Normal flows must be restored to the affected water immediately upon completion of work at that location.
- d. If there is a violation of a water quality standard, the project proponent shall notify the applicable Regional Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, e-mail, delivered written notice, or other verifiable means. This notification must be followed within three (3) working days by submission of a written report that includes the cause of the violation; the location shown on a map; and the period of the noncompliance including exact dates and times. If the noncompliance has not been corrected, include: the anticipated time it is expected to continue; the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and any monitoring results.
- e. If surface water is present, the project proponent shall conduct continuous visual surface water monitoring to detect accidental discharge of construction-related pollutants (e.g., oil and grease, turbidity plume, or uncured concrete).

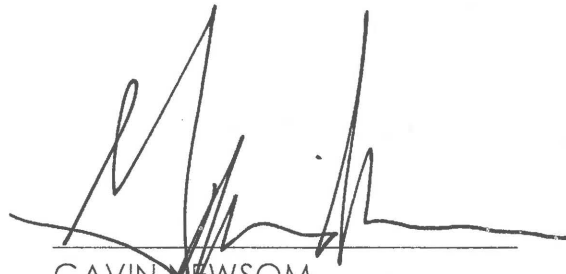
- f. The project proponent shall keep all repairs and construction to the minimum necessary to alleviate the emergency caused by the 2022- 2023 Winter Storm Events and limited to in-kind replacement or refurbishment of on-site features, although the project may undertake minor upgrading if bioremediation or other environmentally sensitive solutions are used.
 - g. The project proponent shall implement effective best management practices to control erosion and runoff from areas associated with the activity, including access roads. All areas of temporary impacts and all other areas of temporary disturbance that could result in a discharge or a threatened discharge to waters of the U.S. and/or state must be restored. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species.
 - h. Notification of completion, including representative photos showing completion, shall be submitted to the appropriate Regional Water Board within 30 days of completion of the activity.
- 5. To support adequate state staffing for all state agencies assigned response and/or recovery role related to the 2022-2023 Winter Storm Events in coastal streams including and between the Pajaro River (Santa Cruz/Monterey/San Benito Counties) and the Ventura River (Santa Barbara/Ventura County), 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 damage from the 2022-2023 Winter Storm Events in coastal streams including and between the Pajaro River (Santa Cruz/Monterey/San Benito Counties) and the Ventura River (Santa Barbara/Ventura County). Local governmental agencies shall notify the California Public Employees' Retirement System of any individual employed by an agency pursuant to this Paragraph.
- 6. 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 the 2022-2023 Winter Storm Events in coastal streams including and between the Pajaro River (Santa Cruz/Monterey/San Benito Counties) and the Ventura River (Santa Barbara/Ventura County). 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.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed with the Office of the Secretary of State and that widespread publicity and notice be given to 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 4th day of August 2023.

A handwritten signature in black ink, appearing to read 'Gavin Newsom', is written over a horizontal line.

GAVIN NEWSOM
Governor of California

ATTEST:

SHIRLEY N. 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.

Date: _____

CITY OF PORTERVILLE

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: A. Zahseen

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
(559) 624-7495 Telephone (559) 737-4692 Facsimile

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".

Andrew Lockman
Office of Emergency Services Manager



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



FEMA

4699-DR-CA Amendment 006



English

Notice Date	July 10, 2023
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Billing Code 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA-4699-DR]

[Docket ID FEMA-2023-0001]

California; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of California (FEMA-4699-DR), dated April 3, 2023, and related determinations.

DATE: This amendment was issued July 14, 2023.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, (202) 646-2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 10, 2023.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance - Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households - Other Needs; 97.036, Disaster Grants - Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

/s/

Deanne Criswell,

Administrator,

Federal Emergency Management Agency.

Last updated July 14, 2023

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**National
Terrorism
Advisory
System**

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
Thursday, June 1, 2023	19	1	7
Friday, June 2, 2023	17	1	7
Saturday, June 3, 2023	16	1	4
Sunday, June 4, 2023	20	1	8
Monday, June 5, 2023	20	1	6
Tuesday, June 6, 2023	22	1	10
Wednesday, June 7, 2023	23	1	9
Thursday, June 8, 2023	22	1	7
Friday, June 9, 2023	22	1	10
Saturday, June 10, 2023	15	1	6
Sunday, June 11, 2023	26	1	9
Monday, June 12, 2023	18	1	7
Tuesday, June 13, 2023	24	1	4
Wednesday, June 14, 2023	21	1	7
Thursday, June 15, 2023	20	1	4
Friday, June 16, 2023	28	1	6
Saturday, June 17, 2023	20	1	7
Sunday, June 18, 2023	24	1	4
Monday, June 19, 2023	21	0	8
Tuesday, June 20, 2023	28	0	6
Wednesday, June 21, 2023	28	0	4
Thursday, June 22, 2023	22	0	4
Friday, June 23, 2023	27	0	4

<u>Date:</u>	<u>Adults:</u>	<u>Youth:</u>	<u>Dogs:</u>
Saturday, June 24, 2023	26	0	4
Sunday, June 25, 2023	24	0	3
Monday, June 26, 2023	23	0	4
Tuesday, June 27, 2023	30	0	5
Wednesday, June 28, 2023	26	0	6
Thursday, June 29, 2023	27	0	5
Friday, June 30, 2023	25	0	5
Saturday, July 1, 2023	27	0	9
Sunday, July 2, 2023	25	3	3
Monday, July 3, 2023	24	3	3
Tuesday, July 4, 2023	20	3	4
Wednesday, July 5, 2023	28	2	6
Thursday, July 6, 2023	28	2	5
Friday, July 7, 2023	27	2	6
Saturday, July 8, 2023	28	2	5
Sunday, July 9, 2023	36	2	3
Monday, July 10, 2023	28	2	3
Tuesday, July 11, 2023	34	2	4
Wednesday, July 12, 2023	35	2	2
Thursday, July 13, 2023	47	2	7
Friday, July 14, 2023	27	2	0
Saturday, July 15, 2023	24	2	2
Sunday, July 16, 2023	24	2	3
Monday, July 17, 2023	26	2	1
Tuesday, July 18, 2023	26	2	2
Wednesday, July 19, 2023	21	2	1
Thursday, July 20, 2023	21	2	1

Friday, July 21, 2023	22	0	0
Saturday, July 22, 2023	22	0	0
Sunday, July 23, 2023	22	0	0
Monday, July 24, 2023	21	0	0
Tuesday, July 25, 2023	22	0	0
Wednesday, July 26, 2023	20	0	0
Thursday, July 27, 2023	27	0	0
Friday, July 28, 2023	25	0	0
Saturday, July 29, 2023	22	0	0
Sunday, July 30, 2023	22	0	0
Monday, July 31, 2023	24	0	0
Tuesday, August 1, 2023	21	0	0
Wednesday, August 2, 2023	19	0	0
Thursday, August 3, 2023	20	0	0
Friday, August 4, 2023	19	0	0
Saturday, August 5, 2023	26	0	0
Sunday, August 6, 2023	22	0	0
Monday, August 7, 2023	20	0	0
Tuesday, August 8, 2023	25	0	3
Wednesday, August 9, 2023	23	0	3
Thursday, August 10, 2023	20	0	3
Friday, August 11, 2023	23	0	5
Saturday, August 12, 2023	22	0	5
Sunday, August 13, 2023	29	0	6
Monday, August 14, 2023	25	0	5
Tuesday, August 15, 2023	21	0	5
Wednesday, August 16, 2023	23	0	6
Thursday, August 17, 2023	23	0	5

Friday, August 18, 2023	22	0	5
Saturday, August 19, 2023	23	0	5
Sunday, August 20, 2023	21	0	4
Monday, August 21, 2023	25	0	5
Tuesday, August 22, 2023	22	0	5
Wednesday, August 23, 2023	27	0	5
Thursday, August 24, 2023	22	0	5
Friday, August 25, 2023	25	0	5
Saturday, August 26, 2023	23	0	4
Sunday, August 27, 2023	25	0	5
Monday, August 28, 2023	23	1	5
Tuesday, August 29, 2023	24	1	6
Wednesday, August 30, 2023	22	2	6
Thursday, August 31, 2023	18	2	5
Friday, September 1, 2023	17	2	5
Saturday, September 2, 2023	20	2	5
Sunday, September 3, 2023	20	2	5
Monday, September 4, 2023	21	2	5
Tuesday, September 5, 2023	22	2	5
Wednesday, September 6, 2023	15	2	3
Thursday, September 7, 2023	16	2	4
Friday, September 8, 2023	18	2	4
Saturday, September 9, 2023	19	2	4
Sunday, September 10, 2023	20	2	5
Monday, September 11, 2023	20	2	5
Tuesday, September 12, 2023	24	2	5
Wednesday, September 13, 2023	24	2	5
Thursday, September 14, 2023	21	2	5

Friday, September 15, 2023	26	2	5
Saturday, September 16, 2023	28	2	5
Sunday, September 17, 2023	26	2	5
Monday, September 18, 2023	22	2	5
Tuesday, September 19, 2023	24	2	5
Wednesday, September 20, 2023	26	2	5
Thursday, September 21, 2023	30	2	5
Friday, September 22, 2023	23	2	5
Saturday, September 23, 2023	20	2	5
Sunday, September 24, 2023	26	2	5
Monday, September 25, 2023	20	2	4
Tuesday, September 26, 2023	20	2	4
Wednesday, September 27, 2023	24	2	4
Thursday, September 28, 2023	22	2	4
Friday, September 29, 2023	17	2	4
Saturday, September 30, 2023	20	2	4
Sunday, October 1, 2023	23	2	4
Monday, October 2, 2023	20	2	4
Tuesday, October 3, 2023	18	2	4
Wednesday, October 4, 2023	22	2	4
Thursday, October 5, 2023	24	2	7
Friday, October 6, 2023	21	2	5
Saturday, October 7, 2023	18	2	5
Sunday, October 8, 2023	19	2	5
Monday, October 9, 2023	20	2	5
Tuesday, October 10, 2023	19	2	5
Wednesday, October 11, 2023	22	2	5
Thursday, October 12, 2023	27	2	5

Friday, October 13, 2023	21	2	5
Saturday, October 14, 2023	21	2	5
Sunday, October 15, 2023	19	2	5
Monday, October 16, 2023	24	2	5
Tuesday, October 17, 2023	22	2	5
Wednesday, October 18, 2023	22	2	5
Thursday, October 19, 2023	30	2	5
Friday, October 20, 2023	17	2	5
Saturday, October 21, 2023	15	2	5
Sunday, October 22, 2023	22	2	5
Monday, October 23, 2023	22	2	5
Tuesday, October 24, 2023	20	2	5
Wednesday, October 25, 2023	19	2	5
Thursday, October 26, 2023	21	1	5
Friday, October 27, 2023	21	1	3
Saturday, October 28, 2023	21	1	3
Sunday, October 29, 2023	18	1	3
Monday, October 30, 2023	24	1	3
Tuesday, October 31, 2023	20	1	3
Wednesday, November 1, 2023	25	1	3
Thursday, November 2, 2023	24	1	3
Friday, November 3, 2023	22	1	3
Saturday, November 4, 2023	22	1	3
Sunday, November 5, 2023	19	1	3
Monday, November 6, 2023	23	1	3
Tuesday, November 7, 2023	27	1	3
Wednesday, November 8, 2023	22	1	3
Thursday, November 9, 2023	22	1	3

Friday, November 10, 2023	23	1	3
Saturday, November 11, 2023	21	1	3
Sunday, November 12, 2023	24	1	3
Monday, November 13, 2023	27	1	3
Tuesday, November 14, 2023	24	1	3
Wednesday, November 15, 2023	29	1	3
Thursday, November 16, 2023	25	0	3
Friday, November 17, 2023	29	0	3
Saturday, November 18, 2023	25	0	3
Sunday, November 19, 2023	29	0	3
Monday, November 20, 2023	29	0	3
Tuesday, November 21, 2023	29	0	3
Wednesday, November 22, 2023	29	0	3
Thursday, November 23, 2023	21	0	3
Friday, November 24, 2023	29	0	3
Saturday, November 25, 2023	27	0	3
Sunday, November 26, 2023	27	0	3
Monday, November 27, 2023	26	0	3
Tuesday, November 28, 2023	27	0	3
Wednesday, November 29, 2023	29	0	3
Thursday, November 30, 2023	27	0	3
Friday, December 1, 2023	22	0	3
Saturday, December 2, 2023	25	0	3
Sunday, December 3, 2023	25	0	3
Monday, December 4, 2023	20	0	3
Tuesday, December 5, 2023	25	0	3
Wednesday, December 6, 2023	30	0	3
Thursday, December 7, 2023	30	0	3

Friday, December 8, 2023	29	0	3
Saturday, December 9, 2023	25	0	3
Sunday, December 10, 2023	31	0	3
Monday, December 11, 2023	30	0	3
Tuesday, December 12, 2023	32	0	3
Wednesday, December 13, 2023	32	0	3

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.

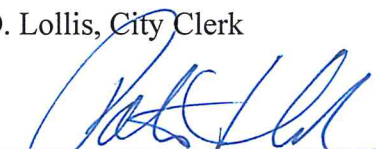
PASSED, APPROVED AND ADOPTED this 4th day of April, 2023.



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: _____

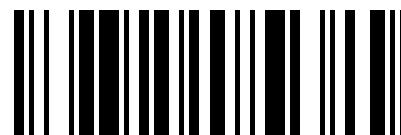
Fernando Gabriel-Moraga, Deputy City Clerk

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

DATE: _____

FOR:

Donnie Moore

(559) 782-7539

Livermore, Ca 94551

Fax:(925) 337-8878

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

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

TAXABLE SUBTOTAL	\$9,200.00
TAX RATE	9.250%
SALES TAX	\$851.00
TAXABLE SUBTOTAL	\$3,100.00
TOTAL	\$13,151.00



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: 29 ~~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



SECURITY SERVICES AGREEMENT

AGREEMENT PREPARED FOR: **City of Porterville: Shelter**
July 15, 2023



Good Guard Security, Inc.

21622 Plummer St, Suite 200, Chatsworth, CA 91311

1-800-651-0491 ext 1061

info@goodguardsecurity.com

www.GoodGuardSecurity.com

SERVICE DETAILS

Client Service Address:	29 N Plano St, Porterville, CA 93257
Client Billing Address:	29 N Plano St, Porterville, CA 93257
Service Hours:	7 Day(s) / 07:30 PM - 08:30 AM / 13 Hours / Monday - Sunday
Location Contact & Telephone Number:	Amy Graybehl 559-782-7521
Email:	agraybehl@ci.porterville.ca.us
Rate (U.S. Dollars):	\$28.95 (Per Hour Per Guard)
Holiday Rate	\$43.45 (Per Hour Per Guard)
Service Commencement Date:	07/17/2023 @ 07:30 PM
Payment Terms:	Bi-weekly
Permanent/Temporary:	Permanent 3 Month Minimum (30 Day Cancellation Notice)
Uniform:	Professional Security Uniform
Additional Charges:	N/a
Security Service Description:	2 Professional Unarmed Guard(s) 1 Guard will be intaking clients and the other guard will be patrolling the facility. Note: Providing a visual deterrent to any outside danger. Security officers will make sure there isn't anyone vandalizing the premises, or trying to break into the property. Loss prevention.

This SECURITY SERVICES AGREEMENT ("Agreement") is entered into upon mutual execution hereof by and between GOOD GUARD SECURITY, a California corporation, Private Patrol Operator (PPO) License #120362 (hereinafter, "Company") and **City of Porterville** (hereinafter, "Client"), with respect to the following:

- RATES:** Service Rates are subject to adjustment for any change in any law, causing a change in work hours, wage rates, working conditions or other costs to Company.
- PAYMENT:** Invoices will be submitted either bi-weekly or monthly, upon mutual agreement between Company and Client, and are payable on receipt at the address on the invoice. A late charge of 1 ½ % per month will be added to balances not paid within seven days.
- EMPLOYEES:** (a) Personnel supplied by Company are its employees and not Client's. Company is solely responsible for social security, unemployment and similar taxes applicable to its employees.
(b) Company is a Federal Government Contractor and complies with Executive Order 11246, as amended: Section 503 of the Rehabilitation Act of 1973, as amended: Section 402 of Vietnam era Veterans' Readjustment Assistance Act of 1974 and related regulations. Company's employees will be assigned without regard to race, color, creed, sex, and national origin, handicap conditions that do not impair job performance or veteran status.
(c) Client may reasonably remove any employee assigned provided such removal is not in violation of law. In the event any employee is removed at Client's request, Client agrees to indemnify and hold Company harmless from any claims, demands, liabilities, judgments, losses, suits, damages, fines, penalties, and expenses including reasonable attorney's fees and defense costs (hereinafter collectively "Claim(s)") that may arise there from.
- OVERTIME:** Overtime rates shall apply to work on New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas; work on any additional holidays listed and any extra hours exceeding 8-hours a day or 40-hours per week. Coverage for labor disputes, civil disorders or natural disaster, or special assignment or agreement is not included except as described in the Service Rate Classification. Additional overtime rates shall not apply to situations where an employee of Company already on-duty covers hours for a "called-off" employee and thus works over 8-hours in his/her shift.
- PROPERTY/EQUIPMENT:** All property and equipment furnished by Company for performance of its services under this Agreement, regardless of whether portable or stationary, shall be considered the personal property of Company, and shall remain the personal property of Company after termination of this Agreement. Upon the termination of this Agreement, the Company shall have reasonable access and time to remove its property from Client's property. Client shall not be responsible for any of Company's personal property which is stolen, damaged or missing from the property in the absence of Company's supervision.
- KEYS/ACCESS:** Company shall not be provided a master key (or its equivalent) to the property or any portion thereof, except for such location(s) that are to be exclusively used by Company's guards or other personnel. Notwithstanding anything to the contrary in this Agreement, Company shall not be responsible for any damages including, without limitation, any costs incurred in re-keying or changing locks caused by the loss or theft of such key(s).
- NON-COMPETITION:** Client, its affiliates, agents, and other related persons or entities hereby agree not to hire any Company staff, employees, or personnel for a period of at least one (1) year after such person has terminated his/her employment with Company. Client further agrees not to prepare to engage in competition with Company, solicit,

divert, poach, or encourage any of the Company staff, employees, or personnel to stop working with Company, or to solicit, divert, poach, encourage, or facilitate them to work with Client, any affiliate of Client, or any related person or entity of Client. Client recognizes that Company has a significant investment in the recruitment and training of its employees and guards to be providing services under this Agreement, and that these personnel are a valuable asset to Company. As it is impractical and extremely difficult to fix the actual damages which may result from the loss of such employees and guards, Client agrees that if Client (or its affiliates, agents, and other related persons or entities) is in breach of this section of the Agreement, then Client shall be required to pay to Company for each such employee (or former employee employed by Company) the sum of \$7,500.00. Such fee is expressly agreed to be considered liquidated damages, and not a penalty.

8. **LIABILITY AND INDEMNITIES:** (a) Client agrees that Company is not an insurer and that the amounts payable hereunder are based upon the value of service offered and not the value of Client's interests being protected or the property of Client or others located on Client's premises. Accordingly, Company undertakes no liability to Client and makes no representation, express or implied, that its service will prevent occurrences or their consequences, which result in loss or damage. (b) Client agrees that Company shall not be liable for any claims incurred or asserted by Client, irrespective of origin, to persons or property, whether directly or indirectly caused by performance or nonperformance of obligations imposed by this agreement or by negligent acts or omissions, including those relating to the hiring, training, supervision or retention of personnel, of Company, its agents or employees. (c) The services provided under this Agreement are solely for the benefit of Client and neither this Agreement nor any services rendered hereunder confer any rights on any other party as a third-party beneficiary or otherwise and Client agrees to indemnify and hold Company harmless from and against any claims made by a third party(s), including, but not limited to, injury, death or damage or loss of property, arising from the negligent acts or omissions, including those relating to the hiring, training, supervision or retention of personnel, of Company, its agents or employees. (d) If, at Client's request, Company employees undertake duties or are requested to use equipment or vehicles other than as agreed to in writing by Company, Client shall be solely responsible for and shall indemnify and hold Company harmless from and against any claims arising there from, including, but not limited to, claims arising from the negligent acts or omissions including those relating to the hiring, training, supervision or retention of personnel, of Company, its agents or employees. (e) Client hereby waives any and all rights of subrogation that any insurer of Client may have against Company. (f) Where Company is entitled to indemnification, Company shall have the right to tender defense of the claim to Client.
9. **FORCE MAJEURE:** The obligations of Company hereunder may be suspended during any period where performance is prevented by acts of God, civil or labor disturbances, or events beyond Company's reasonable economic control.
10. **HAZARDOUS OR DEFECTIVE CONDITIONS/MATERIALS:** (a) Client agrees that it will comply with OSHA Hazard Communication Standards and will indemnify and hold Company harmless from all claims, including injuries to Company's employees arising out of a condition existing at Client's premises or Client's violation of any safety or health related law or regulation. (b) Client further agrees to: (1) make available to Company the Material Safety Data Sheet for each hazardous chemical to which Company's employees may be exposed at Client's premises; (2) inform company of (A) precautionary measures that need to be taken to protect Company's employees and (B) Client's hazardous material labeling system.
11. **INSURANCE:** Client agrees to assume all risk of loss or damage to its premises, business and property of others on Client's premises occurring as a result of fire, theft or other casualty and Client agrees that it will maintain insurance to fully protect Client against such loss or damage. Accordingly, Client waives its right of recovery against Company of any such loss or damage, however caused.
12. **TERMINATION OF SERVICES:** Except as otherwise provided in this Agreement, this Agreement may be terminated for non-performance by either party, provided that such party has given the others reasonable time to correct any instances of such non- performance. If either party fails to correct such non-performance, the Agreement may be terminated, provided that such party has given the others at least thirty (30) days advance written notice of such intention. Notwithstanding the foregoing and for all other intentions, termination of services by Client must be preceded by at least thirty (30) days advance written notice of such intention to terminate services. Minimum 3-Month Service Agreement from start date.
13. **ENTIRE AGREEMENT AND INTERPRETATION:** This Agreement constitutes the entire agreement and understanding between the parties, and no representations, inducements, promises or agreements not embodied herein shall be of any force or effect. This Agreement shall be governed under the law of the State of its performance and if any provision shall conflict therewith, such provision shall be interpreted to remove such conflict, so that this Agreement and all its other provisions shall remain in full force and effect.
14. **DEFAULT:** Company may terminate this Agreement immediately and exercise such other rights and remedies as permitted by law, if Client fails to pay any amount when due or if any proceeding is commenced or threatened by or against Client under the Bankruptcy Code or any other Debtor's law, or if Client makes or threatens to make an assignment for the benefit of creditors.

IN WITNESS WHEREOF, the parties by their duly authorized representatives have signed this Agreement as of the date first above written:

By GOOD GUARD SECURITY:

Brady Osorto

(Authorized Representative Signature)

Brady Osorto / Business Development Manager

(Print Name & Title)

By CLIENT:

(Authorized Representative Signature)

(Print Name & Title)

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.)