



**CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
AUGUST 20, 2024, 5:30 PM**

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<https://www.youtube.com/@cityofporterville4149>

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City of Porterville – City Council Meeting of August 20, 2024

Please use the following link below to join the webinar:

<https://us06web.zoom.us/j/86941016448?pwd=HHOONDfXAmMCmoR0beethNBGrdWUKN.1>

Or via Telephone: **1-669-900-6833** Webinar ID: **869 4104 6448** Passcode: **776467**

Call to Order

Roll Call

ORAL COMMUNICATIONS

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

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

1 - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 253-160-064, 253-160-065, 253-160-068, 253-160-069, 253-160-070, 261-125-018, 261-125-019, and 261-125-020. Agency Negotiator: Patrice Hildreth and Jason Ridenour. Negotiating Parties: City of Porterville and James Gregory Shelton. Under Negotiation: Terms and Price.

2 - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 253-174-004. Agency Negotiator: Patrice Hildreth and Jason Ridenour. Negotiating Parties: City of Porterville and Rhode Island Suburban Newspapers. Under Negotiation: Terms and Price.

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

4 - Government Code Section 54956.95 – Liability Claim: Claimant: Celina Boelter. Agency claimed against: City of Porterville.

5 - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel -- Existing Litigation: Hill International, Inc. v. City of Porterville, Tulare County Superior Court Case No. PCU309701.

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

7 - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Three (3) cases.

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

Pledge of Allegiance Led by Council Member Meister
Invocation

PRESENTATIONS

Employee of the Month - Larry Segovia

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 - (Summer Hiatus)
 - 2. Library & Literacy Commission - (Summer Hiatus)
 - 3. Arts Commission - July 23, 2024
 - 4. Animal Control Commission
 - 5. Youth Commission - (Summer Hiatus)
 - 6. Transactions and Use Tax Oversight Committee (TUTOC)
- II. Staff Informational Reports
 - 1. Water Conservation Phase III Status Update - July 2024

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. **Approval of Draft Minutes of August 6, 2024, and August 9, 2024**
Re: Considering approval of the City Council draft Minutes of August 6, 2024, and August 9, 2024.
2. **Request to Purchase Firefighting Personal Protective Equipment.**
Re: Consideration to approve the purchase of six sets of turnouts from LN Curtis for the total purchase and not to exceed amount of \$24,688.75
3. **Authorization to Purchase Specialized Equipment - Ultrapure Water Purification System**
Re: Consideration of the purchase of an Ultrapure Water Purification System for an amount not to exceed \$7,018, which includes the water purification system.
4. **Authorization to Distribute a Request for Proposals for Low Carbon Fuel Standard Management Services**
Re: Council to approve the draft Request for Proposals for Low Carbon Fuel Standard management services.
5. **Authorization to Distribute a Request for Proposals for Solar Maintenance Services**
Re: Council to approve the draft Request for Proposals for solar maintenance services.
6. **Authorization to Distribute a Request for Proposals for Two Mini Side Loading Refuse Trucks**
Re: Council to authorize staff to advertise Request for Proposals (RFP) for two mini side loading refuse trucks at an estimated project cost of \$400,000.
7. **Authorization to Distribute a Request for Proposals for Trash Receptacles**
Re: Council to authorize the advertisement for a Request for Proposals for trash receptacles at an estimated project cost of \$360,000.
8. **Consideration of Acquisition of Real Property**
Re: Council consideration of Real Property and Draft Purchase Agreement for the acquisition of Land and Ditch Company Stock.
9. **Multi-Jurisdictional Local Hazard Mitigation/City of Porterville Hazard Mitigation Plan Annex Resolution**
Re: Consideration to adopt a draft resolution adopting a Local Hazard Mitigation Plan.
10. **Approval of Community Civic Event - Central California Blood Center - Culture Blood Drive - September 1, 2024**
Re: Consideration to approve the Community Civic Event application submitted by the Central California Blood Center to hold the "Culture Blood Drive" event in the

Culture Cannabis Club parking lot at 230 North Main Street, on Sunday, September 1, 2024, from 11:00 AM to 3:00 PM.

11. Approval of Community Civic Event - Porterville Kiwanis - End of Summer Vendor Market - September 15, 2024

Re: Consideration to approve the Community Civic Event application from Porterville Kiwanis Club to hold the Vendor Market on Sunday, September 15, 2024, at the Sports Complex, from 10:00 a.m. to 6:00 p.m.

12. Approval of Community Civic Event - American Conservatory - Parking Lot Party/Cornhole Tournament - September 28, 2024

Re: Consideration to approve the Community Civic Event application from the American Conservatory to hold the "Parking Lot Party - Cornhole Tournament" event on Saturday, September 28, 2024, from 4:00 p.m. to 12:00 a.m.

13. 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.

14. City Council Member Requested Agenda Item - Consideration of Naming City Facility

Re: Considering Council Member Weyhrauch's request for an agenda item on the next regular City Council Agenda to discuss the naming of the animal shelter.

SCHEDULED MATTERS

15. Consideration of Appointment to the Parks & Leisure Services Commission

Re: Considering the appointment of an individual to serve the remainder of a four-year term on the Parks & Leisure Services Commission.

16. Consideration of Appointment to the Arts Commission

Re: Considering the appointment of an individual to serve on the Arts Commission.

17. Consideration of Media Sponsorship for the 2024 Porterville Veterans Homecoming Day Parade

Re: Consideration of Media Sponsorship for the 2024 Porterville Veterans Homecoming Day Parade; and authorize the expenditure of up to \$12,500 from the Community Promotions fund.

18. Consideration of City Council Policy on the Exhibition of Federal, State, and City Flags, and Banners; From City Buildings and Facilities – All Occasions

Re: Considering the establishment of a City Council Policy on the exhibition of Federal, State, and City flags, and banners at City buildings and facilities.

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 - August 7, 2024
2. Library Facility Planning Committee - August 15, 2024
3. Porterville Area Development Authority - August 16, 2024 - Canceled
4. Tulare County Association of Governments (TCAG)/Tulare County Transportation Authority (TCTA) - August 19, 2024

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 September 3, 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 – AUGUST 20, 2024

SUBJECT: 1. Water Conservation Phase III Status Update - July 2024

SOURCE: Public Works

COMMENT: The City has continued to implement an active water conservation approach, conserving water and providing flexibility to the community. As of June 1, 2024, the city transitioned from Phase IV to Phase III of its Water Conservation Plan. The Plan applies to all municipal water users within or outside the city limits.

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

Violations of prohibited activities are considered infractions and are punishable by fines of up to \$500 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 July 2024 show that two (2) notices of violations were issued for water waste, and no administrative citations were issued.

Water production for July 2024 is trending at the five-year average. The monthly production for July was 426 million gallons, which is a twenty percent (20%) decrease compared to July 2013, when it was 533 million gallons. Residential consumption for July 2024 was 159 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 July 2015 through July 2024. Porterville's cumulative total production conservation through July 2024 is twenty percent (20%). The cumulative total of GPCD for the City of Porterville's conservation efforts will

be reflected from July 2015 through July 2024. Porterville's cumulative total GPCD conservation through July 2024 is twenty-five percent (25%).

Under the February 2, 2016, emergency regulation, the City of Porterville received a revised conservation standard of twenty-eight percent (28%) with an additional two percent (2%) reduction for climate adjustment, making the City's conservation standard twenty-six percent (26%). After reviewing the Water Board's Self-Certification criteria for drought impacts on water supplies, the City 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 urban water conservation performance 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 thirteen percent (6%) increase from July 2023 to July 2024. 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 (20%). 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 July 2024
2. Monthly Production Status GPCD July 2024
3. Drought Response Phase III Flyer -

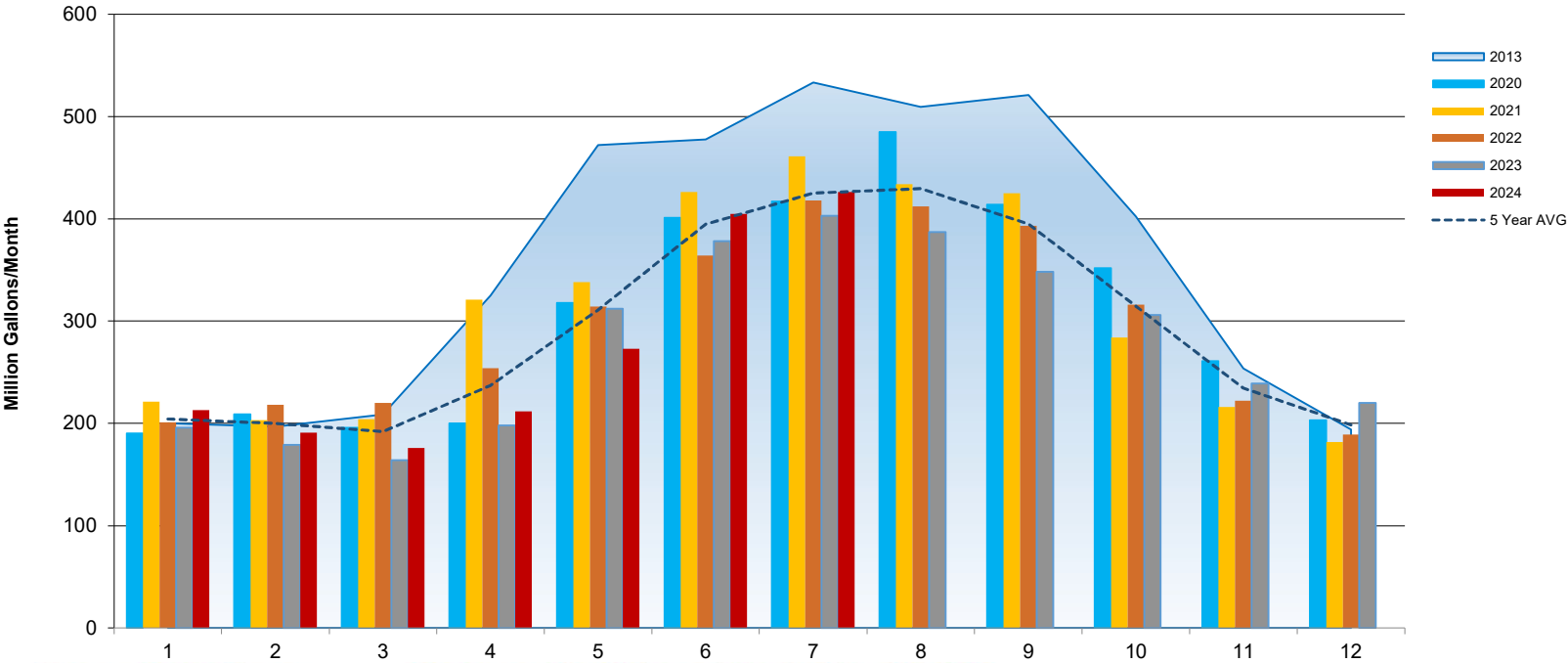
Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Assistant City Manager

Final Approver: Patrice Hildreth, City Manager

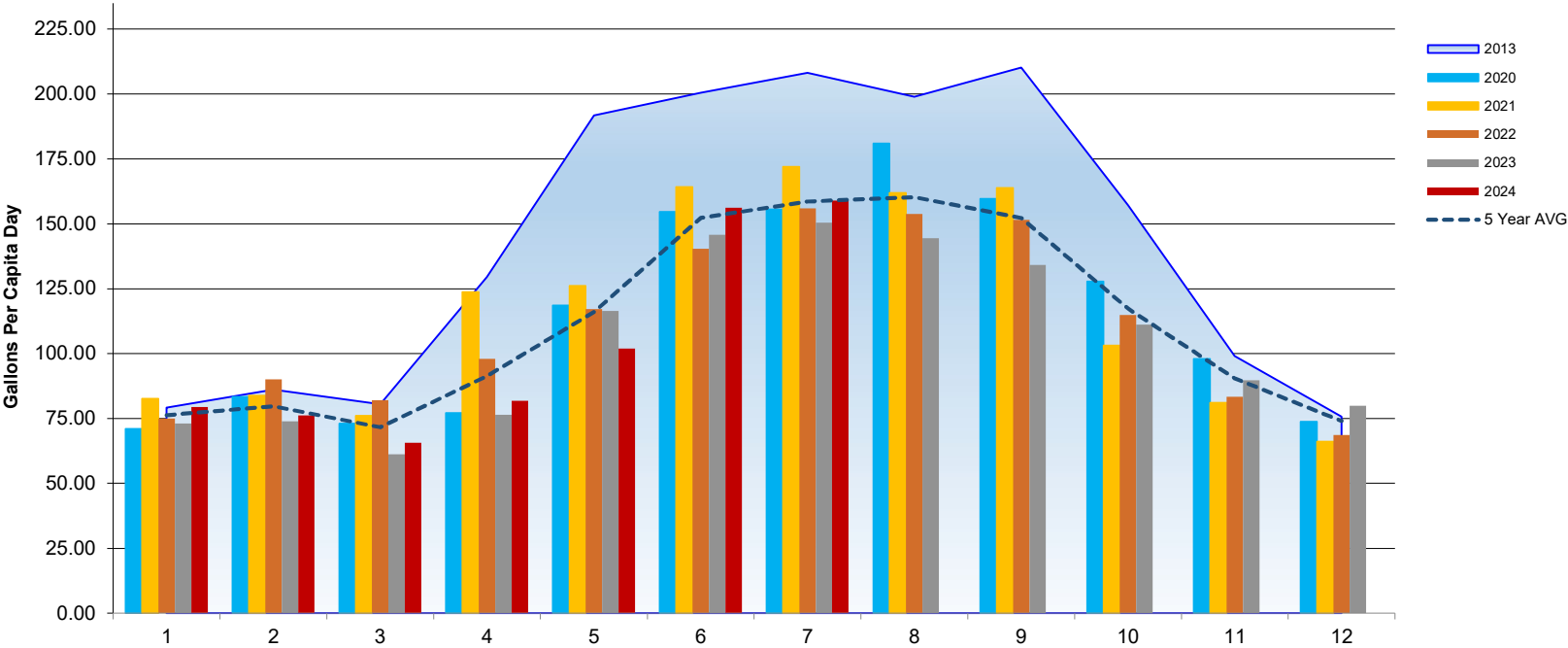
Monthly Production Status & Cumulative Total June 2015 Through July 2024 Production Comparison to 2013 & 5 Year Average



	Production	Cumulative Total 20%										
	2020	-5%	6%	-6%	-38%	-33%	-16%	-22%	-5%	-21%	-13%	5%
	2021	11%	3%	-2%	-1%	-28%	-11%	-14%	-15%	-18%	-29%	-6%
	2022	0%	11%	5%	-22%	-33%	-24%	-22%	-19%	-25%	-21%	-3%
	2023	-2%	-14%	-31%	-39%	-34%	-21%	-24%	-24%	-33%	-20%	13%
	2024	6%	-3%	-16%	-35%	-42%	-15%	-20%				

Percent Comparison to 2013 Production

Monthly Production Status & Cumulative Total June 2015 Through July 2024 Gallon Per Capita Day Comparison to 2013 & 5 Year Average



GPCD

Cumulative Total 25%

	2020	-10%	-3%	-9%	-40%	-38%	-23%	-25%	-9%	-24%	-19%	-1%	-3%
	2021	4%	-3%	-5%	-4.4%	-34%	-18%	-17%	-19%	-22%	-34%	-18%	-13%
	2022	-5%	4%	2%	-24.3%	-39%	-30%	-25%	-22%	-28%	-27%	-16%	-9%
	2023	-8%	-14%	-24%	-41%	-39%	-27%	-28%	-27%	-36%	-29%	-10%	6%
	2024	0%	-12%	-18%	-37%	-47%	-22%	-24%					

Percent Comparison to 2013 Production



DROUGHT RESPONSE Phase III

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

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

No watering outdoor landscapes during and within 48 hours after measurable rainfall.

Excessive water runoff is prohibited.

The washing of sidewalks and driveways is prohibited.

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

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

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

DROUGHT RESPONSE PHASE III

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

Mandatory Odd/Even Watering Schedule

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

■ Odd Address
 ■ Even Address

ODD NUMBER ADDRESSES

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

OR

EVEN NUMBER ADDRESSES

If your address ends with an “even” number, 0, 2, 4, 6, or 8, your watering days are Wednesday and Sunday *only*.

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

**Mandatory
Odd/Even Watering
Schedule**

**Excessive water
runoff prohibited**

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

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

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

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

**NO WATERING ON
MONDAYS, THURSDAYS,
AND FRIDAYS.**



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Approval of Draft Minutes of August 6, 2024, and August 9, 2024

SOURCE: Administrative Services

COMMENT: Presented for Council's approval are the draft Minutes of August 6, 2024, and August 9, 2024.

RECOMMENDATION: That the Council approve the draft Minutes of August 6, 2024, and August 9, 2024.

ATTACHMENTS:

1. Draft Minutes of 08-06-2024
2. Draft Minutes of 08-09-2024

Appropriated/Funded:

Review By:

Department Director:
Yuliana Andrade, Administrative Services Director

Final Approver: Yuliana Andrade, Administrative Services Director

**CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
AUGUST 6, 2024, 4:00 PM**

Call to Order at 4:00 p.m.

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

ORAL COMMUNICATIONS

None.

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

- 1** - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APN: 268-100-005. Agency Negotiator: Patrice Hildreth and Jason Ridenour. Negotiating Parties: City of Porterville and Thomas J. and Deborah L. O'Sullivan Trust. Under Negotiation: Terms and Price.
- 2** - Government Code Section 54956.95 – Liability Claim: Claimant: Connect - American Family Insurance as Subrogee of Mark Alvarez. Agency Claimed Against: City of Porterville.
- 3** - Government Code Section 54956.95 – Liability Claim: Claimant: Donald William McCarthy. Agency Claimed Against: City of Porterville.
- 4** - Government Code Section 54956.95 – Liability Claim: Claimant: Darleta Swearingen. Agency Claimed Against: City of Porterville.
- 5** - Government Code Section 54956.9(d) (3) – Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation: Three cases in which facts are not yet known to potential plaintiffs.
- 6** - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Three (3) cases.
- 7** - Government Code Section 54957 – Public Employment: City Manager.

**5:00 P.M. RECONVENE OPEN SESSION AND REPORT ON REPORTABLE ACTION
TAKEN IN CLOSED SESSION**

- A-3. On a MOTION made by Council Member Meister, and SECONDED by Council Member Beltran the City Council unanimously rejected the claim filed by Donald William McCarthy.

Documentation: M.O. 01-080624

Disposition: Claim rejected.

The Pledge of Allegiance was led by Vice Mayor Carrillo.

Invocation – a moment of silence was observed.

PRESENTATIONS

Employee of the Month - Larry Segovia (The presentation continued to the next meeting.)

ORAL COMMUNICATIONS

- Dr. Primavera Monarrez, Interim President of Porterville College, introduced herself and her career background.

REPORTS

I. Staff Informational Reports

1. Code Enforcement Quarterly Report
2. Building Permit Activity 4th Quarter Report Fy 2023-2024 (April-June 2024)
3. Street Performance Measure Quarterly Report Fy 2023-2024 (April – June 2024)
4. Golf Course Quarterly Report Fy 2023-2024 (April-June 2024)
5. Community Development Block Grant Business Loan Update
6. Charitable Car Washes Quarterly Report Calendar Year 2024
7. City Council Member Appointments Attendance Quarterly Report Fy 2023-2024 (April - June 2024)
8. City Commission And Committee Attendance Quarterly Report Fy 2023-2024 (April - June 2024)

CONSENT CALENDAR

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

COUNCIL ACTION: MOVED by Council Member Donald Weyhrauch, SECONDED by Council Member Greg Meister that the City Council approve Items Nos. 1-22. The motion carried unanimously.

1. APPROVAL OF DRAFT MINUTES OF JULY 16, 2024

Recommendation: That the Council approve the draft Minutes of July 16, 2024.

Documentation: M.O. 02-080624

Disposition: Approved.

2. AUTHORIZATION TO PURCHASE TRAILER FOR ENCAMPMENT ABATEMENT PROGRAM

Recommendation: That the City Council authorize the purchase of a trailer for the encampment abatement program from Big Tex Trailer World for \$12,389.31, as appropriated by previous Council action.

Documentation: M.O. 03-080624

Disposition: Approved.

3. AUTHORIZATION TO PURCHASE STREET SWEEPER BLOWER WHEEL

Recommendation: That the City Council:

1. Authorize the purchase of a replacement blower wheel from GCS Environmental Equipment at a cost not to exceed \$8,233 (inclusive of all parts, taxes, freight, and a 10% contingency); and
2. Authorize payment of invoice upon receipt of blower wheel.

Documentation: M.O. 04-080624

Disposition: Approved.

4. AUTHORIZATION FOR REFUSE TRUCK ENGINE REPAIR

Recommendation: That the City Council:

1. Authorize refuse truck engine overhaul by Cummins Pacific at a cost not to exceed \$34,675 (inclusive of all parts, taxes, and labor, and a 10% contingency); and
2. Authorize payment of said repair upon satisfactory completion.

Documentation: M.O. 04A-080624

Disposition: Approved.

5. REQUEST FOR RENEWAL OF ACCELA PUBLICSTUFF ONE YEAR
CONTRACT

Recommendation: That the City Council authorize a one year contract renewal with
 Accela for PublicStuff Pro Services to be used through the
 myPorterville mobile application.

Documentation: M.O. 05-080624

Disposition: Approved.

6. RENEWAL OF ANNUAL CONTRACT WITH VECTOR SOLUTIONS
SCHEDULING SOFTWARE

Recommendation: That the City Council approve the renewal and continued yearly
 contract with Vector Solutions Scheduling Software for the Fire
 Department in the amount of \$5,605.20.

Documentation: M.O. 06-080624

Disposition: Approved.

7. AUTHORIZATION TO DISTRIBUTE A REQUEST FOR PROPOSALS
FOR FUEL SYSTEM UPGRADES

Recommendation: That the City Council:
 1. Approve the draft Request for Proposals;
 2. Authorize staff to advertise for proposals on the project; and
 3. Authorize staff to negotiate with the most responsive and
 responsible Proposer who has demonstrated the ability to perform
 the project in an acceptable manner and is most advantageous to
 the City.

Documentation: M.O. 07-080624

Disposition: Approved.

8. AUTHORIZATION TO DISTRIBUTE A REQUEST FOR PROPOSALS
FOR SECURITY IMPROVEMENTS

Recommendation: That the City Council:
 1. Approve the draft Request for Proposals;
 2. Authorize staff to advertise for proposals on the project; and
 3. Authorize staff to negotiate with the most responsive and
 responsible Proposer who has demonstrated the ability to perform

the project in an acceptable manner and is most advantageous to the City.

Documentation: M.O. 08-080624

Disposition: Approved.

9. AUTHORIZATION TO DISTRIBUTE A REQUEST FOR PROPOSALS FOR CHARGING STATION REPLACEMENT

Recommendation: That the City Council:

1. Approve the draft Request for Proposals;
2. Authorize staff to advertise for proposals on the project; and
3. Authorize staff to negotiate with the most responsive and responsible Proposer who has demonstrated the ability to perform the project in an acceptable manner and is most advantageous to the City.

Documentation: M.O. 09-080624

Disposition: Approved.

10. AUTHORIZATION TO DISTRIBUTE A REQUEST FOR PROPOSALS FOR RENEWABLE NATURAL GAS SUPPLIER

Recommendation: That the City Council:

1. Approve the draft Request for Proposals;
2. Authorize staff to advertise for proposals on the project; and
3. Authorize staff to negotiate with the most responsive and responsible Proposer who has demonstrated the ability to perform the project in an acceptable manner and is most advantageous to the City.

Documentation: M.O. 10-080624

Disposition: Approved.

11. AUTHORIZATION TO DISTRIBUTE A REQUEST FOR PROPOSALS FOR COMPRESSED NATURAL GAS FUELING STATION MAINTENANCE SERVICE

Recommendation: That the City Council:

1. Approve the draft Request for Proposals;
2. Authorize staff to advertise for proposals on the project; and
3. Authorize staff to negotiate with the most responsive and responsible proposer who has demonstrated the ability to perform

the project in an acceptable manner and is most advantageous to the City.

Documentation: M.O. 11-080624

Disposition: Approved.

12. AWARD OF CONTRACT - GOLF COURSE MANAGEMENT SERVICES

Recommendation: That the City Council authorize staff to negotiate a contract with Casey Butler, contingent upon the City Attorney's review, for a five-year contract for golf course management services.

Documentation: M.O. 12-080624

Disposition: Approved.

13. ACCEPTANCE OF PROJECT - GOLF COURSE DRIVING RANGE NETTING PROJECT

Recommendation: That the City Council:

1. Accept the project as complete;
2. Authorize a re-appropriation of American Rescue Plan Act (ARPA) funds in the amount of \$11,943 from the Hayes Field Lighting Project; and
3. Authorize the filing of the Notice of Completion by the City Clerk.

Documentation: M.O. 13-080624

Disposition: Approved.

14. ESRI MAINTENANCE CONTRACT

Recommendation: That City Council authorizes staff to sign the annual maintenance agreement renewal with the Environmental Systems Research Institute (ESRI).

Documentation: M.O. 14-080624

Disposition: Approved.

15. AUTHORIZATION TO NEGOTIATE CONSULTANT AGREEMENT – ACTIVE TRANSPORTATION PLAN

Recommendation: That the City Council:

1. Authorize staff to negotiate a scope of services and contract with GHD, Inc.; and

2. Authorize staff to negotiate a scope of services and contract with Toole Design if staff is unable to negotiate an acceptable contract with GHD, Inc.

Documentation: M.O. 15-080624

Disposition: Approved.

16. APPROVING A RESOLUTION FOR FY 2023 TRANSPORTATION DEVELOPMENT ACT (TDA) CLAIMS

Recommendation: That the City Council adopted the draft resolution authorizing:

1. The Tulare County Regional Transit Agency to submit a FY 2023-24 TDA claim in the amounts of \$991,292.10 in STA funds and \$603,283 in LTF funds based on their adopted FY 2023 budget; and
2. The City of Porterville to submit a FY 2023-24 TDA claim for the remaining balance of LTF funds in the amount of \$2,963,751.28.

Documentation: Resolution No. 54-2024

Disposition: Approved.

17. GENERAL PLAN CONFORMANCE APN 253-203-003

Recommendation: That the City Council adopt the draft Resolution, detailing the results of its investigations pursuant to California Government Code Section 65402(b), and forward said resolution to the County of Tulare General Services Agency.

Documentation: Resolution No. 55-2024

Disposition: Approved.

18. PARTICIPATION IN KROGER OPIOID SETTLEMENT

Recommendation: That the City Council approve participation in the settlement, and authorize the City Manager and/or City Attorney to execute the Subdivision Participation and Release Form and California State-Subdivision Agreement, and any other necessary or appropriate documents necessary for the City to ensure receipt and use of its settlement fund allocation by the State and the County of Tulare.

Documentation: M.O. 16-080624

Disposition: Approved.

19. AUTHORIZATION TO ROLL UNPAID UTILITY ACCOUNTS TO THE 2024-2025 PROPERTY TAX ROLLS

Recommendation: That the City Council adopt the draft resolution authorizing the Tulare County Auditor to place unpaid utility accounts on the 2024-2025 property tax rolls for collection.

Documentation: Resolution No. 56-2024

Disposition: Approved.

20. FINANCIAL STATUS REPORTS

Recommendation: That the City Council accept the preliminary financial status reports as presented.

Documentation: M.O. 17-080624

Disposition: Approved.

21. QUARTERLY INVESTMENT PORTFOLIO

Recommendation: That the City Council accept the quarterly investment portfolio summary report.

Documentation: M.O. 18-080624

Disposition: Approved.

22. STATUS AND REVIEW OF DECLARATION OF LOCAL FLOOD EMERGENCY

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

Documentation: M.O. 19-080624

Disposition: Approved.

PUBLIC HEARINGS

23. LANDSCAPE AND LIGHTING MAINTENANCE DISTRICTS ANNUAL ASSESSMENTS

Recommendation: That the City Council, pursuant to California Government Code Sections 54955 and 54955.1, adjourn, or if applicable order the City Clerk to adjourn, the Public Hearing and consideration of this item to the Adjourned Regular Meeting to be held at 4:00 p.m. on Friday, August 9th, 2024, to conduct a Public Hearing on the 2024-2025 assessments for the Landscape and Lighting Maintenance Districts

to take comments or receive protests on the proposed assessments; and to adopt the draft Resolution ordering the continued maintenance of Landscape and Lighting Maintenance Districts and confirming the Engineer's Report and Assessments for the 2024-2025 Fiscal Year.

City Manager Hildreth introduced the item and City Attorney Lew presented the staff report.

COUNCIL ACTION: MOVED by Mayor Martha A. Flores, SECONDED by Vice Mayor Kellie Carrillo that the City Council authorize the City Clerk to adjourn the Public Hearing to Friday, August 9, 2024, at 4:00 p.m. The motion carried unanimously.

Documentation: M.O. 20-080624

Disposition: Approved.

24. ESTABLISHING THE ANNEXATION OF ROYAL OAKS PHASE 2 LANDSCAPE AND LIGHTING MAINTENANCE DISTRICT INTO DISTRICT 56

Recommendation: That the City Council, pursuant to California Government Code Sections 54955 and 54955.1, adjourn, or if applicable, order the City Clerk to adjourn, the Public Hearing and consideration of this item to the Adjourned Regular Meeting to be held at 4:00 p.m. on Friday, August 9th, 2024, to conduct the Public Hearing to receive public comment on the Annexation of Royal Oaks Phase 2 Landscape and Lighting Maintenance District into District Number 56; and adopt the draft Resolution approving the Engineer's Report and assessment method.

City Manager Hildreth introduced the item and City Attorney Lew presented the staff report.

COUNCIL ACTION: MOVED by Mayor Martha A. Flores, SECONDED by Vice Mayor Kellie Carrillo that the City Council authorize the City Clerk to adjourn the Public Hearing to Friday, August 9, 2024, at 4:00 p.m. The motion carried unanimously.

Documentation: M.O. 21-080624

Disposition: Approved.

SCHEDULED MATTERS

25. APPROVAL OF AMENDED FY 2024-25 TRANSIT DIVISION BUDGET,
PROGRAM OF PROJECTS, AND TDA CLAIM

Recommendation: That the City Council:

1. Rescind Resolution 40-2024 for the FY 2024 TDA claim;
2. Approve the draft resolution adopting the amended FY 2024-25 Transit Division Budget and Program of Projects; and
3. Approve the draft resolution for the FY 2024 TDA claim.

City Manager Hildreth introduced the item and Director of Transportation Rich Tree presented the staff report.

COUNCIL ACTION: MOVED by Mayor Martha A. Flores, SECONDED by Vice Mayor Kellie Carrillo that the City Council rescind Resolution No. 40-2024; approve the draft resolution adopting the amended FY 2024-25 Transit Division Budget and Program of Projects; and approve the draft resolution for the FY 2024 TDA claim. The motion carried unanimously.

Documentation: Resolution No. 57-2024, Resolution No. 58-2024

Disposition: Approved.

AB 1234 REPORTS

1. Tulare County Task Force on Homelessness - July 17, 2024

Mayor Flores provided a report on the approval of Minutes, current vacancies, updates from various committees, and amendments to the bylaws.

2. Tulare County Economic Development Corp. (TCEDC) - July 24, 2024

Mayor Flores provided a report on those in attendance, an overview of the budget, and the appointment of new committee chairs.

3. Local Initiatives Navigation Center (LINC) Committee - July 24, 2024

No report was provided.

4. Eastern Tule Groundwater Sustainability Agency (ETGSA) - August 1, 2024

Assistant City Manager Michael Knight reported on the approval of the Minutes, the ratification of pending bills, and several reports and action items.

ORAL COMMUNICATIONS

None.

OTHER MATTERS

- Council Member Beltran asked about the recruitment efforts for committee and commission vacancies, mentioned a recent tour of the Animal Shelter, and noted that students will start the new school year.
- Council Member Weyhrauch provided input on various agenda items.
- Council Member Meister made no comments.
- Vice Mayor Carrillo made no comments.
- Mayor Flores addressed several events, including the multi-chamber mixer, the SAFER 5th anniversary drinking water event, and the forthcoming animal shelter ground opening.
- City Manager Hildreth spoke of the National Night Out event, upcoming Animal Shelter ribbon cutting, and the KJUG Free Concert series.

CLOSED SESSION

The Council took a five-minute recess and reconvened in Closed Session at 5:40 p.m.

ADJOURNMENT

The Council adjourned at 6:30 p.m. to the Adjourned Regular Meeting of August 9th, at 4:00 p.m.

Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

SEAL

Martha A. Flores, Mayor

**CITY COUNCIL MINUTES
ADJOURNED REGULAR MEETING
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
AUGUST 9, 2024, 4:00 PM**

Call to Order at 4:00 p.m.

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

Absent: Council Member Donald Weyhrauch,

The Pledge of Allegiance was led by Mayor Martha A. Flores

Invocation – a moment of silence was observed.

ORAL COMMUNICATIONS

- Brock Neeley, Porterville, provided the Council with documentation related to the Governor's Executive Order on homelessness.

PUBLIC HEARINGS (continued from August 6, 2024 Regular Meeting)

1. Landscape and Lighting Maintenance Districts Annual Assessments

Recommendation: That the City Council conduct a Public Hearing on the 2024-2025 assessments for the Landscape and Lighting Maintenance Districts to take comments or receive protests on the proposed assessments; and consider adopting the draft Resolution ordering the continued maintenance of Landscape and Lighting Maintenance Districts and confirming the Engineer's Report and Assessments for the 2024-2025 Fiscal Year.

City Manager Hildreth introduced the item and Parks and Leisure Services Director Donnie Moore identified a conflict of interest related to the item and consequently abstained from participating. Following his recusal, Leisure Services Specialist Amy Graybehl proceeded to present the staff report.

Mayor Flores opened the Public Hearing at 4:05 p.m. and closed the Public Hearing at 4:05 p.m. when no one came forward to speak.

COUNCIL ACTION: MOVED by Council Member Raymond Beltran, SECONDED by Vice Mayor Kellie Carrillo that the City Council adopted the draft resolution ordering the continued maintenance of Landscape and Lighting Maintenance Districts and confirming the Engineer's Report and Assessments for the 2024-2025 Fiscal Year.

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

Documentation: Resolution No. 59-2024
Disposition: Approved.

2. Establishing the Annexation of Royal Oaks Phase 2 Landscape and Lighting Maintenance District into District 56

Recommendation: That the City Council conduct the Public Hearing to receive public comment on the Annexation of Royal Oaks Phase 2 Landscape and Lighting Maintenance District into District Number 56; consider adopting the draft Resolution approving the Engineer's Report and assessment method; and authorizing the assessments.

City Manager Hildreth introduced the item and Parks and Leisure Services Director Donnie Moore presented the staff report.

Mayor Flores opened the Public Hearing at 4:08 p.m. and closed the Public Hearing at 4:08 p.m. when no one came forward to speak.

COUNCIL ACTION: MOVED by Council Member Raymond Beltran, SECONDED by Vice Mayor Kellie Carrillo that the City Council adopted the draft resolution approving the Engineer's Report and assessment method; and authorized the assessments.

Documentation: Resolution No. 60-2024
Disposition: Approved.

ADJOURNMENT

The Council adjourned at 4:09 p.m. to the meeting of August 20, 2024, at 5:30 p.m.

Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

SEAL

Martha A. Flores, Mayor



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Request to Purchase Firefighting Personal Protective Equipment.

SOURCE: Fire

COMMENT: The Fire Department has recently hired three (3) 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 two (2) custom-fitted sets of 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 (6) sets of PPE for a cost of \$22,444.32, inclusive of tax. With an added ten percent (10%) contingency, the total purchase price is not to exceed \$24,688.75. Funds are available for this purchase in the Department's General Fund budget.

RECOMMENDATION: That the City Council approve the purchase of six sets of turnouts from LN Curtis for \$22,444.32 with an added ten percent (10%) contingency of \$2,244.43, for the total purchase and not to exceed amount of \$24,688.75

ATTACHMENTS: 1. LN Curtis Quote

Appropriated/Funded:

Review By:

Department Director:
Shannon Skiles, Deputy Fire Chief

Final Approver: Jason Ridenour, Deputy 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

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.

305251

ISSUED DATE

08/12/2024

EXPIRATION DATE

09/13/2024

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**SPECIAL INSTRUCTIONS**

Per State of California Senate Bill 1044, this serves as written notice that certain fabric components of Globe turnout coats, pants and boots contain per- and polyfluoroalkyl substances (PFAS) as defined by state law. Globe suppliers have told them they add PFAS to their materials to achieve water and/or oil repellency or for resistance to low surface chemicals, such as gasoline, hydrocarbons, etc. *line 1 & 2 contain Gore Crosstech Black moisture barrier which contain(s) PFAS.
*Stedair CLEAR, an alternate, non-fluorinated moisture barrier is available. Please advise if you would like an alternate quotation for the Stedair CLEAR moisture barrier.

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.

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

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		\$1,945.00	\$11,670.00
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.		\$1,479.00	\$8,874.00

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

This pricing remains firm until 09/13/2024. 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	\$20,544.00
Estimated Tax Total	\$1,900.32
Transportation	\$0.00
Total	\$22,444.32

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CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Authorization to Purchase Specialized Equipment - Ultrapure Water Purification System

SOURCE: Public Works

COMMENT: The City of Porterville Laboratory uses an Ultrapure Water Purification System for analytical procedures, which require the preparation of reagent solutions, dilutions, and quality control standards. The Ultrapure Water Purification System generates Type I water, which is the purest form of water and is ideal for analytical procedures highly susceptible to contamination. The Ion Chromatograph instrument requires the use of Type I water to measure the concentration of major anions, such as chloride, nitrite, and nitrate, in the City's drinking water and wastewater samples.

The current water purification system was purchased in 1994 and is outdated and no longer supported by the manufacturer. Laboratory staff contacted three (3) vendors for quotes to purchase a new Ultrapure Water Purification System.

The quotes are as follows:

Vendor	Cost
Fisher Scientific	\$6,379.97
Cole-Parmer	\$6,814.12
VWR	\$7,260.09

Fisher Scientific submitted the lowest quote, securing the quote for purchasing the Ultrapure Water Purification System. The expenditure for the purchase is not to exceed \$7,018, and the purchase includes the water purification system and a ten percent (10%) contingency, which will be funded by the Laboratory Equipment Replacement Fund.

RECOMMENDATION: That the City Council:

1. Approve the purchase of an Ultrapure Water System from Fisher Scientific for an amount not to exceed \$7,018, (which includes the Ultrapure Water System, taxes, freight, and a ten percent (10%) contingency);
2. Direct the Finance Director to initiate a Purchase Order for Fisher Scientific for an amount not to exceed \$7,018,(which includes the Ultrapure Water System, taxes, freight, and a ten percent (10%) contingency), and
3. Direct the Finance Director to make payment to Fisher

Scientific upon receipt of an invoice approved by the Public Works Director.

ATTACHMENTS:

1. Fisher_Scientific_Ultrapure Water System Quote
2. Cole-Parmer_Ultrapure Water System Quote
3. VWR_Ultrapure Water System Quote

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Assistant City Manager

Final Approver: Patrice Hildreth, City Manager

Sales Quotation			
*Quote Nbr	Creation Date	Due Date	Page
4205-6357-49	07/23/2024		1 of 1
Payment Terms		Delivery Terms	
NET 45 DAYS		DEST	
Valid To		Prepared By	
11/20/2024		NIGRO, TYLER	
Customer Reference		Sales Representative	
QUOTE 7/23 MICROPURE		JOHN M. BAILEY	
To place an order	Ph: 800-766-7000	Fx: 800-926-1166	
Submitted To:		Customer Account: 178679-001	
CAROLINE THOMASON TYLER.NIGRO@THERMOFISHER.COM 559-782-7508		CITY OF PORTERVILLE LABORATORY 1265 W GRAND AVE PORTERVILLE CA 93257-0001	



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



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

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

Nbr	Qty	UN	Catalog Number	Description	Unit Price	Extended Price
1	1	EA	10451098	MICROPURE UV	6,379.97	6,379.97
				 Thermo Scientific Barnstead MicroPure Water Purification System UV, Description: MicroPure UV ultrapure water system with UV-photo-oxidation, Bacterial Content: <0.01 CFU/mL, Feed Water Monitoring: Yes, Feedwater Source: Pretreated, Flow Rate: 1.5L/min, Resistivity: 18.2M?cm Vendor Catalog # 50132373 This item is being sold as 1 per each GSA# GS07F161BA ===== Optional extended warranty below available to purchase per unit: EWWAT00 EXTENDED WARRANTY WATER POU \$1342.00 =====		

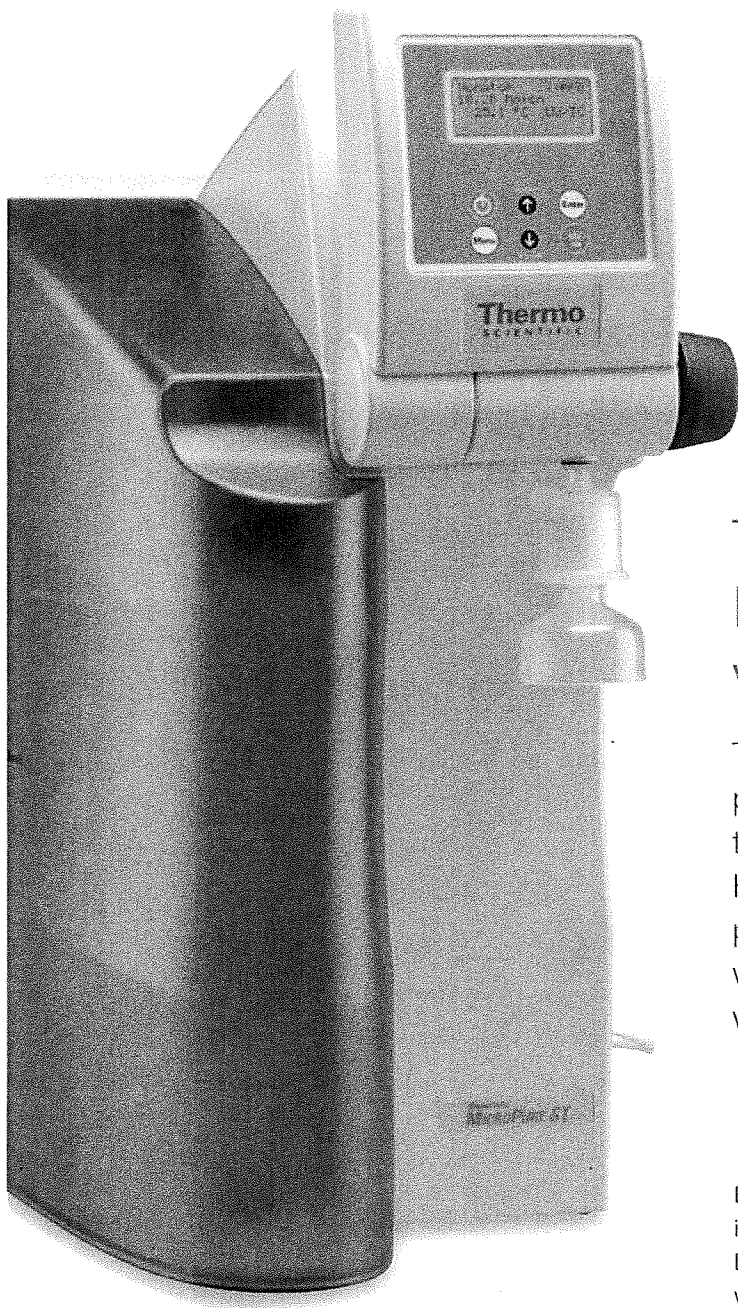
MERCHANDISE TOTAL 6,379.97

NOTES:

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

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APPLICATIONS

MOLECULAR BIOLOGY AND MICROBIOLOGY

CELL AND TISSUE CULTURE
PCR, DNA SEQUENCING
ELECTROPHORESIS

ANALYTICAL CHEMISTRY

HPLC
GC, GC-MS, ICP-MS, AA
TOC MEASUREMENTS, IC

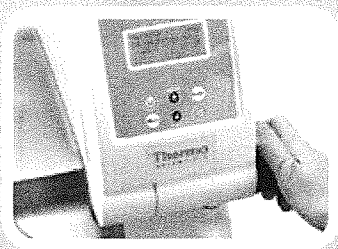
Thermo Scientific Barnstead MicroPure water purification systems

Thermo Scientific™ Barnstead™ MicroPure™ water purification systems are designed for laboratories that require up to 15 L/day of ultrapure water for HPLC or other instrumental analyses, sample preparation, glassware rinsing, or molecular biology work in which endotoxins and/or nucleases would interfere.

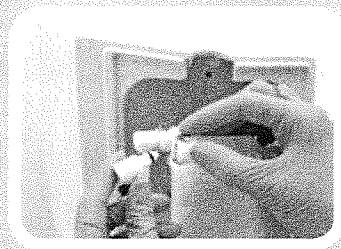
Barnstead MicroPure water purification systems exceed international standards ASTM Type 1, ISO 3696 Grade 1, ASTM D1193 and CLSI-CLRW, delivering ultrapure 18.2 MΩ·cm water with consistent quality.

Quick Look Comparison	MicroPure Standard	MicroPure UV	MicroPure UF	MicroPure UV/UF
Application examples	IC, standard buffer prep	HPLC and ICP-MS	Microbiology, monoclonal antibodies	Molecular biology, PCR, cell culture media
Resistivity at 25°C, MΩ·cm	18.2	18.2	18.2	18.2
Conductivity, μS/cm	0.055	0.055	0.055	0.055
TOC value, ppb	5 - 10	1 - 5	5 - 10	1 - 5
Bacterial content, CFU/ml	<1	<1	<1	<1
Endotoxin, EU/ml:	n.d.	n.d.	n.d.	<0.001
Flow Rate, L/min	1.5	1.5	1	1
Flow Rate, with tank, L/min	1	1	0.8	0.8

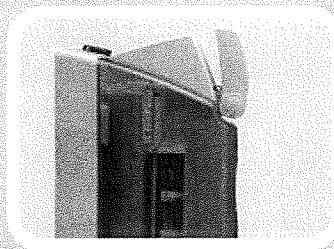
Note: n.d. (not determined)



Variable flow control allows for drop-by-drop or quick dispensing.



Quick-connect design allows for easy cartridge change-outs.



MicroPure with integrated reservoir series includes an optional 6 L feed water reservoir for pretreated water storage.

Smart consumables

- Validated 0.2 μM final filter can be autoclaved up to 5 times
- UV photo-oxidation 185/254 nm reduces organic compounds in the water to ultra-low levels as well as microorganisms and their metabolites with up to a 2-year lifetime. Available on UV systems only
- Internal ultrafilter (UF) is flushed automatically and has a large surface area designed to ensure the highest retention of endotoxins and nucleases, and allows for up to a 2-year lifetime. Available on UF systems only

Easy-to-operate

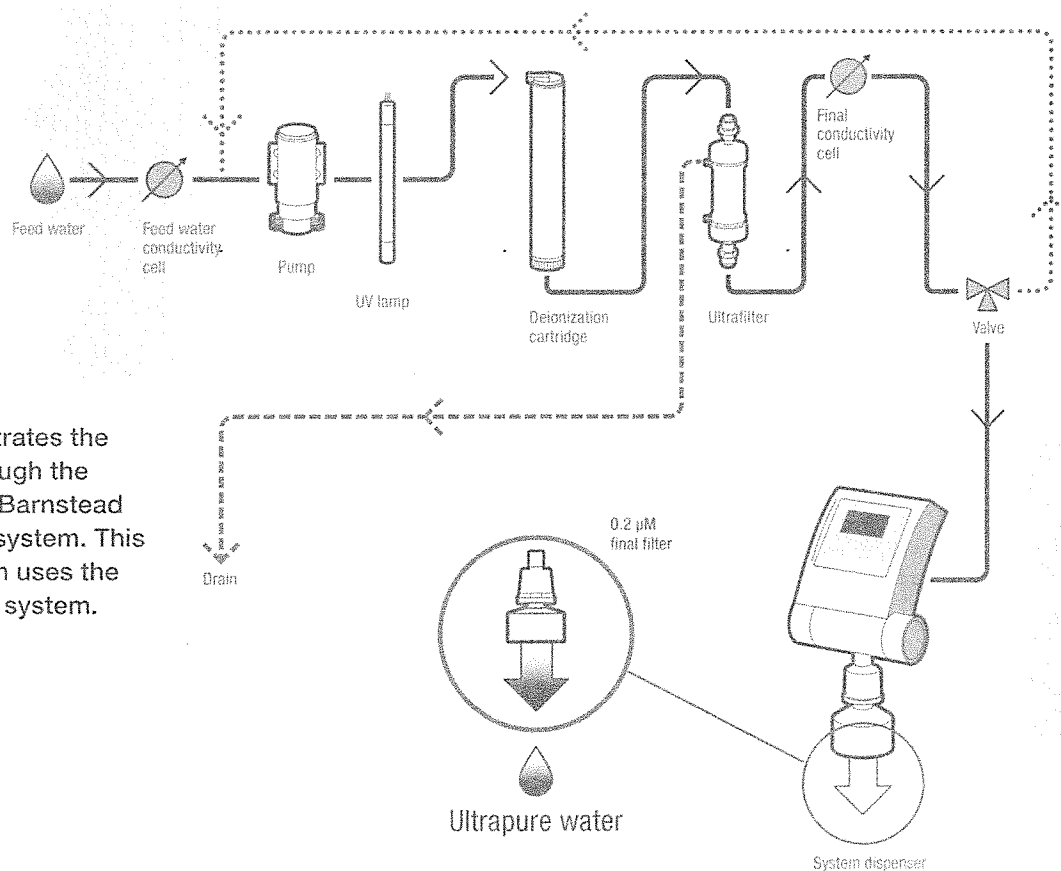
- Dispensing is easy and features variable speed controlled flow
- Display can be tilted for optimal reading

Extra monitoring

- Standard feed water monitor supports consistent water quality and longer cartridge service life
- Recirculation pump prevents bacterial growth during standstill allowing for constant monitoring of all system functions, and for the immediate display of fault messages if a problem is detected

MicroPure with integrated 6 L reservoir

- Optional integrated 6 L feed water reservoir so you can place the system without direct access to a water line
- Constructed with pigment-free materials
- Conical bottom outlet allows for complete draining and efficient cleaning and disinfection



The diagram illustrates the flow of water through the components of a Barnstead MicroPure water system. This particular diagram uses the MicroPure UV/UF system.



specifications

Dimensions	MicroPure	MicroPure with tank
Product Dimensions, H x W x D, mm (in)	545 x 305 x 300 (22 x 12 x 12)	545 x 305 x 390 (22 x 12 x 15.5)
Product Weight, kg (lbs)	15 (33)	17 (37)
Shipping Dimensions, H x W x D, mm (in)	706 x 455 x 430 (28 x 18 x 17)	706 x 455 x 430 (28 x 18 x 17)
Shipping Weight, kg (lbs)	20 (44)	22 (48)

Required feed water quality	
Source	RO, DI or distilled water
Resistivity, MΩ-cm	>0.2
Conductivity, µs/cm	<5
Turbidity, NTU	< 1.0
TOC, ppb	max. 50
Temperature, °C	2 - 35
Pressure, psi (bar)	1.4 - 87 (1 - 6)

ordering information

MicroPure System Options		MicroPure	MicroPure UV	MicroPure UF	MicroPure UV/UF
All systems include an ultrapure polisher cartridge, sterile 0.2 µM filter and pressure regulator. UV lamp and/or ultra-filter also included on applicable units.	Line fed units	50132366	50132373	50132368	50132370
	Includes integrated 6L feed tank	50132367	50132374	50132369	50132372
Optional Accessories					
Wall mounting bracket		09.2212			
Printer Utilizes RS 232 interface. For safe documentation of all measured values and faults with date and time in compliance with GLP-Guidelines.	120V, 50/60Hz	AY1137X1			
	230V, 50Hz	09.2207			
Disinfection cartridge		09.1102			
Replacement Consumables					
Ultrapure polisher cartridge		09.1006			
Sterile filter, 0.2 µm		09.1003			
Ultrafilter		n/a	n/a	50133981	50133981
UV lamp		n/a	09.1002	n/a	09.1002
Cleaning solution	Europe/Asia Pacific	09.2202			
	North and South America	CMX25			
Sterile vent filter, for MicroPure with integrated tank only		22.0091			
Sterile overflow, for MicroPure with integrated tank only		15.0009			

thermoscientific.com/purewater

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+400 650 5118
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Germany international +49 6184 90 6000

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Italy +32 02 95059 552
Japan +81 3 5826 1616
Netherlands +31 76 579 55 55
New Zealand +64 9 980 6700
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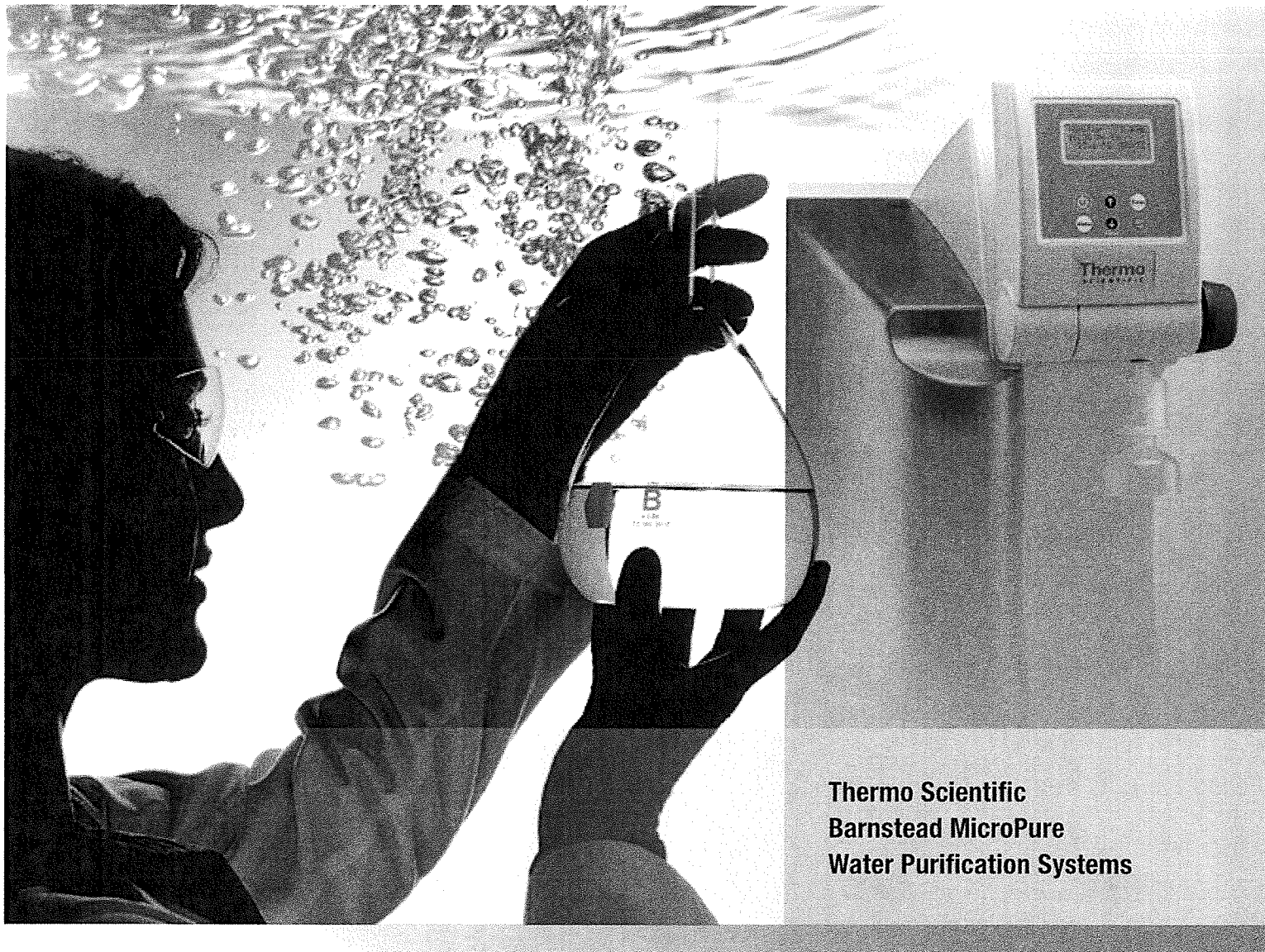
Russia +7 812 703 42 15
Spain/Portugal +34 93 223 09 18
Switzerland +41 44 454 12 22
UK/Ireland +44 870 609 9203
USA/Canada +1 866 984 3766

Other Asian countries +852 2885 4613
Countries not listed +49 6184 90 6000



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A Thermo Fisher Scientific Brand



Thermo Scientific
Barnstead MicroPure
Water Purification Systems

smart H₂O

for you, and your science

Thermo
SCIENTIFIC

Billing Address 000001-01

CITY OF PORTERVILLE LABORATORY
 291 N. MAIN ST.
 PORTERVILLE CA 93257
 U.S.A.

Quote#

407230206

Customer RFQ

WQ20240723N0034

Created

07/23/2024

Validity

ALL PRICES VALID 60 DAYS

Shipping Address 000001-01

CITY OF PORTERVILLE LABORATORY
 CAROLINE THOMASON
 1265 W. GRAND AVE.
 PORTERVILLE CA 93257
 U.S.A.

Prepared For

CAROLINE THOMASON
 PHONE: 5597827508
 EMAIL: cthomason@ci.porterville.ca.us

Thank you for the opportunity to serve you!

Payment Terms: NET 30 DAYS (SUBJECT TO CREDIT APPROVAL). FREIGHT CHARGES ARE INCLUDED IN THIS QUOTE.

Delivery Terms: 1-3 DAYS AFTER RECEIPT OF ORDER IF ITEMS ARE IN STOCK. SPECIFIC DELIVERY INFORMATION IS LISTED IN THE LINE ITEM DETAIL BELOW.

Shipment Method: UNITED PARCEL SERVICE-GROUND

Quote Comments: THERE MAY BE A SLIGHT DELAY BEFORE THIS QUOTE APPEARS ON OUR WEBSITE.

Line	Qty	UOM	Item#	Description	Unit Weight	Current Lead Time	Unit Price	Extended Price
1	1	EA	<u>EW-99271-30</u>	MICROPURE UV CANCEL/RETURN RULES MAY APPLY	45.000 LBS	14 Days	\$ 5,674.20	\$ 5,674.20



FOB: DESTINATION US\$	5,674.20
FREIGHT AMOUNT US\$	615.06
EST. TAX - ITEMS ONLY US\$	524.86
EST. TOTAL AMOUNT US\$	6,814.12

ORDER NOW

Notes:

Quote#	Customer RFQ
407230206	WQ20240723N0034

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IN ORDER TO GUARANTEE THE PRICES QUOTED PLEASE REFERENCE THE QUOTATION NUMBER AT THE TOP OF THE PAGE WHEN PLACING YOUR ORDER.

DISCOUNTED PRICING IS ONLY VALID IF ALL ITEMS AND QUANTITIES QUOTED ARE ORDERED AT THE SAME TIME

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Cole-Parmer

Quotes Department
Em: bids@coleparmer.com
Ph: 1-800-323-4340
Fx: 1-847-247-2929



Thermo Scientific Barnstead 50132373 MicroPure water system, UV

Thermo Scientific Barnstead - Mfr # 50132373 - Item # EW-99271-30

No Reviews Write the First Review

\$6,755.00 USD / EACH

18.2 MΩ-cm water in a compact
system

Ships by August 06

- Feed water monitoring for maximizing cartridge life
- Variable flow control knob for dispensing
- Quick-change cartridges for rapid cartridge change, even mid-operation
- Optional integrated 6-L feed water reservoir for areas without direct access to a water line
- 1 year warranty

☐ Include today...



Cole-Parmer
Clean Lab
Wipes, 70%
IPA
Alcohol/30%
DI Water, 6" x
7.5"; 100
Wipes/Canister
\$24.50 USD /
EACH

PRODUCT OPTIONS

Specifications & Description

Length (")	12
ASTM Water Grade	Type I
Width (InchShort)	11 51/64
Capacity	90 L/hr
Height (in)	21 29/64;21.46
Max Production (L/hour)	1.5
Max Flow Rate (L/min)	1.5
Max Flow Rate (L/hour)	90
Max Flow Rate (GPH)	23.8
Inlet Port	R 3/4"
With UV Lamp	No
With Ultrafilter	Yes
Resistivity Threshold	18.2 MΩ-cm
TOC Monitor	1 to 5ppb
Conductivity Threshold	0.055 μS/cm
Source	Pretreated feed water
TOC Threshold	5ppb
Feed Water Requirements (Source)	potable tap water; pretreated by reverse osmosis, ion exchange, or distillation
Type I Water (Resistivity)	18.2 MΩ-cm
Type I Water (TOC)	1 to 5 ppb
Feed Water Requirements (TOC)	1 to 5 ppb
Type I Water (Conductivity)	0.055 μS/cm
Feed Water Requirements (Bacteria)	<0.1 CFU/mL
Type I Water (Bacteria)	<0.1 CFU/mL
Type I Water (Endotoxins)	<0.001



MORE ABOUT THIS ITEM

Barnstead MicroPure systems deliver up to 15 L/day of Type I ultrapure water from a pretreated feed water supply. Water product quality exceeds international standards ASTM Type I, ISO 3696 Grade 1, ASTM D1193 and CLSI-CLRW.

These compact systems are an economical option for a wide range of applications needs from basic buffer preparations to highly sensitive protocols such as HPLC, PCR, or applications that require precise TOC removal and measurement.

The ergonomically designed controller is backlit and tilts for easy operation and better visibility. Dispenser allows drop by drop or quick dispensing.

Recirculation pump prevents bacterial growth during standstill and allows for constant monitoring of all system functions, allowing for the immediate display of fault messages if a problem is detected.

Applications: Molecular biology, microbiology, PCR, IVF, monoclonal antibodies

Systems with UF option include an ultrafilter to remove endotoxins.

NOTE: If feed water is pretreated using RO or DI, system requires DI cartridge 99299-00 (order separately).

Feed Water Requirements (pressure)	1.45 to 87 psi (0.1 to 6 bar)
Feed Water Requirements (Temperature)	2-35°C
Max Inlet Water Temperature (° F)	95
Min Inlet Water Temperature (° F)	35.6
Max Inlet Water Temperature (° C)	35
Min Inlet Water Temperature (° C)	2
Min Inlet Pressure (PSI)	1.45
Max Inlet Pressure (PSI)	87
Min Inlet Pressure (bar)	0.1
Max Inlet Pressure (bar)	6
Min Operating Pressure (PSI)	1.45
Max Operating Pressure (PSI)	87
Min Operating Pressure (bar)	0.1
Max Operating Pressure (bar)	6
Pressure (bar)	6
Pressure (PSI)	87
Depth (in)	11.8
Width (in)	11.8
Height (cm)	54.5
Depth (cm)	30
Width (cm)	30
Description	MicroPure water system, UV
Warranty	1 year

QUOTATION

Quote Number	Valid From	Valid To	Page
8032472785	07/23/2024	08/23/2024	1 of 1
Currency	Sales Representative	Customer Reference	
USD	Amanda Lovette	ALTO I WATER SYSTEM	

To Place an Order

Phone : 1-800-932-5000
Fax : 1-866-329-2897
Web : www.vwr.com

When placing your order, please include your quotation number and account number to ensure you receive the correct price.

THANK YOU FOR THE OPPORTUNITY TO EARN YOUR BUSINESS.

Quote Prepared For	Contact Phone / Fax / E-Mail
Carolyn Thomason	559-782-7510 cthomason@ci.porterville.ca.us
Ship To : 80189909	Sold To : 80066794
PORTERVILLE CITY OF LABORATORY 1265 W GRAND AVE PORTERVILLE CA 93257	PORTERVILLE CITY OF TAX EXEMPT 291 N MAIN ST PORTERVILLE CA 93257-3737

Row	Catalog Number	Product Description	Qty	UOM	Unit Price	Extended Price
10	76337-330	ALTO I - US - TYPE 1 WATER SYSTEM	1	EA	7,260.09	7,260.09
 Alto™ Ultrapure Lab Water Polisher (18.2 MΩ-cm), Avidity Science™ Product Link : https://us.vwr.com/store/catalog/product.jsp?catalog_number=76337-330 Shipping Dimensions Weight / Size (L*W*H) per UOM : 70.000 LB / 19.000*23.000*34.000 IN UOM Component Info : EA(1 items) Availability : Product Ships Directly from Manufacturer						

Item Total : 7,260.09

Quote Total : 7,260.09

Financing Available. Contact your VWR Representative for details about flexible financing programs.

VWR International's Terms and Conditions of Sale apply. A copy is available on our website (https://us.vwr.com/store/content/externalContentPage.jsp?path=/en_US/about_vwr_terms_conditions_product_sales.jsp), or by request. Customer represents that it has read and agrees to VWR International's Terms and Conditions of Sale.

Identified stock status is based on product availability at time of the quote and may change at time of order. Delivery dates are based on standard lead times from suppliers.

Charges displayed on the quotation including freight, tax and other charges are estimates and may vary at time of order.

Any images used are not necessarily representative of any product offering from VWR International and do not constitute the basis for purchase decisions.

Customer is responsible for unloading and providing standard receiving facilities for large and/or heavy shipments. Special unloading or delivery can be arranged, provided VWR International is notified at the time of order placement. For such arrangements, please contact VWR International for a quotation. All quotes for installation assume that services related to the equipment are in place at the Customer site (including, but not limited to, gas, plumbing, electrical and ventilation) as per the equipment manufacturer's specifications prior to the installation of the equipment. Installation or other services are not included in this quotation, unless otherwise noted on the quotation.

Customer has a limited amount of time to document and report any shipping damage. Please inspect all shipments upon receipt and refer to Section 4 of VWR International's Terms and Conditions of Sale for additional information.

Items prefixed with "MISC" are subject to regulatory approval once VWR International receives acceptance from the customer. They are special order, and as such may not be returnable. Please allow 6-8 weeks delivery from the time of your first order or acceptance of this quotation.



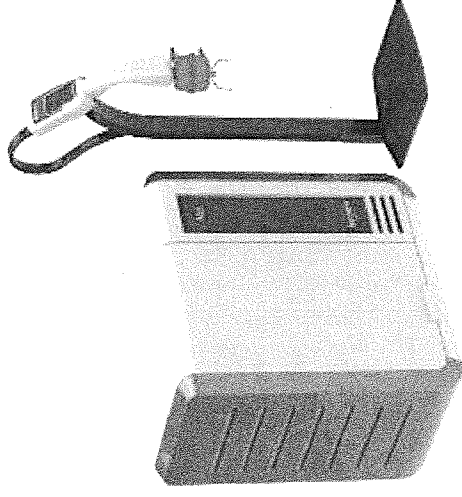
Printed from VWR Website
 User: [Anonymous]
 Date: 07-30-2024 Time: 13:21

Exclusions apply. Coupon code is a one-time use only and cannot be combined with other coupon codes on the same order. Only valid on vwr.com orders, does not apply to B2B punchout accounts. Cannot be applied to quoted items or quotations.

Alto™ Ultrapure Lab Water Polisher (18.2 MΩ-cm), Avidity Science™

Supplier: Avidity Sciences

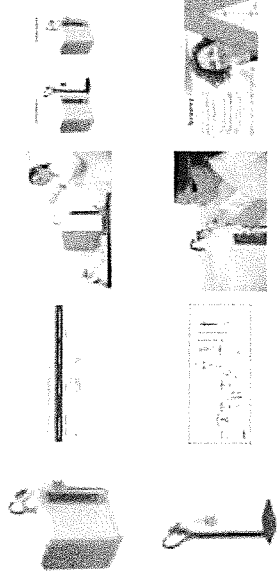
Provides type 1- ultrapure water on demand for applications like cellular analysis, HPLC and mAbs.



- Fast, volumetric and variable dispense, up to 2 L/min
- Real-time TOC and water quality monitoring
- Dual wavelength 185/254 nm UV
- Internal boost pump and leak detector
- Quick changing consumables
- Easy-to-use software and quiet operation
- Under-bench, on-bench, or wall mounted
- Endotoxin/nuclease-free point of use filter available (see 76337-284)
- Feed by pretreated water (RO or DI.)

Alto provides 18.2 M Ω -cm water on demand. The system is fed from a pretreated supply and produces Type 1 water instantly as required. The integrated dispenser or optional remote dispenser provides Type 1 water





up to 2 liters per minute. Output is either continuous or volumetrically dispensed. Select the dispense rate required with the intuitive and simple software controls. Alto has quick-change, long-lasting consumables provided in the start up package. Total Organic Carbon (TOC) monitoring is critical when organics will affect results so a real time TOC reading provides absolute confidence in your water. Feedwater quality: <30 µm.

Application: Alto is suitable for Type 1 water usage of up to 120 liters per hour (adequate feed water must be available). Type 1 water is suitable for molecular biology, electrophoresis, cell and tissue culture, sequencing, HPLC, genomics, pharmacology, monoclonal antibodies (mAbs) and any other sensitive applications.

Certifications: Manufactured to ISO 9001:2015 standard. Certified to IEC 61010-1:2010 and EN 61326-21:2013.

Delivery information: All integral pumps and first round of consumables included with unit purchase. Ships within 1 week and installed within 4 to 6 weeks from receiving the PO.
Less Product Information

Order Now

SPECIFICATIONS

Model	Alto™
Environmentally Preferable	Energy Efficient,Sustainable Packaging,Water Efficient,Sustainable Materials,Low Manufacturing Impact,Waste Reducing

Feed WaterPurified water (Type II), RO water (Type III)

Flow Rate2 L/min

Toc Content1 - 5 ppb

Resistivity at +25 °C18.2 MΩ-cm

Inorganics @ 25°C18.2 MΩ-cm

Bacteria<1 CFU/1000 ml

Endotoxin<0.001 (with UF Point of Use Filter 76337-284)

RNasesFree (with UF Point of Use Filter 76337-284)

DNasesFree (with UF Point of Use Filter 76337-284)

WxDxH482.6x508x279.4 mm

Weight25 kg

ORDER

ACCESSORIES

SERVICES

DOCUMENTATION

Q and A

Description	Supplier No.	VWR Catalog Number	Unit	Price	Quantity
Alto I (US) Type 1 water system	ALTOI	76337-330	Each	\$9,556.03	-0+



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Authorization to Distribute a Request for Proposals for Low Carbon Fuel Standard Management Services

SOURCE: Public Works

COMMENT: The California Air Resources Board (CARB) developed the Low Carbon Fuel Standard (LCFS) program as part of AB 32, the Global Warming Solutions Act of 2006. The goal of the LCFS program is to reduce the carbon intensity of transportation fuels used in California by 20% by the year 2030. This program encourages the use and production of cleaner, low-carbon fuels, thereby reducing greenhouse gas emissions. LCFS standards are measured by the carbon intensity of gasoline, diesel fuel, and their respective alternatives.

With the updated LCFS program, the City can generate LCFS credits from several sources, including public charging stations, transit fleet charging stations, smart charging systems, and the use of RNG at fueling facilities. Furthermore, the City can earn additional credits by retiring Renewable Energy Certificates (RECs) associated with the renewable energy systems (such as solar) linked to its charging stations.

Since 2019, the City has partnered with SRECTrade, a firm specializing in environmental commodities, for LCFS management services. Although the original agreement was for two years, the City has extended it every two years. Staff now recommends issuing a Request for Proposals (RFP) to select a qualified firm to manage the City's LCFS program for the next three years. The negotiated contract will be presented to the Council for final approval.

RECOMMENDATION: That the City Council:

1. Approve the draft Request for Proposals;
2. Authorize staff to advertise for proposals on the project; and
3. Authorize staff to negotiate with the most responsive and responsible Proposer who has demonstrated the ability to perform the project in an acceptable manner and is most advantageous to the City.

ATTACHMENTS: 1. Draft Request for Proposals - LCFS

Appropriated/Funded:

Review By:

Department Director:

Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager



**CITY OF PORTERVILLE
REQUEST FOR PROPOSAL RFP No. XXXXX
LOW CARBON FUEL STANDARD SERVICES**



August 27, 2024

The City of Porterville does not discriminate on the basis of race, gender, ethnicity, age, national origin, religion or disability in its employment opportunities, programs, services, contracting opportunities or activities. It is the City's policy to ensure compliance with the Title VI of the Civil Rights Act of 1964 in its contracting opportunities.

The project is funded in part by the Federal Transit Administration Catalog of Federal Domestic Assistance (CFDA) 20.500 and 20.507. The City of Porterville reserves the right to reject any or all proposals.



**CITY OF PORTERVILLE, CALIFORNIA
REQUEST FOR PROPOSALS (RFP) NO. XXXXX
LOW CARBON FUEL STANDARDS SERVICES**

SEALED PROPOSALS will be received by the Transportation Department located at 291 N. Main Street, Porterville, CA 93257, until 2:00 P.M. on Thursday, September 26, 2024, for the Contract to provide low carbon fuel standard (LCFS) services.

A mandatory site visit is NOT REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us.

This contract is federally funded and as such, the Federal Requirements associated with the performance of services under this contract have been included with this RFP. The awarded Proposer will be responsible for adherence to all local, state, and federal requirements listed herein. These requirements are hereby incorporated into the subsequent contract arising from this RFP.

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. All addenda and correspondence during the process will be handled electronically through the Public Purchase website.

The City has not established a DBE goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract. The City of Porterville overall DBE goal is 1% of total contracts (including subcontracts) awarded.

The City hereby affirmatively ensures that Minority Business Enterprises and Disadvantaged Business Enterprises (DBE) will be afforded the full opportunity to submit proposals in response to this notice. Individuals and/or entities submitting bids/proposals to the City of Porterville will not be discriminated against on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, gender, gender identity or expression, age, sexual orientation, or military or veteran status in any consideration leading to the award of contract.

The right is reserved by the City of Porterville to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted and to award the contract according to the proposal which best serves the interests of said City.

Publication Dates:

August 27, 2024

Table of Contents

Section I - Instructions	4
Section II – Standard Terms and Conditions	14
Section III – Special Terms and Conditions	25
Section IV – Insurance and Indemnification	34
Section V - SCOPE OF WORK	38
Section VI – Federal Transit Administration (FTA) Terms and Conditions	40
Exhibit A – Required Forms	65
Exhibit B – Sample General Services Agreement	72

Section I - Instructions

RFP/Agreement Schedule

Event	Date of Event
RFP Available to the public	August 27, 2024
Required Site Tour	N/A
Deadline to submit questions	September 5, 2024
Proposal submittal deadline @ 2:00 pm PST	September 26, 2024
Short list established and vendors notified	October 3, 2024
Interviews/Presentation with short-listed vendors (if required)	N/A
Award of Contract @ City Council Meeting	October 15, 2024
Contract Begins	November 1, 2024

City's Vendor Self-Registration and Notification

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. No proposal shall be received from an individual or firm that has not accessed the proposal documents from the Public Purchase website. All addenda and correspondence during the process will be handled electronically through the Public Purchase website. Questions regarding this request for proposals must be submitted through the Public Purchase website.

Background

The City of Porterville ("CITY") is located in Tulare County, which is part of the Central San Joaquin Valley of California. The San Joaquin Valley is a rich agricultural area and Tulare County is recognized as the largest agricultural-producing county in the world.

Porterville has a land area of approximately 14.3 square miles (9,161 acres), situated at the base of the foothills of the Sierra Nevada Mountain Range. It is approximately 30 miles southeast of Visalia (the County seat); 60 miles northeast of Bakersfield, 165 miles northeast of Los Angeles, and 254 miles southeast of San Francisco. State Routes 65 and 190 bisect the community.

The Porterville City Council is the policy-making body for the City of Porterville's Transportation Department. It adopts the Short-Range Transit Plan, and through the annual budgetary process, establishes operational and funding levels for the system. The City Council also sets operational policies and parameters.

Management of the City's public transportation system, referred to as Porterville Transit, is an integrated function of the City of Porterville. The Transportation department is responsible for the overall management of the service. The City is also responsible for the maintenance of the transit fleet, through its Field Services Division.

The City outsources, to a private contractor, to perform daily operations of Porterville Transit. The Director of Transportation is responsible for the overall administration, planning, monitoring, and

marketing of the system. The Director of Transportation also acts as a liaison to the Tulare County Association of Governments (TCAG), the California Department of Transportation (Caltrans) and the Federal Transit Administration (FTA). The contracted local General Manager is responsible for the day-to-day operations management; the hiring, testing, training and supervision of all drivers and dispatch staff; fare collection; reporting; ridership data collection; and the operation of Porterville Transit vehicles in accordance with City policy and all State and Federal regulations. The County of Tulare contracts with the City of Porterville to provide transit service to unincorporated areas surrounding Porterville. The County reimburses the City for service provided to County residents using Local Transportation Funds (LTF).

Porterville Transit provides an array of transportation services in the form of fixed route bus services, ADA complementary paratransit, and innovative On-Demand services.

Preparation of Offer

1. Any person (“Proposer”) submitting a Proposal (“Proposal”) in response to this Request for Proposals (“RFP”) shall examine the Scope of Work carefully and be informed thoroughly regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract to be awarded under this RFP (the “Contract”). No allowances shall be made because of lack of knowledge of any specifications, conditions, or requirements of this RFP.
2. All forms provided must be completed and submitted with your Proposal.
3. It is permissible to copy submittal forms if necessary. Erasures, interlineations, or other modifications of the Proposal must be initialed in original ink by the authorized person signing the offer. No Proposal will be altered, amended, or withdrawn after the specified offer due date and time. The City is not responsible for Proposer’s errors or omissions.
4. All time periods stated as a number of days will be calendar days.
5. It is the responsibility of all Proposers to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a Proposal. Negligence in preparing a Proposal confers no right of withdrawal after due date and time. Proposers are strongly encouraged to:
 - 1) Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
 - 2) Study and carefully correlate Proposer’s knowledge and observations with the RFP document and other related data.

- 3) Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which a proposer has discovered in or between the RFP document and such other related documents.
- 4) The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Proposer is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.
- 5) Proposers are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Proposals offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
- 6) Proposers' responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products proposed. Proposals submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.
- 7) Prices shall be submitted on a per unit basis by line item, when applicable. Failure to submit any unit pricing will be sufficient grounds for the City to consider the proposal to be non-responsive. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

Exceptions

Proposer must not take any exceptions to any terms, conditions or material requirements of this solicitation. Proposals submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Proposals must conform to all the requirements specified in the solicitation. The City encourages Proposers to send inquiries to the procurement officer rather than including exceptions in their Proposal.

Communications to City

All questions pertaining to this RFP, or any matters relating thereto the Scope of Work, or any questions pertaining to the RFP or RFP documents, shall be in writing and shall be submitted only through the Public Purchase website. Communications sent to any other person at the City or at any other address may, in the City's sole discretion, be deemed to be "non-responsive" and the

City in its discretion may elect to disregard any such questions. The City shall not respond to oral inquiries, and oral statements of any nature by the City or any of its representatives may not be relied upon for any purpose whatsoever.

Addenda

The City of Porterville will not be responsible for any oral instructions made by any employees or officers of the City of Porterville regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal.

Business in California

The City will not enter contracts with Proposers (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of California, unless the proposer asserts a statutory exception prior to entering a contract with the City.

Licenses

If required by law for the operation of the business or work related to this Proposal, Proposer must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

Certification

By signing the Proposal, proposer certifies:

- The Proposer's submission of the Proposal did not involve collusion or other anti-competitive practices
- The Proposer shall not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The Proposer has not given, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

Minimum Qualifications

- Proposer must have been in operation a minimum of five years.

Certificates of Insurance

Upon notification of a recommended award, the Proposer will have 14 calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

Award of Contract

Unless otherwise indicated, award(s) will be made to the most responsive and responsible Proposer whose proposal, in the sole and absolute discretion of City, for providing the goods and/or services contained in this solicitation, who have demonstrated the ability to perform in an acceptable manner, and is most advantageous to the City.

Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

A response to a solicitation is a Proposal to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Proposals do not become contracts until they are executed by the Mayor. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

Solicitation Transparency Policy

Commencing on the date and time a solicitation is published, potential or actual proposers or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under California Statutes, until the resulting contract(s) are awarded to all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation.

As long as the solicitation is not discussed, Proposers may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff. Proposers may not discuss the solicitation with any City employees or evaluation panel members.

Proposers may discuss their proposal or the solicitation with the Mayor or one or more members of the Porterville City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

With respect to the selection of the successful Proposals, the City Manager will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.

This policy is intended to create a level playing field for all Proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. PROPOSERS THAT

VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Proposer may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

“To discuss” means any contact by the Proposer, regardless of whether the City responds to the contact. Proposers that violate this policy will be disqualified until the resulting contract(s) are awarded, or all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City’s intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

Protest Process

In the event any person wishes to file a Protest regarding this RFP, such Protest shall be made in accordance with City’s FTA Procurement and Contract Administration Manual (which is available at www.ci.porterville.ca.us), the terms of which are hereby included herein by this reference. The City reserves the right to modify the terms of the protest procedure if it determines that such modification is in its best interest. Should there be any dispute between the City’s FTA Procurement and Contract Administration Manual and the provisions of this Section, the City in its discretion shall determine which provision governs.

By way of background, all Proposers understand and agree that the procurement process undertaken by virtue of this RFP is solely for the benefit of the City, and it is for the City to determine in its discretion which Proposal the City desires to accept. The City has provided for a Protest procedure not to grant any rights to any particular Proposer but, rather, to provide the City the opportunity to review and examine any information regarding any Proposal which it may not have fully evaluated. Thus, no Proposer has any legal right in connection with any Protest Proceeding and the City may, in its discretion, determine whether or not to reject any Protest.

In the event a Protest is rejected, the Proposer may appeal the rejection as set forth in the City’s FTA Procurement and Administration Manual or herein but, again, said appeal shall be decided by the City based upon what it determines to be in its best interest. As such, legal concepts (such as the California or Federal Rules of Civil Procedure and the Judicial Rules of Evidence) and other matters which may be applicable to judicial or other proceedings are not applicable to a Protest in accordance with the City’s FTA Procurement and Contract Administration Manual. In addition, the appeal process set forth in the City’s FTA Procurement and Contract Administration Manual is exclusive and upon the exhaustion of the appeal, no further appeal may be taken, or separate suit filed against the City.

By virtue of submitting its Proposal, any Protesting Party expressly agrees that its remedies are exclusively limited to the City’s Protest procedure set forth in the City’s FTA Procurement and Contract Administration Manual (as the same may be modified hereby) and that there shall be no appeal or litigation resulting from the final award of any Contract by the City. The foregoing is a material consideration in the consideration by the City of any Proposal.

Public Record

All Proposals submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to California State law. If a Proposer believes that a specific section of its Proposal response is confidential, the Proposer will isolate the pages marked confidential in a specific and clearly labeled section of its Proposal response. A Proposer may request specific information contained within its Proposal is treated by the Procurement Officer as confidential provided the Proposer clearly labels the information “confidential.” To the extent necessary for the evaluation process, information marked as “confidential” will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Proposers as “confidential” available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Proposer in writing of any request to view any portion of its Proposal marked “confidential.” The Proposer will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Proposer does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

Right to Disqualify

The City reserves the right to disqualify any Proposer who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Proposer on the basis of any real or apparent conflict of interest that is disclosed by the Proposer submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Proposer waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City of Porterville or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Proposer.

Late Proposals

Late Proposals must be rejected, except for good cause. If a late Proposal is submitted, the Department will document the date and time of the submittal of the late Proposal, keep the Proposal and notify the Proposer that its Proposal was disqualified for being late.

Pre-Bid Meeting

A mandatory site visit is NOT REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us.

Contract Award

The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple award contracts.

Determining Responsiveness and Responsibility

Proposals will be reviewed for documentation of any required minimum qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

Responsiveness: Nonresponsive Proposals will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Proposals will render a Proposal nonresponsive.

Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and a Proposal that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Proposer remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so in writing, the City may determine the Proposal to be nonresponsive.

Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by Contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Proposer be a responsible contractor. Responsibility includes the Proposer's integrity, compliance with public policy, skill, capacity, experience, record of past performance, financial and technical resources, and facilities for conducting the work to be performed.

The Procurement Officer will review each Proposal to determine if the Proposer is responsible. The City's determination as to whether an Proposer is responsible will be based on all information furnished by the Proposer, interviews (if any), any information at the City's request and information received from Proposer's references, including information about Proposer's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Proposer agrees to permit by submitting its Proposal, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

The Proposer's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Proposal.

Clarifications

The City may request written clarifications for such purposes as information gathering or eliminating minor irregularities in offers. Clarifications shall not otherwise afford the Offerors the opportunity to alter or change their offers.

Detailed Evaluation of Proposals and Determination of Competitive Range

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Proposer's rankings and which Proposals are within the Competitive Range, when appropriate.

Proposals Not Within The Competitive Range

The City may notify Proposers of Proposals that the City determined are not in the Competitive Range.

Discussions With Proposers In The Competitive Range

The City will notify each Proposer whose Proposal is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Proposer. Each Proposer so notified may be interviewed by the City and asked to discuss answers to written or oral questions or provide clarifications to any facet of its Proposal. The Proposers in the competitive range may be required to provide a demonstration of their product.

Demonstrations - Proposers in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City of Porterville. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

If a Proposal in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation Scope requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Proposer to remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so, the City may determine the Proposal is nonresponsive, and the City may revoke its determination that the Proposer is in the Competitive Range.

To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Proposer about other Proposals received in response to this solicitation. During discussions with Proposers in the Competitive Range, the City will not give Proposers specific prices or specific financial requirements that Proposers must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace

or otherwise unacceptable. Proposers will not be told of their relative rankings before Contract award.

Best and Final Offers (BAFO)

A BAFO is an option available for negotiations. Each Proposer in the Competitive Range, which is determined in the City's sole discretion, may be afforded the opportunity to amend its Proposal and make one BAFO.

If a Proposer's BAFO modifies its initial offer, the BAFO should include a "Change Log" identifying all modifications made to the Proposal. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Proposals. The City will adjust appropriately, at its sole discretion, the initial scores for criteria that have been affected by Proposal modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.

The Evaluation Panel will recommend the Proposal that is the most advantageous to the City based on the evaluation criteria.

The City reserves the right to make an award to a Proposer whose Proposal is the highest rated and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.

Section II – Standard Terms and Conditions

Contract Interpretation

Applicable Law

This Contract will be governed by the law of the State of California, and suits pertaining to this Contract will be brought only in Federal or State courts in Tulare County, State of California.

Contract Order Of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:

- Federal Terms and Conditions
- Special Terms and Conditions
- Standard Terms and Conditions
- Amendments
- Scope of Work
- Specifications
- Attachments
- Exhibits
- Instructions to Contractors
- Other documents referenced or included in the RFP

Organization – Employment Disclaimer

The Agreement resulting hereunder is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons and will save and hold the City harmless with respect thereto.

Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

Non-Waiver of Liability

The City of Porterville as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable California law.

Parol Evidence

This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

Contract Administration and Operation

Records

All books, accounts, reports, files, and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Porterville office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.

Discrimination Prohibited

Any Contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The Contractor will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts.

Equal Employment Opportunity and Pay

For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts.

For a Contractor with more than 35 employees: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

Documentation: Contractors may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

Monitoring: The City shall monitor the employment policies and practices of Contractors subject to this article as deemed necessary. The City is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

Health, Environmental and Safety Requirements

The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City.

At the request of City representatives, the Contractor will provide the City:

- Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.
- A list of all federal, state, or local (EPA, OSHA, Tulare County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this Agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).

Compliance With Laws

Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance.

Because the Contractor will be acting as an independent Contractor, the City assumes no responsibility for the Contractor's acts.

Continuation During Disputes

Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by a California Court of competent jurisdiction.

Emergency Purchases

The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

Costs and Payments

General

Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Proposal.

Payment Deduction Offset Provision

Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.

Late Submission of Claim By Contractor

The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.

Discounts

Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.

No Advance Payment

Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.

Fund Appropriation Contingency

The Contractor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Contractor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.

Maximum Prices

The City will not be invoiced at prices higher than those stated in any contract resulting from this Proposal. Contractor certifies, by signing this Proposal that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Proposal and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.

F.O.B Point

All prices are to be quoted F.O.B. destination, unless specified elsewhere in this solicitation.

Contract Changes

Contract Amendments

Contracts will be modified only by a written contract amendment signed persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

Assignment – Delegation

No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

Non-Exclusive Contract

Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source when necessary.

Risk of Loss and Liability

Title and Risk of Loss

The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.

Acceptance

All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.

Force Majeure

Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

Loss of Materials

The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the project manager.

Contract Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.

The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.

Damage to City Property

Contractor will perform all work so that no damage to the building or grounds results. Contractor will repair any damage caused to the satisfaction of the City at no cost to the City.

Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and finish to match existing material as approved by the City at Contractor's expense.

City's Contractual Rights

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made, and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Non-Exclusive Remedies

The rights and remedies of the City under this Contract are non-exclusive.

Default In One Installment To Constitute Breach

Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

On Time Delivery

Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

Default

In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.

Covenant Against Contingent Fees

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

Cost Justification

In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Proposal price is fair and reasonable.

Work Product, Equipment and Materials

All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

Contract Termination

Gratuities

The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

Conditions and Causes for Termination

This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Contractor will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.

The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
- In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
- Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

State and Local Sales and Use Taxes

In accordance with applicable state and local law, sales and use taxes may be applicable to this transaction. The state and local sales and use tax burden and legal liability to remit taxes are on the vendor that is conducting business in California and the City of Porterville. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or

application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. Once your proposal is submitted, the Proposal is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

Tax Indemnification

Contractor shall, and require the same of all subcontractors, pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require the same of all subcontractors, hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including sales and use taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

Tax Responsibility Qualifications

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of California for any License or Sales taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in California statutes relative to State Sales and Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the California State Department of Revenue to release tax information relative to California Sales and Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

Russia Sanctions

Executive Order N-6-22 – Russia Sanctions. On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. By submitting a bid or proposal, Contractor represents that it is not a target of Economic Sanctions. Should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, which shall be grounds for rejection of the Contractor's bid/proposal any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination by the State.

Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The City may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to

prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.
- Ability to take regular and necessary breaks as needed and additional breaks for hydration.
- Access to shaded areas and/or air conditioning.
- Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.
- Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.
- Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures, and how to report heat illness and injury to emergency medical personnel.

The Contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the Contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the Contractor to ensure compliance by its subcontractors.

Section III – Special Terms and Conditions

Term of Contract and Option To Extend

The Contract shall commence on the date both the City and Contractor execute the Agreement (“Contract’s start date”), and end when the City Council accepts the project as completed (“Contract’s end date”).

Post Award Conference

A post award conference may be held by the City prior to commencement of any work. Contractor will be required to attend. The purpose of this conference would be to discuss critical elements of the work schedule, operational problems, the transition plan and procedures.

Estimated Quantities

Quantities listed are the City’s best estimate and do not obligate the City to order or accept more than City’s actual requirements during the period of this Contract, as determined by actual needs. It is expressly understood and agreed that the Contract is to supply the City with its complete actual requirement for the Contract period.

Authorized Changes

The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within sixty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the City Council prior to the institution of the change

Alteration In Character Of Work

No changes in the scope, character, or complexity of work may be made by Contractor without first receiving approval by contract amendment properly defining and limiting the change. The City will not pay any claim for extra work done or materials furnished by Contractor except as provided in this Contract, and Contractor may not do any work or furnish any materials not covered by this Contract unless first approved by the City through contract amendment. Any such work or materials furnished by Contractor without prior contract amendment is Contractor’s sole risk, cost, and expense, and Contractor may not make any claim for compensation for any such work or materials.

Method Of Invoicing And Payment

The CITY will compensate Contractor for satisfactory and complete performance of work under the Contract at the prices set forth in the Contract, with no additional charges for equipment, supplies, overhead, travel or administrative support.

Contractor shall be paid monthly in arrears. On or before the 10th day of each calendar month, Contractor shall submit one (1) invoice to the City for services provided during the previous month and each invoice shall contain the date, contract number, supporting documentation, and invoice amount. Advance payments are not authorized. Payment may only be made for actual goods and/or services that have been received, less liquidated damages.

The invoice must contain the associated purchase order number on the invoice itself and must be free of mathematical errors and/or missing supporting documentation. Upon finding an error and/or missing documentation, the City will return the invoice to Contractor. Contractor shall promptly resubmit the revised invoice to the City. Failure to identify an error does not waive any of the City's rights. The City shall make every effort to process payment for the purchase of services within 45 calendar days after receipt and approval of a correct invoice.

Any prompt payment discounts offered must be clearly noted by Contractor on all invoices submitted to the City. Monthly invoice must be sent for review to the City's Project Manager. The City shall notify the Contractor if the invoice has been approved or if it requires additional documentation and/or correction.

Following invoice approval, Contractor will email the invoice in PDF format to ap@ci.porterville.ca.us, copying the City's Project Manager. Each PDF attachment will contain only one invoice, although multiple PDFs may accompany an email. The email will be in plain text format free of any signatures or images (jpeg, bmp, etc.).

A "remit to" address must also be on the invoice and must match the address on file with the City. Any changes to the remit to address must be updated by the vendor.

Key Personnel

Contractor shall maintain the Key Personnel identified in its proposal for a minimum of 24 months from the "Effective Date" of contract award by City Council unless they are no longer employed by Contractor. Contractor shall notify the City in writing prior to removing, reassigning, or appointing an individual from or to any Key Personnel position whether in an acting or permanent capacity. For all Key Personnel, Contractor shall fill vacancies with City approval within 45 calendar days of the vacancy, unless otherwise approved by the City in writing. All of Contractor's Key Personnel shall be assigned full-time (a minimum of 40 hours per week) to this project, unless otherwise approved in writing by the City. In the event one or more of Contractor's Key Personnel is permanently replaced, Contractor shall notify the City in writing at least 72 hours prior to the replacement date and time. The replacement personnel shall be subject to the City's prior approval in writing.

Strict Performance

Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

Performance Interference

Contractor shall notify the City's Project Manager immediately of any occurrence and/or condition that threatens to interfere with the full performance of the contract and confirm it in writing within 24 hours.

Unsatisfactory Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the Scope of Work, or elsewhere in this Contract. The City shall decide all questions as to the quality and acceptability of any work performed under the Contract as monitored and documented by the City. If, in the opinion of the City, performance becomes unsatisfactory, the City shall notify Contractor. Contractor shall have a reasonable time to cure the unsatisfactory performance.

If the unsatisfactory performance is not cured within the time specified, the City may immediately correct or complete the work to its satisfaction and deduct the associated costs from any balances due or to become due to Contractor. Contractor will be liable for difference between cost to the City to complete the Work with other forces and the cost to the City for completion of the Work by Contractor per the contract. Repeated incidences of unsatisfactory performance may result in cancellation of the Contract for default.

Employee Identification and Facility Access

Only authorized Contractor employees are allowed on the premises of City facilities. Contractor employees are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor or subcontractor employee.

Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the "Effective Date" of contract award by City Council, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential

Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Contract; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Contract; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Contract. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.

Upon the City's written request or expiration of this Contract, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.

If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Data Protection

The parties agree this Section shall apply to the City's Confidential Information and all categories of legally protected personally identifiable information (collectively "PII") that Contractor processes pursuant to the Contract. "Personally identifiable information" is defined as in the Federal Privacy Council's Glossary available at: fpc.gov/resources/glossary.

As between the parties, the City is the data controller and owner of PII and Contractor is a data processor. In this Section, the term “process,” “processing,” or its other variants shall mean: an operation or set of operations which is performed on PII, whether or not by automated means, including without limitation: collection, recording, copying, analyzing, caching, organizing, structuring, storage, adaptation, alteration, retrieval, transmission, dissemination, alignment, combination, restriction, erasure, or destruction.

When Contractor processes PII pursuant to the Contract, Contractor shall, at no additional cost to the City:

- (1) process PII only within the United States and only in accordance with the Contract and not for Contractor’s own purposes, including product research, product development, marketing, or commercial data mining, even if the City’s data has been aggregated, anonymized, or pseudonymized;
- (2) implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice. (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)
- (3) not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;
- (4) as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;
- (5) take reasonable steps to ensure the competence and reliability of Contractor’s personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;

(6) maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Contract and applicable laws;

(7) allow the City or its authorized agents to conduct audit inspection during the term of the Contract, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section.

If Contractor becomes aware of any actual or potential data breach (each an "Incident") arising from Contractor's processing obligations pursuant to the Contract, Contractor shall notify the City without undue delay within 48 hours; and:

(1) provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;

(2) take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;

(3) cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and

(4) not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Security Inquiries

Contractor acknowledges that all of the employees that it provides pursuant to this Contract shall, at Contractor's expense, be subject to background and security checks and screening at the request of the City. Contractor shall perform all such security inquiries and shall make the results available

to the City for all employees considered for performing work (including supervision and oversight) under this Contract. City may make further security inquiries. Whether or not further security inquiries are made by the City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by the Contractor for performing work under this Contract. Employees rejected by the City for performing services under this Contract may still be engaged by Contractor for other work not involving the City. An employee rejected for work under this Contract shall not be proposed to perform work under other City contracts or engagements without the City's prior approval.

The City, in its sole discretion, reserves the right, but not the obligation to:

- (1) require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information;
- (2) act on newly acquired information whether or not such information should have been previously discovered;
- (3) unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and
- (4) object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Contract. Contractor will bear the costs of all inquiries requested by the City.

Contacts With Third Parties

Contractor or its subcontractors shall not contact third parties to provide any information in connection with the deliverables provided under this Contract without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Contract or any other prior or existing contract with the City, Contractor or its subcontractors shall promptly inform the City, giving the particulars of the information sought, and shall not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Contractor and its subcontractors under this Section shall survive the termination of this Contract.

Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

No Third Party Beneficiaries

The parties expressly agree that this Contract is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract.

Non-Disclosure

Contractor shall not disclose, without the City's prior written consent, any information in the performance of the Services under this Contract to any person, firm, corporation, association, or other entity other than persons in the City's organization qualified to receive such information, for any reason or purpose whatsoever, nor shall Contractor make use of any such confidential or proprietary information for its own purposes or for the benefit of any person, firm, corporation, or other entity, except the City.

Contractor agrees to act as a trustee of the foregoing information and as trustee of any other confidential information learned in connection by Contractor's relationship with the City. Contractor further represents to the City that, as an inducement to enter this Contract, Contractor will hold this information in trust and confidence for the City's sole benefit and use.

Further, there shall be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the City.

Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Contract, then, and in that event, upon written demand, Contractor shall relinquish to the possession and control of the City its entire file related to this Contract and only those portions of said file deemed by the City to be not privileged shall be returned to Contractor pending the resolution of the existing or anticipated litigation.

Contractor agrees that the requirements of this Section shall be incorporated into any subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Advertising

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Contract or any part thereof without the prior written consent of the City. The name of any City site on which services are performed by the Contractor pursuant to this Contract shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

Accrued Liabilities

Contractor shall be responsible for the payment of all liabilities to its employees accrued during the contract term, including but not limited to accrued vacation, sick time, and any other benefits accrued under the terms of any collective bargaining agreement between Contractor and the union representing its employees or under the terms of any employment contract or agreement. All such payments shall be made by Contractor at the end of the contract term and no additional

compensation shall be provided by the City for such accrued liabilities. Contractor shall not have any obligation for the liabilities of the prior contractor to its employees.

Claims or Demands Against The City

Contractor acknowledges and accepts the provisions of the Charter of the City of Porterville pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in the Charter of the City of Porterville alters, amends or modifies the supplemental and complementary requirements of the State of California Notice of Claim statutes pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

Moreover, nothing in this Contract will constitute a dispute resolution process, an administrative claims process, or contractual term sufficient to affect the date on which the cause of action accrues.

Conflicts of Interest

Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Contract upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Porterville City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Contract without liability, including any such commission, percentage, brokerage or contingent fee.

The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in a California court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

Section IV – Insurance and Indemnification

Standard General Defense and Indemnification

Contractor (“Indemnitor”) must defend, indemnify, and hold harmless the City of Porterville and its officers, officials (elected or appointed), agents, and employees (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever (“Losses”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors (“Indemnitor’s Agents”) arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnitee harmless for any Losses arising out of or recovered under any state’s Workers’ Compensation Law or arising out of the failure of Indemnitor or Indemnitor’s Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor’s duty to defend Indemnitee accrues immediately at the time a claim is threatened or a claim is made against Indemnitee, whichever is first. Indemnitor’s duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnitee from and against any and all Losses, except where it is proven that those Losses are solely a result of Indemnitee’s own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Indemnitor waives all rights of subrogation against Indemnitee for losses arising from the work performed by Indemnitor or Indemnitor’s Agents for the City of Porterville. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

Contractor’s Insurance

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this Section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors and Contractor may purchase such additional insurance as they determined necessary.

Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a “following form” basis, and (2) all terms under each line of coverage below are met.

Commercial General Liability – Occurrence Form

General Aggregate - \$1,000,000

Products – Completed Operations Aggregate - \$1,000,000

Personal and Advertising Injury - \$1,000,000

Fire Damage - \$1,000,000

Each Occurrence - \$1,000,000

The policy must name the City of Porterville as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations, and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.

There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Porterville as an additional insured.

City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.

The Contractor's insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

Automobile Liability

Bodily injury and property damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

UM/UIM Per Person Limit \$1,000,000

UM/UIM Per Accident Limit \$1,000,000

- The policy must be endorsed to include the City of Porterville as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor's insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

Worker's Compensation and Employers' Liability

Workers' Compensation

Employers' Liability: Statutory

Each Accident \$100,000

Disease – Each Employee \$100,000

Disease – Policy Limit \$500,000

- Policy must contain a waiver of subrogation against the City of Porterville.
- This requirement does not apply when a contractor or subcontractor is exempt, AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

Property Insurance – Contractor’s Property and Equipment

Contractor must maintain all risk property insurance for Contractor’s personal property. The CITY will have no responsibility for any damage to Contractor’s personal property and Contractor’s property insurance must be endorsed to include a waiver of subrogation against the CITY.

Additional Insurance Requirements

Policies must include, or be endorsed to include, the following provisions:

- 1) On insurance policies where the City of Porterville is named as an additional insured, the City of Porterville must be an additional insured to the full limits of liability purchased by Contractor even if those limits of liability are in excess of those required by Contract.
- 2) Contractor’s insurance coverage or self-insurance must be primary insurance and non-contributory with respect to all other available sources.
- 3) Coverage provided by Contractor must not be limited to the liability assumed under the indemnification provisions of the Contract.

Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Porterville.

Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of California and with an “A.M. Best” rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

Verification of Coverage

Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be mailed, emailed, or hand delivered to City of Porterville.

Section V - SCOPE OF WORK

The scope of work set forth in this Request for Proposals represents an outline of the goods and services which the CITY anticipates the successful Proposer to perform, and is presented for the primary purpose of allowing the CITY to compare proposals. The precise scope of work to be incorporated into the General Services Agreement shall be negotiated between the City and the successful Proposer. **The CITY requests that the Proposer suggest changes to the scope of work (as a part of the proposal) in order to achieve the CITY's Project Objectives.**

Introduction

The City of Porterville is soliciting proposals from qualified firms to manage its LCFS program as outlined in Division 25.5 of the California Health & Safety Code (also known as the California Global Warming Solutions Act of 2006). The successful proposer shall compensate the City for providing the proper rights for its LCFS credits created under LCFS regulations. In addition, the successful proposer shall maximize revenues to the City from LCFS credits.

Background

The City of Porterville operates a fleet of 13 battery-electric transit buses and 15 battery-electric shuttle vans. The City also operates three charging facilities with 3 dual-port Level 2 EVSE's, 12 200kWh DCFC's, and 12 50kWh DCFC's. In addition, the City has renewable energy systems at each of its three charging facilities. Finally, the City will be under contract with a Renewable Natural Gas (RNG) supplier towards the end of 2024.

California's LCFS Program

The LCFS Program was enacted to support the California Global Warming Solutions Act of 2006 (AB32). The Program is designed to lower greenhouse gas (GHG) emissions by reducing the full fuel-cycle carbon intensity of transportation fuels used in California. Regulated parties were required to begin reducing carbon intensities in 2011, with the goal of a 10 percent reduction by 2020.

LCFS credits or deficits for each fuel are calculated by using the formula found in Section 95484 of the Air Resources Board (ARB) Regulations. A regulated party using a fuel with carbon intensity (CI) below the baseline generates credits. Those parties with CIs above the baseline generate deficits. Under the ARB Regulations, the City will receive LCFS credits for EV usage which may be sold to other regulated parties (RP). It is anticipated that, as compliance obligations of AB32 become more restrictive on RPs, the value of the City's LCFS credits will increase.

The services provided by the successful proposer shall include, but not be limited to:

- Register (Opt In) as the regulated party on behalf of the City of Porterville
- Manage all regulatory requirements, including regulatory filings
- Reporting requirements
- Adherence to market rules
- Verification of actual emissions to regulatory agencies

- All compliance obligations promulgated under AB32 or subsequent legislation
- Keep the City of Porterville informed of LCFS and/or any other market conditions on a monthly basis
- Provide annual cumulative accounting of City's LCFS and/or any other appropriate credit balance as of June 30 each year

Proposal Format

Proposals should be clear, concise, and provide detailed information concerning the Proposer's ability to successfully perform the obligations as described in the Scope of Work. All Proposals shall include the following documentation in the proposal package:

1. Cover Letter
 - a. Cover letter shall introduce the Proposer and establish interest in providing low carbon fuel standard (LCFS) services that meet the requirements of the City. An individual duly authorized to commit resources on behalf of the Proposer must sign the letter.
2. Experience Statement
 - a. Indicate how many years of experience Proposer has in performing work of a similar nature to that solicited in this RFP.
3. Project Staffing and Project Organization
 - a. Provide education, experience, and applicable professional credentials of project staff.
4. Work Plan
 - a. Proposer shall provide a detailed narrative addressing the Scope of Services requirements and demonstrating Proposer's understanding of the City's needs and requirements.
 - b. Throughout the narrative, Proposer will include references for each section of the Scope of Services that refers to the City's requirements.
5. Provide a list of at least three (3) references, current or past customers; including company name, address, contact name, phone number, current email address.
6. Provide a contract price proposal
7. Complete and submit all required forms

Section VI – Federal Transit Administration (FTA) Terms and Conditions

These clauses are required because this procurement is funded in whole or in part by the United States Department of Transportation (USDOT), Federal Transit Administration. The requirements in these clauses are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this Contract. If any requirements in these clauses are inconsistent with a provision found elsewhere in this Contract and is irreconcilable with such provision, the requirement in these clauses shall prevail.

Contractor shall comply with the following FTA requirements. For purposes of these clauses, the AGENCY is the City of Porterville (FTA recipient) that is entering the Contract with Contractor.

1. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES.

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

The AGENCY and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the AGENCY, Contractor or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the Contract. Contractor shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. NOTIFICATION TO FTA.

[These requirements apply to all contracts and subcontracts in excess of \$25,000.]

If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the AGENCY, which must then promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region 9. Contractor must include an equivalent provision in its subagreements at every tier for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- A. **Types of Legal Matters Requiring Notification.** The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- B. **Matters Affecting the Federal Government.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the Contract, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- C. **Additional Notice to U.S. DOT Inspector General.** Contractor must promptly notify the AGENCY, which must then promptly notify the U.S. DOT Inspector General in

addition to the FTA Chief Counsel or Regional Counsel for Region 9 if Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Contract or another agreement between the AGENCY and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the AGENCY. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision also applies to all divisions of the AGENCY,

3. PROGRAM FRAUD & FALSE/FRAUDULENT STATEMENTS OR RELATED ACTS.

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

- A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
- B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on Contractor, to the extent the Federal Government deems appropriate.
- C. Contractor shall include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS, REPORTS, and SITES

- A. **Record Retention**. Contractor shall retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- B. **Retention Period**. Contractor shall comply with the record retention requirements in accordance with 2 CFR § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- C. **Access to Records**. Contractor shall provide sufficient access to the U.S. Secretary of Transportation, the Comptroller General of the United States, FTA, the Agency, and their duly authorized representatives to inspect and audit records and information, including such records and information the AGENCY or Contractor may regard as confidential or proprietary related to performance of this contract as reasonably may be required.
- D. **Access to the Sites of Performance**. Contractor shall permit FTA, the Agency, and their duly authorized representatives' access to the

5. FEDERAL CHANGES

Contractor shall at all times comply with all applicable federal laws, regulations, requirements, policies, procedures, guidance, and directives, including without limitation those listed directly or by reference in the FTA Master Agreement between the City of Porterville and the FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

6. CIVIL RIGHTS

The AGENCY must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless an AGENCY or federal program, including any Indian Tribe or Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.

A. Nondiscrimination in Federal Public Transportation Programs.

1. Contractor must prohibit: (a) discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age; (b) exclusion from participation in employment or a of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; and (d) discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.
2. Contractor must follow the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance. However, FTA does not require an Indian Tribe to comply with FTA program specific guidelines for Title VI when administering its agreement supported with federal assistance under the Tribal Transit Program.

B. Nondiscrimination – Title VI of the Civil Rights Act.

1. Contractor must prohibit discrimination based on race, color, or national origin;
2. Contractor must comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.; (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR Part 21; and (c) Federal transit law, specifically 49 U.S.C. § 5332; and
3. Contractor must follow: (a) the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance; (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3; and (c) all other applicable federal guidance that may be issued.

C. Equal Employment Opportunity.

1. Federal Requirements and Guidance. Contractor must prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor must also comply with: (a) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.; (b) Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; (c) Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs; (d) federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement; and (e) FTA Circular 4704.1 “Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients.” Further, Contractor must follow other federal guidance pertaining to EEO laws, regulations, and requirements.

2. Affirmative Action. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), Contractor must take affirmative action that includes, but is not limited to: (a) recruitment advertising, recruitment, and employment; (b) rates of pay and other forms of compensation; (c) selection for training, including apprenticeship, and upgrading; and (d) transfers, demotions, layoffs, and terminations.
3. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.
4. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.
5. Indian Tribe. Contractor recognizes that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."
6. Equal Employment Opportunity for Construction Activities. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor must comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60 (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," 42 U.S.C. § 2000e note).
7. Access for Elderly Individuals and Individuals with Disabilities. Contractor agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the Architectural Barrier Act of 1968, as amended, 42 U.S.C. § 4151, et seq. In addition, Contractor agrees to comply with applicable Federal implementing regulations.

7. INCORPORATION OF FTA TERMS

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the

preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of the AGENCY that would cause the AGENCY to be in violation of the FTA terms and conditions. Contractor shall include this clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA.

8. FREE SPEECH & RELIGIOUS LIBERTY

All Federal funding must be expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements, including but not limited to those prohibiting discrimination and protecting free speech, religious liberty, public welfare, and the environment.

9. FEDERAL TERMINATION RIGHTS

The termination rights under this Contract are in addition to, and in no way limit, the Federal Government's right to terminate as described in 2 CFR § 200.340.

10. DEBARMENT, SUSPENSION, INELIGIBILITY, & VOLUNTARY EXCLUSION

[This requirement does not apply to contracts and subcontracts under \$25,000.]

- A. Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-Wide Debarment and Suspension (Non-procurement)," 2 CFR part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.
- B. Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally-funded contract (which includes review of SAM at sam.gov, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200) and are not presently declared by any Federal department or AGENCY to be: (1) debarred from participation in any federally-assisted Award; (2) suspended from participation in any federally-assisted Award; (3) proposed for debarment from participation in any federally-assisted Award; (4) declared ineligible to participate in any federally-assisted Award; (5) voluntarily excluded from participation in any federally-assisted Award; or (6) disqualified from participation in any federally-assisted Award.
- C. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that Contractor available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor shall comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- D. Contractor agrees that it will not enter into any “covered transaction” (as defined at 2 CFR 180.220 and 1200.220) with any “third party participant” (as defined in Section 1 of FTA’s Master Agreement (Version 31, dated May 2, 2024), as may be updated or amended) that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions except as otherwise authorized by applicable Federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants. Contractor further agrees that it will review the Federal Government’s “System for Award Management — Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by USDOT regulations (2 C.F.R. Part 1200).

11. TERMINATION

The AGENCY must include provisions in their contracts and subcontracts that allows for termination for cause and for convenience by the AGENCY, including the manner by which it will be effected and the basis for settlement. See Appendix II(B) to 2 CFR part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, and FTA Circular 4220.1F, Chapter IV, paragraph 2.b.(6)(b)4 – Termination.

12. VIOLATION & BREACH OF CONTRACT

[These requirements are not applicable to contracts and subcontracts under the simplified acquisition threshold (currently set at \$250,000).]

Unless otherwise provided for by the AGENCY, the following provisions shall apply:

- A. **Dispute Resolution.** Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY. This decision shall be final and conclusive unless within ten calendar days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to the authorized representative of AGENCY. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of AGENCY shall be binding upon Contractor, and Contractor shall abide by the decision.
- B. **Performance During Disputes.** Notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, Contractor shall

continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an California Court of competent jurisdiction.

- C. **Rights and Remedies.** The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the AGENCY or Contractor shall constitute a waiver of any right or duty afforded any of them under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed upon in writing.

13. LOBBYING RESTRICTIONS

[These requirements do not apply to contracts and subcontracts under \$100,000.]

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the AGENCY.

14. CARGO PREFERENCE (USE OF U.S.-FLAG VESSELS)

[These requirements apply to all contracts involving equipment, material, or commodities that may be transported by ocean vessels.]

- A. At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Contract, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels (46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR Part 381);
- B. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-

lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the AGENCY (through the Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and

- C. Contractor shall include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

15. FLY AMERICA

[These requirements apply to contracts and subcontracts involving the transportation of persons or property by air between a place in the United States and a place outside of the United States, or between places outside the United States, when the FTA will participate in the cost of such air transportation.]

- A. As used in this clause: **(1) “international air transportation”** means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States; **(2) “United States”** means the 50 States, the District of Columbia, and outlying areas; and **(3) “U.S.-flag air carrier”** means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- B. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 – 301-10.143, requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- C. If available, Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- D. If Contractor selects a carrier other than a U.S.-flag air carrier for international involving such transportation essentially as follows:

Statement of Unavailability of U.S. - Flag Air Carriers - International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

(End of statement)

- E. Contractor shall include the substance of this clause, including this paragraph (E), in each subcontract or purchase under this contract that may involve international air transportation.

16. EMPLOYEE PROTECTIONS

A. Prevailing Wage & Anti-Kickback

[These requirements apply to all prime construction, alteration, or repair contracts in excess of \$2,000.]

1. For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland “Anti-Kickback” Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction.” In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
2. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States.” Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

B. Contract Work Hours/Safety Standards for Awards Involving Construction

[These requirements apply to all contracts involving construction in excess of \$100,000 that involve the employment of mechanics or laborers.]

1. For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 CFR part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working

conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

2. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.
3. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.
4. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

C. Contract Work Hours/Safety Standards for Awards Not Involving Construction

[These requirements apply to all contracts (not involving construction) in excess of \$100,000 that involve the employment of mechanics or laborers.]

1. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.
2. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

3. Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.
4. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

17. SEISMIC SAFETY

[These requirements apply only to contracts for the construction of new buildings or additions to existing buildings.]

Contractor shall design and construct any new building or addition to an existing building in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations (49 CFR part 41) and will certify its compliance to the extent required by the regulation. Contractor shall ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

18. VETERANS EMPLOYMENT

[These requirements apply only to capital projects. See 49 U.S.C. § 5302(3).]

Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in U.S.C. Section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the Contract. This requirement shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

19. BONDING

[These requirements are applicable to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold (currently set at \$250,000). See FTA Circular C 4220.1F for specific bonding requirements.]

Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the AGENCY if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

- A. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon

acceptance of the bid, execute such contractual documents as may be required within the time specified.

- B. A performance bond on the part of Contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all of Contractor's obligations under such contract.
- C. A payment bond on the part of Contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

20. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

[These requirements apply only to contracts for transit operations performed by employees of contractors and subcontractors recognized by FTA to be a transit operator.]

Contractor shall comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

- A. **U.S. DOL Certification.** To the extent that FTA determines that this Contract or any Amendments thereto involve public transportation operations financed in whole or in part with Federal assistance, Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient’s project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL Letter. The requirements of this subsection (A), however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.
- B. **Special Warranty.** If the Contract involves public transportation operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.
- C. **Special Arrangements.** If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the

employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL Letter.

- D. **Flow Down.** Contractor shall include the substance of this clause in each subcontract that may involve operating public transit services.

21. CHARTER SERVICE

[These requirements apply to contracts for operating public transportation service.]

- A. Contractor shall comply with 49 U.S.C. 5323(d), (g), and (r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: (1) federal transit laws, specifically 49 U.S.C. § 5323(d); (2) FTA regulations, "Charter Service," 49 CFR part 604; (3) any other federal Charter Service regulations; or (4) Federal guidance, except as FTA determines otherwise in writing.
- B. If Contractor engages in a pattern of violations of FTA's Charter Service regulations, then FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: (1) barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; (2) withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or (3) any other appropriate remedy that may apply.
- C. Contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

22. SCHOOL BUS OPERATIONS

[These requirements apply to contracts for operating public transportation service.]

Contractor shall comply with 49 U.S.C. 5323(f) and (g), and 49 CFR part 605, and not engage in school bus operations using federally-funded equipment or facilities in competition with private operators of school buses, except as permitted under: (A) federal transit laws, specifically 49 U.S.C. § 5323(f); (B) FTA regulations, "School Bus Operations," 49 CFR part 605; (C) any other Federal School Bus regulations; or (D) federal guidance, except as FTA determines otherwise in writing. If Contractor violates these school bus requirements, then FTA may bar Contractor from receiving Federal assistance for public transportation or require

Contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, Contractor may not use federally-funded equipment, vehicles, or facilities. Contractor should include the substance of this clause in each subcontract or purchase under this Contract that may operate public transportation services.

23. MOTOR CARRIER SAFETY

[These requirements apply to contracts for operating bus operation service.]

- A. **Financial Responsibility**. Contractor shall comply with the economic and insurance registration requirements of: (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, “Minimum Levels of Financial Responsibility for Motor Carriers,” 49 C.F.R. part 387, if Contractor is: (a) engaged in operations requiring compliance with 49 C.F.R. part 387, (b) engaged in interstate commerce, and (c) not within a defined commercial zone; and (2) provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.
- B. **U.S. FMCSA Requirements**. Contractor shall comply with: (1) safety requirements of U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, “Federal Motor Carrier Safety Regulations,” 49 C.F.R. parts 390 – 397, to the extent applicable; and (2) driver’s license requirements of U.S. FMCSA regulations, “Commercial Driver’s License Standards, Requirements, and Penalties,” 49 C.F.R. part 383, and “State Compliance with Commercial Driver’s License,” 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA’s regulations, “Drug and Alcohol Use and Testing Requirements,” 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

24. SAFE OPERATIONS OF MOTOR VEHICLES

- A. **Seat Belt Use**. Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by Contractor or AGENCY.
- B. **Distracted Driving**. Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

- C. **Subcontracts.** Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

25. CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

- A. **Definitions.** As used in this clause: (1) "driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise (note: "driving" does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary); and (2) "text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication (note: "text messaging" does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park).
- B. **Executive Order.** This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving company-owned/rented vehicles, Government-owned vehicles, and privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. Contractor is also encouraged to conduct initiatives in a manner commensurate with the size of the business, such as: (1) establishment of new rules and programs or reevaluation of existing programs to prohibit text messaging while driving; and (2) education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- C. **Subcontracts.** Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

26. SUBSTANCE ABUSE (DRUG & ALCOHOL TESTING)

[These requirements apply to contracts with contractors who perform safety-sensitive functions, as defined in 49 CFR Part 655.4, "Definitions."]

- A. Contractor shall establish and implement a drug and alcohol testing program that complies with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR Part 40) and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR Part 655), produce any documentation necessary

- to establish its compliance with parts 655 and 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or the City of Porterville, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and 49 CFR part 40 and review the testing process.
- B. Contractor shall also submit for review and approval a copy of its substance abuse prevention policy developed to implement its drug and alcohol testing program. Further, Contractor shall certify annually its compliance with parts 655 and 40 and to submit the Drug and Alcohol Management Information System (DAMIS) reports before March 15 to Transit Compliance Officer, City of Porterville Transportation Department, 291 N. Main St. Porterville, CA 93257. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.
 - C. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers involving the performance of a safety-sensitive function under the Contract.

27. BUY AMERICA

[These requirements apply to contracts over \$150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock.]

- A. Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11. Contractor must submit to AGENCY the appropriate Buy America certification with its offer. Offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.
- B. Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184.
- C. Compliance with FTA's "Buy America Requirements," 49 CFR Part 661, and "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184 shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

28. PROHIBITED TELECOMMUNICATIONS & SURVEILLANCE SERVICES & EQUIPMENT

The AGENCY is prohibited from obligating or expending loan or grant funds to: procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractor shall not provide covered telecommunications equipment or services in the performance of the Contract. As described in Public Law 115-232, section 889, covered telecommunications equipment is: **(A)** telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); **(B)** video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes; **(C)** telecommunications or video surveillance services provided by such entities or using such equipment; and **(D)** 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.

29. AIR POLLUTION & FUEL ECONOMY

[These requirements apply to contracts for the purchase of rolling stock.]

The Contractor agrees to comply with applicable Federal air pollution control and fuel economy regulations, such as: EPA regulations, "Control of Air Pollution from Mobile Sources," 40 CFR Part 85; EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 CFR Part 86; and EPA regulations, "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

30. ROLLING STOCK LIMITATIONS

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor and its subcontractors must comply with the limitation on certain rolling stock procurements at 49 U.S.C. § 5323(u), prohibiting the procurement of rolling stock from specified manufacturers for public transportation use.

31. PRE-AWARD & POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor shall comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 CFR part 663. Contractor shall comply with the Buy America certification(s) submitted with its offer. Contractor shall participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 CFR part 663 and related FTA guidance.

32. BUS TESTING

[These requirements apply to contracts for the purchase/lease of any bus model that is new or has any major change in configuration/components to be acquired/leased.]

Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, Contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the grantee.

33. ENVIRONMENTAL PROTECTIONS

Contractor shall comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

2. National Environmental Policy Act.

1. Contractor shall comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to: (a) federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139; (b) the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 et seq., as limited by 42 U.S.C. § 5159, and CEQ's implementing regulations 40 C.F.R. part 1500 – 1508; (c) joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. part 771 and 49 C.F.R. part 622; (d) Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note; and (e) other federal environmental protection laws, regulations, and requirements applicable to Contractor.
2. Contractor shall follow federal guidance to the extent that the guidance is consistent with applicable authorizing legislation, which may include: (a) joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013; (b) joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and (c) other federal environmental guidance applicable to the Contractor.
3. Environmental Justice. Contractor shall promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order; (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997; and (3) the most recent edition of FTA Circular 4703.1, "Environmental

Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

4. **Other Environmental Federal Laws.** Contractor shall comply or facilitate compliance with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to “Protection of Wetlands,” and Executive Order Nos. 11988 and 13690 relating to “Floodplain Management.”
5. **Use of Certain Public Lands.** Contractor shall comply with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as “section 4(f)”), and joint FHWA and FTA regulations, “Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites,” 23 C.F.R. part 774, and referenced in 49 C.F.R. part 622.
6. **Historic Preservation.** Contractor shall comply with: (1) U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as “section 4(f)”), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places; (2) federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108; (3) the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 et seq.; (4) U.S. Advisory Council on Historic Preservation regulations, “Protection of Historic Properties,” 36 C.F.R. part 800; and (5) other federal requirements and federal guidance to avoid or mitigate adverse effects on historic properties.
7. **Indian Sacred Sites.** Contractor shall facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, “Indian Sacred Sites,” May 24, 1996, 42 U.S.C. § 3161 note.

34. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT

[These requirements do not apply to contracts and subcontracts under \$150,000.]

Contractor shall ensure that it: (A) will not use any violating facilities; (B) will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;” (C) will report violations of use of prohibited facilities to FTA; and (D) will comply with the inspection and other requirements of the Clean Air Act, as amended (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387).

35. ENERGY CONSERVATION

Contractor shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §§ 6321 et seq.).

36. RECYCLED PRODUCTS (SOLID WASTES)

[These requirements apply to all contracts and subcontracts involving the purchase of items designated by the EPA (that contain the highest percentage of recovered materials practicable) in excess of \$10,000. See 40 C.F.R part 247 for federal designation of items.]

Contractor shall provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 CFR part 247. The requirements of Section 6002 include: (A) procuring only items designated in guidelines of the U.S. EPA at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (B) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (C) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. INTELLECTUAL PROPERTY/PATENT RIGHTS & RIGHTS IN DATA

[These requirements apply to contracts for the performance of experimental, developmental, or research work.]

- A. This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an

academic institution. For purposes of this Contract, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of “subject data” include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

- B. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes”: (1) any subject data developed under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA. For “Federal Government Purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.
- C. Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA’s license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
- D. Unless prohibited by state law, upon request by the Federal Government, Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
- E. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
- F. Data developed by Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by

the Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.

G. Contractor shall include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

38. COMPLIANCE WITH NATIONAL ITS ARCHITECTURE POLICY

[These requirements apply only to contracts for National Intelligent Transportation System projects.]

Contractor shall conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and follow FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.

39. NTD REPORTING

As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must: (A) facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (NTD); (B) conform to the NTD reporting system and the Uniform System of Accounts and Records; (C) comply with FTA regulations, “Uniform System of Accounts and Records and Reporting System,” 49 CFR Part 630; (D) report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, “National Transit Database,” and applicable FTA instructions: (1) any information relating to a transit asset inventory or condition assessment; (2) any data on assaults on transit workers; (3) any data on fatalities that result from an impact with a bus; and (4) such other information as FTA may require; (E) comply with any other applicable reporting regulations, and requirements; and (F) follow FTA guidance.

40. TRAFFICKING IN PERSONS

Contractor and its subcontractors or their employees shall not: (A) engage in severe forms of trafficking in persons during the Contract Term; (B) procure a commercial sex act during the Contract Term; or (C) use forced labor in the performance of the Contract. Contractor shall inform AGENCY immediately of any information Contractor receives from any source alleging a violation of a prohibition in this section. AGENCY may terminate this Contract for any violation of this section; such right of termination is in addition to all other remedies for noncompliance that are available to the AGENCY.

41. PRIVACY ACT

Contractor agrees to: (A) comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C.

§ 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract; and (B) include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

42. SECTION 508 COMPLIANCE

Any reports or information that will be provided to DOT or any other Federal agency must comply with Section 508 of the Rehabilitation Act of 1973.

43. DBE REQUIREMENTS

The City and its partners strive to advance the economic growth of small businesses through its Disadvantaged Business Enterprise (DBE) Program.

The City of Porterville DBE Program is managed and administered by the City's Transportation Department. Through a coordinated effort among several city departments and partner agencies, the DBE Program provides certification and opportunities in construction, purchasing, management and technical assistance, educational services, and networking.

A. General Requirements

1. **Applicable Federal Regulations.** This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, Joint Venture, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.
2. **DBE Participation.** For this solicitation, the Agency *has not* established a race- or gender-conscious DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for business. The Agency uses race- and gender-neutral measures to facilitate participation by DBEs and Small Businesses. The Agency encourages each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.

3. **Small Business Participation.** The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).
4. **DBE Certification.** Only firms (1) certified by the Agency or another CAUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from race- and gender-neutral (RGN) measures on this Contract. This DBE determination affects the Agency's tracking and reporting obligations to USDOT.
5. **Civil Rights Assurances.** As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance verbatim:

“The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Porterville deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible.”

Note: For purposes of the required Contract and Subcontract language above, Successful Submitter is the “contractor” awarded the contract.

6. **Subcontracts.** If subcontracts will be let under this Contract, Contractor shall take the affirmative steps listed in 2 C.F.R. 200.321, which addresses contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

Exhibit A – Required Forms

Form A

ADDENDUM RECEIPT

The Proposer acknowledges it has received and read the following Addenda:

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form B

DEBARMENT AND SUSPENSION CERTIFICATION

This certification does not apply to contracts and subcontracts under \$25,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

Check one box below (and provide explanation if necessary):

☐ The Proposer certifies that the Proposer and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any federal department or agency;
2. Have not, within the preceding three years, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense described in Paragraph 2 of this certification;
4. Have not, within the preceding three years, had one or more public transactions (federal, state, or local) terminated for cause or default.

- OR -

☐ The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In the explanation, the Proposer must certify to those statements that can be certified and explain why the other statements cannot be certified.)

The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form C

BUY AMERICA CERTIFICATION

This certification applies to contracts over \$150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

If this Offer is valued in excess of \$150,000 and involves the procurement of steel, iron, or manufactured products (as defined in 49 CFR §§ 661.3 and 661.5), the Proposer hereby certifies that it:

☐ Will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 CFR part 661;

OR

☐ Cannot comply the requirements of 49 U.S.C. § 5323(j) (and 49 CFR part 661) but may qualify for an exception to the requirements pursuant to 49 U.S.C. § 5323(j)(2), as amended, and the applicable regulations in 49 CFR § 661.7.

If this Offer is valued in excess of \$150,000 and involves the procurement of buses or other rolling stock (including associated equipment), the Proposer hereby certifies that it:

☐ Will comply with the requirements of 49 U.S.C. § 5323(j) and the applicable regulations of 49 CFR § 661.11;

OR

☐ Cannot comply with the requirements of 49 § U.S.C. 5323(j) (and 49 CFR § 661.11), but may qualify for an exception to the requirements consistent with 49 U.S.C. § 5323(j)(2)(C), as amended, and the applicable regulations in 49 CFR § 661.7.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form D

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF CALIFORNIA

COUNTY OF _____

_____ declares and says:

1. That he/she is the (owner, partner, representative, or agent) of _____, hereinafter referred to as (CONTRACTOR) or (subcontractor).
2. That he/she is fully informed regarding the preparation and contents of this proposal for certain work in the City of Porterville, State of California.
3. That his/her proposal is genuine and is not collusive or a sham proposal.
4. That any of its officers, owners, agents, representatives, employees, or parties in interest, including this affiliate, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer, firm, or person to submit a collusive or sham proposal in connection with such contract or to refrain to submitting a proposal in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful Contract or connivance with any other proposer, firm, or person to fix the price or prices in said proposal, or to secure through collusion, conspiracy, connivance, or unlawful Contract any advantage against the City of Porterville or any person interested in the proposed contract; and,
5. That the price or prices quoted in the proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful Contract on the part of the proposer or any of its agents, owners, representatives, employees, or parties in interest, including this affiliate.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

This certification does not apply to contracts and subcontracts under \$100,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an 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.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form F

TAX LIABILITY CERTIFICATION

This certificate applies to all contracts. Offers that do not include this completed certification will be rejected as nonresponsive.

The Proposer certifies that:

1. It has no 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;
2. It has not been convicted of a felony criminal violation under any federal law within the preceding 24 months; and
3. It shall require that the language of this certification be included in the award documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form G

ACKNOWLEDGEMENT OF “BEST VALUE” SELECTION PROCESS

PROPOSER hereby acknowledges that the selection process under this RFP will evaluate Proposals on a “Best Value” basis, which the Federal Transit Administration’s (FTA) Best Practices Manual defines as follows:

“Best Value” is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.

As a result, PROPOSER further acknowledges that pricing will not be the sole basis upon which Proposals are evaluated.

An individual authorized to bind the PROPOSER to this Agreement must sign below acknowledging and understanding of the foregoing.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Exhibit B – Sample General Services Agreement

CITY OF PORTERVILLE GENERAL SERVICES AGREEMENT WITH *[insert full name of Contractor and Project Name and/or number]*

This General Services Agreement (Agreement) is entered into between the City of Porterville, a municipal corporation (**City**), and _____ [complete name of legal business entity], a _____ [business status, such as a California corporation] (**Contractor**). City and Contractor are referred to individually as “Party” and collectively as “Parties.”

Recitals

- A. City desires to retain Contractor to complete a XXXXXXXXXX Project (Project); and
- B. On XXXXXXXX, the City issued a Request for Proposals (RFP) for the XXXXXXXXXX (Project). On XXXXXXXX, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the goods and services.
- C. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.
- D. This Agreement is being executed pursuant to Resolution No. _____-2024 approved by the Porterville City Council on _____, 2024.

Now therefore, the Parties mutually agree as follows:

1. **Scope of Work.** Contractor shall provide the goods and services required to complete the Project, described in Exhibit “A” attached hereto and incorporated herein by reference. The goods and services shall be performed by, or under the direct supervision of, Contractor’s Authorized Representative: _____. Contractor shall not replace its Authorized Representative, nor shall Contractor use or replace any subcontractor or subcontractor, without City’s prior written consent. The City may terminate this Agreement if Contractor makes any such change or replacement, or uses any unapproved subcontractor or subcontractor.
2. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit “A.” Any services for which times for performance are not specified in this Agreement shall be started and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all

requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1. Term. The Term of this Agreement shall begin on _____ and end on _____, unless terminated in accordance with Section 6.

3. Compensation. City shall pay Contractor on a lump sum basis, at the billing rate set forth in Exhibit “C”, attached hereto and incorporated herein by this reference for goods and services performed under this Agreement.

3.1. Not to Exceed Amount. Contractor’s total compensation under this Agreement shall not exceed \$_____. Contractor’s billing rates shall cover all costs and expenses for Contractor’s performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City’s prior written approval. Notwithstanding anything contained herein to the contrary, the payment of any funds under this Agreement shall be subject to the City of Porterville’s appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

3.2. Invoices. Contractor shall submit monthly invoice(s) to the City that describe the goods and services performed, including times, dates, and names of persons performing the services.

3.2.1. Contractor’s failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Contractor.

3.3. Payment. Subject to the City acceptance of the Services as discussed in Exhibit A attached hereto and completion of the Project to the City’s satisfaction, within 30 days after the City’s receipt of invoice(s), City shall make payment to the Contractor based upon the services described on the invoice(s).

3.4. The acceptance by Contractor of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Contractor for anything completed, finished or relating to Contractor’s services. Contractor agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Contractor or its employees, subcontractors, agents and subcontractors for the accuracy and competency of the information provided and/or services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Contractor, its employees, subcontractors, agents and subcontractors.

3.5. Contractor agrees to maintain books, accounts, payroll records and other information relating to the performance of Contractor’s obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Contractor in the

performance of Contractor's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

- 4. Indemnification.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In the event there is a finding and/or determination that Contractor is not an independent contractor and/or is an employee of City, including but not limited to any such finding and/or determination made by the California Public Employees' Retirement System (CalPERS), the Department of Industrial Relations (DIR), or the Internal Revenue Service (IRS), Contractor shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from and against any all claims relating to or in connection with such a finding and/or determination.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Contractor" means the Contractor, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

Contractor and City mutually waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

The provisions of this section survive completion of the services or the termination of this Agreement, and are not limited by the provisions of Section 5 relating to insurance.

- 1. Insurance.** Contractor shall, throughout the duration of this Agreement, maintain insurance to cover Contractor, its agents, representative, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

- 1.1. Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$4,000,000 general aggregate and \$2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

- 1.2. Automobile Liability** (with coverage at least as broad as ISO CA 00 01 07 097, for “any auto”) “claims made” coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 1.3. Workers’ Compensation** coverage shall be maintained as required by the State of California.
- 1.4. Professional Liability** “claims made” coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than \$1,000,000 per claim.
- 1.5. Endorsements.** Contractor shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
- 1.5.1.** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 1.5.2.** For any claims related to this Agreement, Contractor’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor’s insurance and shall not contribute with it.
- 1.6. Notice of Cancellation.** Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.
- 1.7. Authorized Insurers.** All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 1.8. Insurance Certificate.** Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.
- 1.9. Substitute Certificates.** Contractor shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.
- 1.10. Contractor’s Obligation.** Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Contractor may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

2. **Termination.** The City may terminate this Agreement in its sole and absolute discretion by giving ten (10) days' written notice to Contractor. Within five (5) days of such a termination, Contractor shall give the City all original documents relating to the Services in Contractor's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Contractor pursuant to this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
3. **Dispute Resolution.** If any dispute arises between the City and Contractor that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:
 - 3.1. Each Party shall designate a senior management or executive level representative to negotiate the dispute.
 - 3.2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority,
 - 3.3. If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiations between legal counsel. If the aforementioned process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
 - 3.4. The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person to serve as the mediator, shall be commenced within thirty (30) days of selection of a mediator, and shall be concluded within fifteen (15) days from the commencement of the mediation.
 - 3.5. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
 - 3.6. The dispute resolution process is a material condition of this Agreement and must be exhausted prior to either Party initiating legal action. This dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.
4. **Labor Code Compliance.** Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

5. **Rates.** These prevailing wage rates are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.
6. **Registration with DIR.** Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5
7. **Monitoring.** This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.
8. **Ownership of Work.** All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's Services, upon termination of this Agreement, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.
9. **Independent Contractor Status.** Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.
10. **Conflicts of Interest.** Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.
11. **Rebates, Kickbacks, or Other Unlawful Consideration.** Contractor warrants this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; to deduct from the contract price the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.
12. **Notices.** All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after

the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

City of Porterville
Transportation Department
291 N. Main Street
Porterville, CA 93257

To Contractor

13. Miscellaneous

13.1. Standard of Care. Unless otherwise specified in this Agreement, the standard of care applicable to Contractor's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

13.2. Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

13.3. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. No waiver shall be effective unless it is in writing and signed by the waiving party.

13.4. Assignment and Delegation. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's prior written consent. Any attempt to do so will void. City's consent to one assignment, transfer or delegation shall not be deemed to be consent to any subsequent assignment, transfer or delegation.

13.5. Jurisdiction and Venue. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Tulare.

13.6. Compliance with Law. Contractor shall comply with all applicable local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

13.6.1. Hazardous Materials. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.

13.6.2. Non-discrimination. Contractor represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, color, national origin,

handicap, ancestry, sex or age. Contractor shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.)

- 13.7. Business Entity Status.** Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters this Agreement, City may take steps to have this Agreement declared voidable.
- 13.8. Business License.** Before the City signs this Agreement, Contractor shall obtain a City of Porterville Business License. Contractor shall maintain an active City of Porterville Business License during the term of this Agreement.
- 13.9. Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.
- 13.10. Construction of Agreement.** Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.
- 13.11. Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.
- 13.12. Controlling Provisions.** In the case of any conflict between the terms of this Agreement and Exhibits hereto, and Contractor's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's proposal (if any), the Exhibits shall control.
- 13.13. Entire Agreement.** This Agreement and the Attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.
- 13.14. Counterparts.** City and Contractor agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.
- 13.15. Expenses for Enforcement.** Contractor and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

14. Signatures. The individuals executing this Agreement on behalf of Contractor represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Contractor.

The Parties agree to the full performance of these terms set forth here.

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

Contractor

By: Martha A. Flores

By: _____

Title: Mayor

Title: _____

Date: _____

Date: _____

Federal Employer Tax ID No. _____

Signature: _____

Signature: _____

Attest:

Patrice Hildreth, City Clerk

Approved as to form:

Julia M. Lew, City Attorney

Exhibits:

- A. RFP No.XXX XXXXXXXXXXXXX
- B. Contractor Proposal
- C. Compensation



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Authorization to Distribute a Request for Proposals for Solar Maintenance Services

SOURCE: Public Works

COMMENT: A Request for Proposals (RFP) has been prepared for Solar Maintenance Services. The successful Proposer must be able to provide turnkey operations and maintenance solar support services for the City's two solar facilities. The successful Proposer is expected to be responsible for evaluating the existing solar facilities, developing a list and cost of equipment in need of repairs, and perform troubleshooting, repair and call out services.

The resulting contract will be for a Firm-Fixed Price (FFP) contract for a five-year (5) period. Subject to the Contractor's satisfactory performance, and at its sole discretion, the City may exercise the option to renew the contract up to five (5) additional one-year terms.

The FTA considers this project as part of operations, and the FTA provides federal financial assistance for up to fifty percent (50%) of the cost. A local match of fifty percent (50%) is required, which will be covered by Local Transportation Funds (LTF). These funds have been appropriated in the FY 2024-2025 Budget. The negotiated contract will be presented to the Council for final approval.

RECOMMENDATION: That the City Council:

1. Approve the draft Request for Proposals;
2. Authorize staff to advertise for proposals on the project; and
3. Authorize staff to negotiate with the most responsive and responsible Proposer who has demonstrated the ability to perform the project in an acceptable manner and is most advantageous to the City.

ATTACHMENTS: 1. Draft Request for Proposals - Solar Maintenance Services

Appropriated/Funded:

Review By:

Department Director:
Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager



**CITY OF PORTERVILLE
REQUEST FOR PROPOSAL RFP No. XXXXX
SOLAR OPERATIONS & MAINTENANCE SERVICES**



August 27, 2024

The City of Porterville does not discriminate on the basis of race, gender, ethnicity, age, national origin, religion or disability in its employment opportunities, programs, services, contracting opportunities or activities. It is the City's policy to ensure compliance with the Title VI of the Civil Rights Act of 1964 in its contracting opportunities.

The project is funded in part by the Federal Transit Administration Catalog of Federal Domestic Assistance (CFDA) 20.500 and 20.507. The City of Porterville reserves the right to reject any or all proposals.



**CITY OF PORTERVILLE, CALIFORNIA
REQUEST FOR PROPOSALS (RFP) NO. XXXXX
SOLAR OPERATIONS & MAINTENANCE SERVICES**

SEALED PROPOSALS will be received by the Transportation Department located at 291 N. Main Street, Porterville, CA 93257, until 2:00 P.M. on Thursday, September 26, 2024, for the Contract to provide a turnkey operations and maintenance solar support services.

A mandatory site visit is NOT REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us.

This contract is federally funded and as such, the Federal Requirements associated with the performance of services under this contract have been included with this RFP. The awarded Proposer will be responsible for adherence to all local, state, and federal requirements listed herein. These requirements are hereby incorporated into the subsequent contract arising from this RFP.

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. All addenda and correspondence during the process will be handled electronically through the Public Purchase website.

The City has not established a DBE goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract. The City of Porterville overall DBE goal is 1% of total contracts (including subcontracts) awarded.

The City hereby affirmatively ensures that Minority Business Enterprises and Disadvantaged Business Enterprises (DBE) will be afforded the full opportunity to submit proposals in response to this notice. Individuals and/or entities submitting bids/proposals to the City of Porterville will not be discriminated against on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, gender, gender identity or expression, age, sexual orientation, or military or veteran status in any consideration leading to the award of contract.

The right is reserved by the City of Porterville to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted and to award the contract according to the proposal which best serves the interests of said City.

Publication Dates:

August 27, 2024

Table of Contents

Section I - Instructions	4
Section II – Standard Terms and Conditions.....	14
Section III – Special Terms and Conditions	25
Section IV – Insurance and Indemnification.....	34
Section V - SCOPE OF WORK.....	38
Section VI – Federal Transit Administration (FTA) Terms and Conditions	40
Exhibit A – Required Forms.....	65
Exhibit B – Sample General Services Agreement.....	72

Section I - Instructions

RFP/Agreement Schedule

Event	Date of Event
RFP Available to the public	August 27, 2024
Required Site Tour	N/A
Deadline to submit questions	September 5, 2024
Proposal submittal deadline @ 2:00 pm PST	September 26, 2024
Short list established and vendors notified	October 3, 2024
Interviews/Presentation with short-listed vendors (if required)	N/A
Award of Contract @ City Council Meeting	October 15, 2024
Contract Begins	November 1, 2024

City's Vendor Self-Registration and Notification

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. No proposal shall be received from an individual or firm that has not accessed the proposal documents from the Public Purchase website. All addenda and correspondence during the process will be handled electronically through the Public Purchase website. Questions regarding this request for proposals must be submitted through the Public Purchase website.

Background

The City of Porterville ("CITY") is located in Tulare County, which is part of the Central San Joaquin Valley of California. The San Joaquin Valley is a rich agricultural area and Tulare County is recognized as the largest agricultural-producing county in the world.

Porterville has a land area of approximately 14.3 square miles (9,161 acres), situated at the base of the foothills of the Sierra Nevada Mountain Range. It is approximately 30 miles southeast of Visalia (the County seat); 60 miles northeast of Bakersfield, 165 miles northeast of Los Angeles, and 254 miles southeast of San Francisco. State Routes 65 and 190 bisect the community.

The Porterville City Council is the policy-making body for the City of Porterville's Transportation Department. It adopts the Short-Range Transit Plan, and through the annual budgetary process, establishes operational and funding levels for the system. The City Council also sets operational policies and parameters.

Management of the City's public transportation system, referred to as Porterville Transit, is an integrated function of the City of Porterville. The Transportation department is responsible for the overall management of the service. The City is also responsible for the maintenance of the transit fleet, through its Field Services Division.

The City outsources, to a private contractor, to perform daily operations of Porterville Transit. The Director of Transportation is responsible for the overall administration, planning, monitoring, and

marketing of the system. The Director of Transportation also acts as a liaison to the Tulare County Association of Governments (TCAG), the California Department of Transportation (Caltrans) and the Federal Transit Administration (FTA). The contracted local General Manager is responsible for the day-to-day operations management; the hiring, testing, training and supervision of all drivers and dispatch staff; fare collection; reporting; ridership data collection; and the operation of Porterville Transit vehicles in accordance with City policy and all State and Federal regulations. The County of Tulare contracts with the City of Porterville to provide transit service to unincorporated areas surrounding Porterville. The County reimburses the City for service provided to County residents using Local Transportation Funds (LTF).

Porterville Transit provides an array of transportation services in the form of fixed route bus services, ADA complementary paratransit, and innovative On-Demand services.

Preparation of Offer

1. Any person (“Proposer”) submitting a Proposal (“Proposal”) in response to this Request for Proposals (“RFP”) shall examine the Scope of Work carefully and be informed thoroughly regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract to be awarded under this RFP (the “Contract”). No allowances shall be made because of lack of knowledge of any specifications, conditions, or requirements of this RFP.
2. All forms provided must be completed and submitted with your Proposal.
3. It is permissible to copy submittal forms if necessary. Erasures, interlineations, or other modifications of the Proposal must be initialed in original ink by the authorized person signing the offer. No Proposal will be altered, amended, or withdrawn after the specified offer due date and time. The City is not responsible for Proposer’s errors or omissions.
4. All time periods stated as a number of days will be calendar days.
5. It is the responsibility of all Proposers to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a Proposal. Negligence in preparing a Proposal confers no right of withdrawal after due date and time. Proposers are strongly encouraged to:
 - 1) Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
 - 2) Study and carefully correlate Proposer’s knowledge and observations with the RFP document and other related data.

- 3) Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which a proposer has discovered in or between the RFP document and such other related documents.
- 4) The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Proposer is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.
- 5) Proposers are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Proposals offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
- 6) Proposers' responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products proposed. Proposals submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.
- 7) Prices shall be submitted on a per unit basis by line item, when applicable. Failure to submit any unit pricing will be sufficient grounds for the City to consider the proposal to be non-responsive. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

Exceptions

Proposer must not take any exceptions to any terms, conditions or material requirements of this solicitation. Proposals submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Proposals must conform to all the requirements specified in the solicitation. The City encourages Proposers to send inquiries to the procurement officer rather than including exceptions in their Proposal.

Communications to City

All questions pertaining to this RFP, or any matters relating thereto the Scope of Work, or any questions pertaining to the RFP or RFP documents, shall be in writing and shall be submitted only through the Public Purchase website. Communications sent to any other person at the City or at any other address may, in the City's sole discretion, be deemed to be "non-responsive" and the

City in its discretion may elect to disregard any such questions. The City shall not respond to oral inquiries, and oral statements of any nature by the City or any of its representatives may not be relied upon for any purpose whatsoever.

Addenda

The City of Porterville will not be responsible for any oral instructions made by any employees or officers of the City of Porterville regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal.

Business in California

The City will not enter contracts with Proposers (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of California, unless the proposer asserts a statutory exception prior to entering a contract with the City.

Licenses

If required by law for the operation of the business or work related to this Proposal, Proposer must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

Certification

By signing the Proposal, proposer certifies:

- The Proposer's submission of the Proposal did not involve collusion or other anti-competitive practices
- The Proposer shall not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The Proposer has not given, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

Minimum Qualifications

- Proposer must have been in operation a minimum of five years.

Certificates of Insurance

Upon notification of a recommended award, the Proposer will have 14 calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

Award of Contract

Unless otherwise indicated, award(s) will be made to the most responsive and responsible Proposer whose proposal, in the sole and absolute discretion of City, for providing the goods and/or services contained in this solicitation, who have demonstrated the ability to perform in an acceptable manner, and is most advantageous to the City.

Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

A response to a solicitation is a Proposal to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Proposals do not become contracts until they are executed by the Mayor. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

Solicitation Transparency Policy

Commencing on the date and time a solicitation is published, potential or actual proposers or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under California Statutes, until the resulting contract(s) are awarded to all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation.

As long as the solicitation is not discussed, Proposers may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff. Proposers may not discuss the solicitation with any City employees or evaluation panel members.

Proposers may discuss their proposal or the solicitation with the Mayor or one or more members of the Porterville City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

With respect to the selection of the successful Proposals, the City Manager will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.

This policy is intended to create a level playing field for all Proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. PROPOSERS THAT

VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Proposer may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

“To discuss” means any contact by the Proposer, regardless of whether the City responds to the contact. Proposers that violate this policy will be disqualified until the resulting contract(s) are awarded, or all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City’s intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

Protest Process

In the event any person wishes to file a Protest regarding this RFP, such Protest shall be made in accordance with City’s FTA Procurement and Contract Administration Manual (which is available at www.ci.porterville.ca.us), the terms of which are hereby included herein by this reference. The City reserves the right to modify the terms of the protest procedure if it determines that such modification is in its best interest. Should there be any dispute between the City’s FTA Procurement and Contract Administration Manual and the provisions of this Section, the City in its discretion shall determine which provision governs.

By way of background, all Proposers understand and agree that the procurement process undertaken by virtue of this RFP is solely for the benefit of the City, and it is for the City to determine in its discretion which Proposal the City desires to accept. The City has provided for a Protest procedure not to grant any rights to any particular Proposer but, rather, to provide the City the opportunity to review and examine any information regarding any Proposal which it may not have fully evaluated. Thus, no Proposer has any legal right in connection with any Protest Proceeding and the City may, in its discretion, determine whether or not to reject any Protest.

In the event a Protest is rejected, the Proposer may appeal the rejection as set forth in the City’s FTA Procurement and Administration Manual or herein but, again, said appeal shall be decided by the City based upon what it determines to be in its best interest. As such, legal concepts (such as the California or Federal Rules of Civil Procedure and the Judicial Rules of Evidence) and other matters which may be applicable to judicial or other proceedings are not applicable to a Protest in accordance with the City’s FTA Procurement and Contract Administration Manual. In addition, the appeal process set forth in the City’s FTA Procurement and Contract Administration Manual is exclusive and upon the exhaustion of the appeal, no further appeal may be taken, or separate suit filed against the City.

By virtue of submitting its Proposal, any Protesting Party expressly agrees that its remedies are exclusively limited to the City’s Protest procedure set forth in the City’s FTA Procurement and Contract Administration Manual (as the same may be modified hereby) and that there shall be no appeal or litigation resulting from the final award of any Contract by the City. The foregoing is a material consideration in the consideration by the City of any Proposal.

Public Record

All Proposals submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to California State law. If a Proposer believes that a specific section of its Proposal response is confidential, the Proposer will isolate the pages marked confidential in a specific and clearly labeled section of its Proposal response. A Proposer may request specific information contained within its Proposal is treated by the Procurement Officer as confidential provided the Proposer clearly labels the information “confidential.” To the extent necessary for the evaluation process, information marked as “confidential” will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Proposers as “confidential” available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Proposer in writing of any request to view any portion of its Proposal marked “confidential.” The Proposer will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Proposer does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

Right to Disqualify

The City reserves the right to disqualify any Proposer who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Proposer on the basis of any real or apparent conflict of interest that is disclosed by the Proposer submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Proposer waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City of Porterville or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Proposer.

Late Proposals

Late Proposals must be rejected, except for good cause. If a late Proposal is submitted, the Department will document the date and time of the submittal of the late Proposal, keep the Proposal and notify the Proposer that its Proposal was disqualified for being late.

Pre-Bid Meeting

A mandatory site visit is NOT REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us.

Contract Award

The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple award contracts.

Determining Responsiveness and Responsibility

Proposals will be reviewed for documentation of any required minimum qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

Responsiveness: Nonresponsive Proposals will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Proposals will render a Proposal nonresponsive.

Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and a Proposal that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Proposer remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so in writing, the City may determine the Proposal to be nonresponsive.

Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by Contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Proposer be a responsible contractor. Responsibility includes the Proposer's integrity, compliance with public policy, skill, capacity, experience, record of past performance, financial and technical resources, and facilities for conducting the work to be performed.

The Procurement Officer will review each Proposal to determine if the Proposer is responsible. The City's determination as to whether an Proposer is responsible will be based on all information furnished by the Proposer, interviews (if any), any information at the City's request and information received from Proposer's references, including information about Proposer's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Proposer agrees to permit by submitting its Proposal, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

The Proposer's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Proposal.

Clarifications

The City may request written clarifications for such purposes as information gathering or eliminating minor irregularities in offers. Clarifications shall not otherwise afford the Offerors the opportunity to alter or change their offers.

Detailed Evaluation of Proposals and Determination of Competitive Range

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Proposer's rankings and which Proposals are within the Competitive Range, when appropriate.

Proposals Not Within The Competitive Range

The City may notify Proposers of Proposals that the City determined are not in the Competitive Range.

Discussions With Proposers In The Competitive Range

The City will notify each Proposer whose Proposal is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Proposer. Each Proposer so notified may be interviewed by the City and asked to discuss answers to written or oral questions or provide clarifications to any facet of its Proposal. The Proposers in the competitive range may be required to provide a demonstration of their product.

Demonstrations - Proposers in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City of Porterville. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

If a Proposal in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation Scope requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Proposer to remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so, the City may determine the Proposal is nonresponsive, and the City may revoke its determination that the Proposer is in the Competitive Range.

To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Proposer about other Proposals received in response to this solicitation. During discussions with Proposers in the Competitive Range, the City will not give Proposers specific prices or specific financial requirements that Proposers must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace

or otherwise unacceptable. Proposers will not be told of their relative rankings before Contract award.

Best and Final Offers (BAFO)

A BAFO is an option available for negotiations. Each Proposer in the Competitive Range, which is determined in the City's sole discretion, may be afforded the opportunity to amend its Proposal and make one BAFO.

If a Proposer's BAFO modifies its initial offer, the BAFO should include a "Change Log" identifying all modifications made to the Proposal. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Proposals. The City will adjust appropriately, at its sole discretion, the initial scores for criteria that have been affected by Proposal modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.

The Evaluation Panel will recommend the Proposal that is the most advantageous to the City based on the evaluation criteria.

The City reserves the right to make an award to a Proposer whose Proposal is the highest rated and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.

Section II – Standard Terms and Conditions

Contract Interpretation

Applicable Law

This Contract will be governed by the law of the State of California, and suits pertaining to this Contract will be brought only in Federal or State courts in Tulare County, State of California.

Contract Order Of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:

- Federal Terms and Conditions
- Special Terms and Conditions
- Standard Terms and Conditions
- Amendments
- Scope of Work
- Specifications
- Attachments
- Exhibits
- Instructions to Contractors
- Other documents referenced or included in the RFP

Organization – Employment Disclaimer

The Agreement resulting hereunder is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons and will save and hold the City harmless with respect thereto.

Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

Non-Waiver of Liability

The City of Porterville as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable California law.

Parol Evidence

This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

Contract Administration and Operation

Records

All books, accounts, reports, files, and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Porterville office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.

Discrimination Prohibited

Any Contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The Contractor will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts.

Equal Employment Opportunity and Pay

For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts.

For a Contractor with more than 35 employees: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

Documentation: Contractors may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

Monitoring: The City shall monitor the employment policies and practices of Contractors subject to this article as deemed necessary. The City is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

Health, Environmental and Safety Requirements

The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City.

At the request of City representatives, the Contractor will provide the City:

- Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.
- A list of all federal, state, or local (EPA, OSHA, Tulare County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this Agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).

Compliance With Laws

Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance.

Because the Contractor will be acting as an independent Contractor, the City assumes no responsibility for the Contractor's acts.

Continuation During Disputes

Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by a California Court of competent jurisdiction.

Emergency Purchases

The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

Costs and Payments

General

Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Proposal.

Payment Deduction Offset Provision

Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.

Late Submission of Claim By Contractor

The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.

Discounts

Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.

No Advance Payment

Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.

Fund Appropriation Contingency

The Contractor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Contractor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.

Maximum Prices

The City will not be invoiced at prices higher than those stated in any contract resulting from this Proposal. Contractor certifies, by signing this Proposal that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Proposal and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.

F.O.B Point

All prices are to be quoted F.O.B. destination, unless specified elsewhere in this solicitation.

Contract Changes

Contract Amendments

Contracts will be modified only by a written contract amendment signed persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

Assignment – Delegation

No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

Non-Exclusive Contract

Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source when necessary.

Risk of Loss and Liability

Title and Risk of Loss

The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.

Acceptance

All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.

Force Majeure

Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

Loss of Materials

The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the project manager.

Contract Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.

The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.

Damage to City Property

Contractor will perform all work so that no damage to the building or grounds results. Contractor will repair any damage caused to the satisfaction of the City at no cost to the City.

Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and finish to match existing material as approved by the City at Contractor's expense.

City's Contractual Rights

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made, and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Non-Exclusive Remedies

The rights and remedies of the City under this Contract are non-exclusive.

Default In One Installment To Constitute Breach

Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

On Time Delivery

Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

Default

In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.

Covenant Against Contingent Fees

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

Cost Justification

In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Proposal price is fair and reasonable.

Work Product, Equipment and Materials

All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

Contract Termination

Gratuities

The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

Conditions and Causes for Termination

This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Contractor will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.

The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
- In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
- Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

State and Local Sales and Use Taxes

In accordance with applicable state and local law, sales and use taxes may be applicable to this transaction. The state and local sales and use tax burden and legal liability to remit taxes are on the vendor that is conducting business in California and the City of Porterville. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or

application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. Once your proposal is submitted, the Proposal is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

Tax Indemnification

Contractor shall, and require the same of all subcontractors, pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require the same of all subcontractors, hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including sales and use taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

Tax Responsibility Qualifications

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of California for any License or Sales taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in California statutes relative to State Sales and Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the California State Department of Revenue to release tax information relative to California Sales and Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

Russia Sanctions

Executive Order N-6-22 – Russia Sanctions. On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. By submitting a bid or proposal, Contractor represents that it is not a target of Economic Sanctions. Should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, which shall be grounds for rejection of the Contractor's bid/proposal any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination by the State.

Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The City may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to

prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.
- Ability to take regular and necessary breaks as needed and additional breaks for hydration.
- Access to shaded areas and/or air conditioning.
- Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.
- Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.
- Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures, and how to report heat illness and injury to emergency medical personnel.

The Contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the Contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the Contractor to ensure compliance by its subcontractors.

Section III – Special Terms and Conditions

Term of Contract and Option To Extend

The Contract shall commence on the date both the City and Contractor execute the Agreement (“Contract’s start date”), and end when the City Council accepts the project as completed (“Contract’s end date”).

Post Award Conference

A post award conference may be held by the City prior to commencement of any work. Contractor will be required to attend. The purpose of this conference would be to discuss critical elements of the work schedule, operational problems, the transition plan and procedures.

Estimated Quantities

Quantities listed are the City’s best estimate and do not obligate the City to order or accept more than City’s actual requirements during the period of this Contract, as determined by actual needs. It is expressly understood and agreed that the Contract is to supply the City with its complete actual requirement for the Contract period.

Authorized Changes

The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within sixty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the City Council prior to the institution of the change

Alteration In Character Of Work

No changes in the scope, character, or complexity of work may be made by Contractor without first receiving approval by contract amendment properly defining and limiting the change. The City will not pay any claim for extra work done or materials furnished by Contractor except as provided in this Contract, and Contractor may not do any work or furnish any materials not covered by this Contract unless first approved by the City through contract amendment. Any such work or materials furnished by Contractor without prior contract amendment is Contractor’s sole risk, cost, and expense, and Contractor may not make any claim for compensation for any such work or materials.

Method Of Invoicing And Payment

The CITY will compensate Contractor for satisfactory and complete performance of work under the Contract at the prices set forth in the Contract, with no additional charges for equipment, supplies, overhead, travel or administrative support.

Contractor shall be paid monthly in arrears. On or before the 10th day of each calendar month, Contractor shall submit one (1) invoice to the City for services provided during the previous month and each invoice shall contain the date, contract number, supporting documentation, and invoice amount. Advance payments are not authorized. Payment may only be made for actual goods and/or services that have been received, less liquidated damages.

The invoice must contain the associated purchase order number on the invoice itself and must be free of mathematical errors and/or missing supporting documentation. Upon finding an error and/or missing documentation, the City will return the invoice to Contractor. Contractor shall promptly resubmit the revised invoice to the City. Failure to identify an error does not waive any of the City's rights. The City shall make every effort to process payment for the purchase of services within 45 calendar days after receipt and approval of a correct invoice.

Any prompt payment discounts offered must be clearly noted by Contractor on all invoices submitted to the City. Monthly invoice must be sent for review to the City's Project Manager. The City shall notify the Contractor if the invoice has been approved or if it requires additional documentation and/or correction.

Following invoice approval, Contractor will email the invoice in PDF format to ap@ci.porterville.ca.us, copying the City's Project Manager. Each PDF attachment will contain only one invoice, although multiple PDFs may accompany an email. The email will be in plain text format free of any signatures or images (jpeg, bmp, etc.).

A "remit to" address must also be on the invoice and must match the address on file with the City. Any changes to the remit to address must be updated by the vendor.

Key Personnel

Contractor shall maintain the Key Personnel identified in its proposal for a minimum of 24 months from the "Effective Date" of contract award by City Council unless they are no longer employed by Contractor. Contractor shall notify the City in writing prior to removing, reassigning, or appointing an individual from or to any Key Personnel position whether in an acting or permanent capacity. For all Key Personnel, Contractor shall fill vacancies with City approval within 45 calendar days of the vacancy, unless otherwise approved by the City in writing. All of Contractor's Key Personnel shall be assigned full-time (a minimum of 40 hours per week) to this project, unless otherwise approved in writing by the City. In the event one or more of Contractor's Key Personnel is permanently replaced, Contractor shall notify the City in writing at least 72 hours prior to the replacement date and time. The replacement personnel shall be subject to the City's prior approval in writing.

Strict Performance

Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

Performance Interference

Contractor shall notify the City's Project Manager immediately of any occurrence and/or condition that threatens to interfere with the full performance of the contract and confirm it in writing within 24 hours.

Unsatisfactory Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the Scope of Work, or elsewhere in this Contract. The City shall decide all questions as to the quality and acceptability of any work performed under the Contract as monitored and documented by the City. If, in the opinion of the City, performance becomes unsatisfactory, the City shall notify Contractor. Contractor shall have a reasonable time to cure the unsatisfactory performance.

If the unsatisfactory performance is not cured within the time specified, the City may immediately correct or complete the work to its satisfaction and deduct the associated costs from any balances due or to become due to Contractor. Contractor will be liable for difference between cost to the City to complete the Work with other forces and the cost to the City for completion of the Work by Contractor per the contract. Repeated incidences of unsatisfactory performance may result in cancellation of the Contract for default.

Employee Identification and Facility Access

Only authorized Contractor employees are allowed on the premises of City facilities. Contractor employees are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor or subcontractor employee.

Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the "Effective Date" of contract award by City Council, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential

Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Contract; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Contract; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Contract. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.

Upon the City's written request or expiration of this Contract, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.

If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Data Protection

The parties agree this Section shall apply to the City's Confidential Information and all categories of legally protected personally identifiable information (collectively "PII") that Contractor processes pursuant to the Contract. "Personally identifiable information" is defined as in the Federal Privacy Council's Glossary available at: fpc.gov/resources/glossary.

As between the parties, the City is the data controller and owner of PII and Contractor is a data processor. In this Section, the term “process,” “processing,” or its other variants shall mean: an operation or set of operations which is performed on PII, whether or not by automated means, including without limitation: collection, recording, copying, analyzing, caching, organizing, structuring, storage, adaptation, alteration, retrieval, transmission, dissemination, alignment, combination, restriction, erasure, or destruction.

When Contractor processes PII pursuant to the Contract, Contractor shall, at no additional cost to the City:

- (1) process PII only within the United States and only in accordance with the Contract and not for Contractor’s own purposes, including product research, product development, marketing, or commercial data mining, even if the City’s data has been aggregated, anonymized, or pseudonymized;
- (2) implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice. (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)
- (3) not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;
- (4) as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;
- (5) take reasonable steps to ensure the competence and reliability of Contractor’s personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;

(6) maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Contract and applicable laws;

(7) allow the City or its authorized agents to conduct audit inspection during the term of the Contract, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section.

If Contractor becomes aware of any actual or potential data breach (each an "Incident") arising from Contractor's processing obligations pursuant to the Contract, Contractor shall notify the City without undue delay within 48 hours; and:

(1) provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;

(2) take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;

(3) cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and

(4) not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Security Inquiries

Contractor acknowledges that all of the employees that it provides pursuant to this Contract shall, at Contractor's expense, be subject to background and security checks and screening at the request of the City. Contractor shall perform all such security inquiries and shall make the results available

to the City for all employees considered for performing work (including supervision and oversight) under this Contract. City may make further security inquiries. Whether or not further security inquiries are made by the City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by the Contractor for performing work under this Contract. Employees rejected by the City for performing services under this Contract may still be engaged by Contractor for other work not involving the City. An employee rejected for work under this Contract shall not be proposed to perform work under other City contracts or engagements without the City's prior approval.

The City, in its sole discretion, reserves the right, but not the obligation to:

- (1) require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information;
- (2) act on newly acquired information whether or not such information should have been previously discovered;
- (3) unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and
- (4) object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Contract. Contractor will bear the costs of all inquiries requested by the City.

Contacts With Third Parties

Contractor or its subcontractors shall not contact third parties to provide any information in connection with the deliverables provided under this Contract without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Contract or any other prior or existing contract with the City, Contractor or its subcontractors shall promptly inform the City, giving the particulars of the information sought, and shall not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Contractor and its subcontractors under this Section shall survive the termination of this Contract.

Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

No Third Party Beneficiaries

The parties expressly agree that this Contract is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract.

Non-Disclosure

Contractor shall not disclose, without the City's prior written consent, any information in the performance of the Services under this Contract to any person, firm, corporation, association, or other entity other than persons in the City's organization qualified to receive such information, for any reason or purpose whatsoever, nor shall Contractor make use of any such confidential or proprietary information for its own purposes or for the benefit of any person, firm, corporation, or other entity, except the City.

Contractor agrees to act as a trustee of the foregoing information and as trustee of any other confidential information learned in connection by Contractor's relationship with the City. Contractor further represents to the City that, as an inducement to enter this Contract, Contractor will hold this information in trust and confidence for the City's sole benefit and use.

Further, there shall be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the City.

Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Contract, then, and in that event, upon written demand, Contractor shall relinquish to the possession and control of the City its entire file related to this Contract and only those portions of said file deemed by the City to be not privileged shall be returned to Contractor pending the resolution of the existing or anticipated litigation.

Contractor agrees that the requirements of this Section shall be incorporated into any subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Advertising

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Contract or any part thereof without the prior written consent of the City. The name of any City site on which services are performed by the Contractor pursuant to this Contract shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

Accrued Liabilities

Contractor shall be responsible for the payment of all liabilities to its employees accrued during the contract term, including but not limited to accrued vacation, sick time, and any other benefits accrued under the terms of any collective bargaining agreement between Contractor and the union representing its employees or under the terms of any employment contract or agreement. All such payments shall be made by Contractor at the end of the contract term and no additional

compensation shall be provided by the City for such accrued liabilities. Contractor shall not have any obligation for the liabilities of the prior contractor to its employees.

Claims or Demands Against The City

Contractor acknowledges and accepts the provisions of the Charter of the City of Porterville pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in the Charter of the City of Porterville alters, amends or modifies the supplemental and complementary requirements of the State of California Notice of Claim statutes pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

Moreover, nothing in this Contract will constitute a dispute resolution process, an administrative claims process, or contractual term sufficient to affect the date on which the cause of action accrues.

Conflicts of Interest

Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Contract upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Porterville City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Contract without liability, including any such commission, percentage, brokerage or contingent fee.

The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in a California court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

Section IV – Insurance and Indemnification

Standard General Defense and Indemnification

Contractor (“Indemnitor”) must defend, indemnify, and hold harmless the City of Porterville and its officers, officials (elected or appointed), agents, and employees (“Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever (“Losses”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors (“Indemnitor’s Agents”) arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnatee harmless for any Losses arising out of or recovered under any state’s Workers’ Compensation Law or arising out of the failure of Indemnitor or Indemnitor’s Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor’s duty to defend Indemnatee accrues immediately at the time a claim is threatened or a claim is made against Indemnatee, whichever is first. Indemnitor’s duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnatee from and against any and all Losses, except where it is proven that those Losses are solely a result of Indemnatee’s own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Indemnitor waives all rights of subrogation against Indemnatee for losses arising from the work performed by Indemnitor or Indemnitor’s Agents for the City of Porterville. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

Contractor’s Insurance

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this Section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors and Contractor may purchase such additional insurance as they determined necessary.

Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a “following form” basis, and (2) all terms under each line of coverage below are met.

Commercial General Liability – Occurrence Form

General Aggregate - \$1,000,000

Products – Completed Operations Aggregate - \$1,000,000

Personal and Advertising Injury - \$1,000,000

Fire Damage - \$1,000,000

Each Occurrence - \$1,000,000

The policy must name the City of Porterville as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations, and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.

There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Porterville as an additional insured.

City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.

The Contractor's insurance coverage must be primary insurance and non- contributory with respect to any insurance or self-insurance carried by the City.

Automobile Liability

Bodily injury and property damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

UM/UIM Per Person Limit \$1,000,000

UM/UIM Per Accident Limit \$1,000,000

- The policy must be endorsed to include the City of Porterville as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor's insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

Worker's Compensation and Employers' Liability

Workers' Compensation

Employers' Liability: Statutory

Each Accident \$100,000

Disease – Each Employee \$100,000

Disease – Policy Limit \$500,000

- Policy must contain a waiver of subrogation against the City of Porterville.
- This requirement does not apply when a contractor or subcontractor is exempt, AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

Property Insurance – Contractor’s Property and Equipment

Contractor must maintain all risk property insurance for Contractor’s personal property. The CITY will have no responsibility for any damage to Contractor’s personal property and Contractor’s property insurance must be endorsed to include a waiver of subrogation against the CITY.

Additional Insurance Requirements

Policies must include, or be endorsed to include, the following provisions:

- 1) On insurance policies where the City of Porterville is named as an additional insured, the City of Porterville must be an additional insured to the full limits of liability purchased by Contractor even if those limits of liability are in excess of those required by Contract.
- 2) Contractor’s insurance coverage or self-insurance must be primary insurance and non-contributory with respect to all other available sources.
- 3) Coverage provided by Contractor must not be limited to the liability assumed under the indemnification provisions of the Contract.

Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Porterville.

Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of California and with an “A.M. Best” rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

Verification of Coverage

Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be mailed, emailed, or hand delivered to City of Porterville.

Section V - SCOPE OF WORK

The scope of work set forth in this Request for Proposals represents an outline of the goods and services which the CITY anticipates the successful Proposer to perform, and is presented for the primary purpose of allowing the CITY to compare proposals. The precise scope of work to be incorporated into the General Services Agreement shall be negotiated between the City and the successful Proposer. **The CITY requests that the Proposer suggest changes to the scope of work (as a part of the proposal) in order to achieve the CITY's Project Objectives.**

Introduction

The City of Porterville is soliciting proposals from qualified firms to provide a turnkey operations and maintenance solar support services for its two solar facilities.

Background

The City of Porterville has two facilities with solar systems. One system is at the Porterville Transit Center, located at 61 W. Oak Ave, Porterville, CA 93257. The second and third systems are at the City Corporation Yard, located at 555 N. Prospect St., Porterville, CA 93257. The City has lost its ability to monitor the systems and does not know if the systems are function correctly.

Purpose of RFP

1. Evaluate the existing solar facilities;
2. Develop a list and cost of equipment in need of repairs; and
3. Turnkey Operations and Maintenance Solar Support Services, including but not limited to:
 - a. PV Panel Cleaning
 - b. 24 x 7 remote monitoring
 - c. Performance monitoring & reporting
 - d. Troubleshooting, repair & call out services
 - e. Vendor and Warranty management
 - f. Annual maintenance planning & scheduling
 - g. Firmware upgrades
 - h. De-commissioning & replacement

Contract Length

The City is open to five year contract lengths, and requests the associated financial proposals for those lengths.

Proposal Format

Proposals should be clear, concise, and provide detailed information concerning the Proposer's ability to successfully perform the obligations as described in the Scope of Work. All Proposals shall include the following documentation in the proposal package:

1. Cover Letter
 - a. Cover letter shall introduce the Proposer and establish interest in providing the scope of work that meet the requirements of the City.
 - b. An individual duly authorized to commit resources on behalf of the Proposer must sign the letter.
2. Experience Statement
 - a. Indicate how many years of experience Proposer has in performing work of a similar nature to that solicited in this RFP.
3. Project Staffing and Project Organization
 - a. Provide education, experience, and applicable professional credentials of project staff.
4. Work Plan
 - a. Proposer shall provide a detailed narrative addressing the Scope of Services requirements and demonstrating Proposer's understanding of the City's needs and requirements.
 - b. Throughout the narrative, Proposer will include references for each section of the Scope of Services that refers to the City's requirements.
5. Provide a list of at least three (3) references, current or past customers; including company name, address, contact name, phone number, current email address.
6. Provide a contract price proposal.
7. Complete and submit all required forms.

Section VI – Federal Transit Administration (FTA) Terms and Conditions

These clauses are required because this procurement is funded in whole or in part by the United States Department of Transportation (USDOT), Federal Transit Administration. The requirements in these clauses are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this Contract. If any requirements in these clauses are inconsistent with a provision found elsewhere in this Contract and is irreconcilable with such provision, the requirement in these clauses shall prevail.

Contractor shall comply with the following FTA requirements. For purposes of these clauses, the AGENCY is the City of Porterville (FTA recipient) that is entering the Contract with Contractor.

1. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES.

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

The AGENCY and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the AGENCY, Contractor or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the Contract. Contractor shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. NOTIFICATION TO FTA.

[These requirements apply to all contracts and subcontracts in excess of \$25,000.]

If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the AGENCY, which must then promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region 9. Contractor must include an equivalent provision in its subagreements at every tier for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- A. **Types of Legal Matters Requiring Notification.** The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- B. **Matters Affecting the Federal Government.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the Contract, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- C. **Additional Notice to U.S. DOT Inspector General.** Contractor must promptly notify the AGENCY, which must then promptly notify the U.S. DOT Inspector General in

addition to the FTA Chief Counsel or Regional Counsel for Region 9 if Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Contract or another agreement between the AGENCY and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the AGENCY. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision also applies to all divisions of the AGENCY,

3. PROGRAM FRAUD & FALSE/FRAUDULENT STATEMENTS OR RELATED ACTS.

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

- A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
- B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on Contractor, to the extent the Federal Government deems appropriate.
- C. Contractor shall include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS, REPORTS, and SITES

- A. **Record Retention**. Contractor shall retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- B. **Retention Period**. Contractor shall comply with the record retention requirements in accordance with 2 CFR § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- C. **Access to Records**. Contractor shall provide sufficient access to the U.S. Secretary of Transportation, the Comptroller General of the United States, FTA, the Agency, and their duly authorized representatives to inspect and audit records and information, including such records and information the AGENCY or Contractor may regard as confidential or proprietary related to performance of this contract as reasonably may be required.
- D. **Access to the Sites of Performance**. Contractor shall permit FTA, the Agency, and their duly authorized representatives' access to the

5. FEDERAL CHANGES

Contractor shall at all times comply with all applicable federal laws, regulations, requirements, policies, procedures, guidance, and directives, including without limitation those listed directly or by reference in the FTA Master Agreement between the City of Porterville and the FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

6. CIVIL RIGHTS

The AGENCY must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless an AGENCY or federal program, including any Indian Tribe or Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.

A. Nondiscrimination in Federal Public Transportation Programs.

1. Contractor must prohibit: (a) discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age; (b) exclusion from participation in employment or a of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; and (d) discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.
2. Contractor must follow the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance. However, FTA does not require an Indian Tribe to comply with FTA program specific guidelines for Title VI when administering its agreement supported with federal assistance under the Tribal Transit Program.

B. Nondiscrimination – Title VI of the Civil Rights Act.

1. Contractor must prohibit discrimination based on race, color, or national origin;
2. Contractor must comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.; (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR Part 21; and (c) Federal transit law, specifically 49 U.S.C. § 5332; and
3. Contractor must follow: (a) the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance; (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3; and (c) all other applicable federal guidance that may be issued.

C. Equal Employment Opportunity.

1. Federal Requirements and Guidance. Contractor must prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor must also comply with: (a) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.; (b) Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; (c) Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs; (d) federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement; and (e) FTA Circular 4704.1 “Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients.” Further, Contractor must follow other federal guidance pertaining to EEO laws, regulations, and requirements.

2. Affirmative Action. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), Contractor must take affirmative action that includes, but is not limited to: (a) recruitment advertising, recruitment, and employment; (b) rates of pay and other forms of compensation; (c) selection for training, including apprenticeship, and upgrading; and (d) transfers, demotions, layoffs, and terminations.
3. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.
4. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.
5. Indian Tribe. Contractor recognizes that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."
6. Equal Employment Opportunity for Construction Activities. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor must comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60 (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," 42 U.S.C. § 2000e note).
7. Access for Elderly Individuals and Individuals with Disabilities. Contractor agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the Architectural Barrier Act of 1968, as amended, 42 U.S.C. § 4151, et seq. In addition, Contractor agrees to comply with applicable Federal implementing regulations.

7. INCORPORATION OF FTA TERMS

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the

preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of the AGENCY that would cause the AGENCY to be in violation of the FTA terms and conditions. Contractor shall include this clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA.

8. FREE SPEECH & RELIGIOUS LIBERTY

All Federal funding must be expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements, including but not limited to those prohibiting discrimination and protecting free speech, religious liberty, public welfare, and the environment.

9. FEDERAL TERMINATION RIGHTS

The termination rights under this Contract are in addition to, and in no way limit, the Federal Government's right to terminate as described in 2 CFR § 200.340.

10. DEBARMENT, SUSPENSION, INELIGIBILITY, & VOLUNTARY EXCLUSION

[This requirement does not apply to contracts and subcontracts under \$25,000.]

- A. Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-Wide Debarment and Suspension (Non-procurement)," 2 CFR part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.
- B. Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally-funded contract (which includes review of SAM at sam.gov, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200) and are not presently declared by any Federal department or AGENCY to be: (1) debarred from participation in any federally-assisted Award; (2) suspended from participation in any federally-assisted Award; (3) proposed for debarment from participation in any federally-assisted Award; (4) declared ineligible to participate in any federally-assisted Award; (5) voluntarily excluded from participation in any federally-assisted Award; or (6) disqualified from participation in any federally-assisted Award.
- C. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that Contractor available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor shall comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- D. Contractor agrees that it will not enter into any “covered transaction” (as defined at 2 CFR 180.220 and 1200.220) with any “third party participant” (as defined in Section 1 of FTA’s Master Agreement (Version 31, dated May 2, 2024), as may be updated or amended) that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions except as otherwise authorized by applicable Federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants. Contractor further agrees that it will review the Federal Government’s “System for Award Management — Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by USDOT regulations (2 C.F.R. Part 1200).

11. TERMINATION

The AGENCY must include provisions in their contracts and subcontracts that allows for termination for cause and for convenience by the AGENCY, including the manner by which it will be effected and the basis for settlement. See Appendix II(B) to 2 CFR part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, and FTA Circular 4220.1F, Chapter IV, paragraph 2.b.(6)(b)4 – Termination.

12. VIOLATION & BREACH OF CONTRACT

[These requirements are not applicable to contracts and subcontracts under the simplified acquisition threshold (currently set at \$250,000).]

Unless otherwise provided for by the AGENCY, the following provisions shall apply:

- A. **Dispute Resolution.** Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY. This decision shall be final and conclusive unless within ten calendar days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to the authorized representative of AGENCY. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of AGENCY shall be binding upon Contractor, and Contractor shall abide by the decision.
- B. **Performance During Disputes.** Notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, Contractor shall

continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an California Court of competent jurisdiction.

- C. **Rights and Remedies.** The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the AGENCY or Contractor shall constitute a waiver of any right or duty afforded any of them under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed upon in writing.

13. LOBBYING RESTRICTIONS

[These requirements do not apply to contracts and subcontracts under \$100,000.]

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the AGENCY.

14. CARGO PREFERENCE (USE OF U.S.-FLAG VESSELS)

[These requirements apply to all contracts involving equipment, material, or commodities that may be transported by ocean vessels.]

- A. At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Contract, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels (46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR Part 381);
- B. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-

loading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the AGENCY (through the Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and

- C. Contractor shall include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

15. FLY AMERICA

[These requirements apply to contracts and subcontracts involving the transportation of persons or property by air between a place in the United States and a place outside of the United States, or between places outside the United States, when the FTA will participate in the cost of such air transportation.]

- A. As used in this clause: **(1) “international air transportation”** means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States; **(2) “United States”** means the 50 States, the District of Columbia, and outlying areas; and **(3) “U.S.-flag air carrier”** means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- B. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 – 301-10.143, requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- C. If available, Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- D. If Contractor selects a carrier other than a U.S.-flag air carrier for international involving such transportation essentially as follows:

Statement of Unavailability of U.S. - Flag Air Carriers - International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

(End of statement)

- E. Contractor shall include the substance of this clause, including this paragraph (E), in each subcontract or purchase under this contract that may involve international air transportation.

16. EMPLOYEE PROTECTIONS

A. Prevailing Wage & Anti-Kickback

[These requirements apply to all prime construction, alteration, or repair contracts in excess of \$2,000.]

1. For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
2. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

B. Contract Work Hours/Safety Standards for Awards Involving Construction

[These requirements apply to all contracts involving construction in excess of \$100,000 that involve the employment of mechanics or laborers.]

1. For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 CFR part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working

conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

2. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.
3. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.
4. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

C. Contract Work Hours/Safety Standards for Awards Not Involving Construction

[These requirements apply to all contracts (not involving construction) in excess of \$100,000 that involve the employment of mechanics or laborers.]

1. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.
2. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

3. Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.
4. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

17. SEISMIC SAFETY

[These requirements apply only to contracts for the construction of new buildings or additions to existing buildings.]

Contractor shall design and construct any new building or addition to an existing building in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations (49 CFR part 41) and will certify its compliance to the extent required by the regulation. Contractor shall ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

18. VETERANS EMPLOYMENT

[These requirements apply only to capital projects. See 49 U.S.C. § 5302(3).]

Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in U.S.C. Section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the Contract. This requirement shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

19. BONDING

[These requirements are applicable to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold (currently set at \$250,000). See FTA Circular C 4220.1F for specific bonding requirements.]

Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the AGENCY if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

- A. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon

acceptance of the bid, execute such contractual documents as may be required within the time specified.

- B. A performance bond on the part of Contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all of Contractor's obligations under such contract.
- C. A payment bond on the part of Contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

20. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

[These requirements apply only to contracts for transit operations performed by employees of contractors and subcontractors recognized by FTA to be a transit operator.]

Contractor shall comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

- A. **U.S. DOL Certification.** To the extent that FTA determines that this Contract or any Amendments thereto involve public transportation operations financed in whole or in part with Federal assistance, Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient’s project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL Letter. The requirements of this subsection (A), however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.
- B. **Special Warranty.** If the Contract involves public transportation operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.
- C. **Special Arrangements.** If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the

employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL Letter.

- D. **Flow Down.** Contractor shall include the substance of this clause in each subcontract that may involve operating public transit services.

21. CHARTER SERVICE

[These requirements apply to contracts for operating public transportation service.]

- A. Contractor shall comply with 49 U.S.C. 5323(d), (g), and (r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: (1) federal transit laws, specifically 49 U.S.C. § 5323(d); (2) FTA regulations, "Charter Service," 49 CFR part 604; (3) any other federal Charter Service regulations; or (4) Federal guidance, except as FTA determines otherwise in writing.
- B. If Contractor engages in a pattern of violations of FTA's Charter Service regulations, then FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: (1) barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; (2) withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or (3) any other appropriate remedy that may apply.
- C. Contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

22. SCHOOL BUS OPERATIONS

[These requirements apply to contracts for operating public transportation service.]

Contractor shall comply with 49 U.S.C. 5323(f) and (g), and 49 CFR part 605, and not engage in school bus operations using federally-funded equipment or facilities in competition with private operators of school buses, except as permitted under: (A) federal transit laws, specifically 49 U.S.C. § 5323(f); (B) FTA regulations, "School Bus Operations," 49 CFR part 605; (C) any other Federal School Bus regulations; or (D) federal guidance, except as FTA determines otherwise in writing. If Contractor violates these school bus requirements, then FTA may bar Contractor from receiving Federal assistance for public transportation or require

Contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, Contractor may not use federally-funded equipment, vehicles, or facilities. Contractor should include the substance of this clause in each subcontract or purchase under this Contract that may operate public transportation services.

23. MOTOR CARRIER SAFETY

[These requirements apply to contracts for operating bus operation service.]

- A. **Financial Responsibility.** Contractor shall comply with the economic and insurance registration requirements of: (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, “Minimum Levels of Financial Responsibility for Motor Carriers,” 49 C.F.R. part 387, if Contractor is: (a) engaged in operations requiring compliance with 49 C.F.R. part 387, (b) engaged in interstate commerce, and (c) not within a defined commercial zone; and (2) provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.
- B. **U.S. FMCSA Requirements.** Contractor shall comply with: (1) safety requirements of U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, “Federal Motor Carrier Safety Regulations,” 49 C.F.R. parts 390 – 397, to the extent applicable; and (2) driver’s license requirements of U.S. FMCSA regulations, “Commercial Driver’s License Standards, Requirements, and Penalties,” 49 C.F.R. part 383, and “State Compliance with Commercial Driver’s License,” 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA’s regulations, “Drug and Alcohol Use and Testing Requirements,” 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

24. SAFE OPERATIONS OF MOTOR VEHICLES

- A. **Seat Belt Use.** Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by Contractor or AGENCY.
- B. **Distracted Driving.** Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

- C. **Subcontracts.** Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

25. CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

- A. **Definitions.** As used in this clause: (1) "driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise (note: "driving" does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary); and (2) "text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication (note: "text messaging" does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park).
- B. **Executive Order.** This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving company-owned/rented vehicles, Government-owned vehicles, and privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. Contractor is also encouraged to conduct initiatives in a manner commensurate with the size of the business, such as: (1) establishment of new rules and programs or reevaluation of existing programs to prohibit text messaging while driving; and (2) education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- C. **Subcontracts.** Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

26. SUBSTANCE ABUSE (DRUG & ALCOHOL TESTING)

[These requirements apply to contracts with contractors who perform safety-sensitive functions, as defined in 49 CFR Part 655.4, "Definitions."]

- A. Contractor shall establish and implement a drug and alcohol testing program that complies with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR Part 40) and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR Part 655), produce any documentation necessary

- to establish its compliance with parts 655 and 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or the City of Porterville, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and 49 CFR part 40 and review the testing process.
- B. Contractor shall also submit for review and approval a copy of its substance abuse prevention policy developed to implement its drug and alcohol testing program. Further, Contractor shall certify annually its compliance with parts 655 and 40 and to submit the Drug and Alcohol Management Information System (DAMIS) reports before March 15 to Transit Compliance Officer, City of Porterville Transportation Department, 291 N. Main St. Porterville, CA 93257. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.
 - C. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers involving the performance of a safety-sensitive function under the Contract.

27. BUY AMERICA

[These requirements apply to contracts over \$150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock.]

- A. Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11. Contractor must submit to AGENCY the appropriate Buy America certification with its offer. Offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.
- B. Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184.
- C. Compliance with FTA's "Buy America Requirements," 49 CFR Part 661, and "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184 shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

28. PROHIBITED TELECOMMUNICATIONS & SURVEILLANCE SERVICES & EQUIPMENT

The AGENCY is prohibited from obligating or expending loan or grant funds to: procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractor shall not provide covered telecommunications equipment or services in the performance of the Contract. As described in Public Law 115-232, section 889, covered telecommunications equipment is: (A) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (B) video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes; (C) telecommunications or video surveillance services provided by such entities or using such equipment; and (D) 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.

29. AIR POLLUTION & FUEL ECONOMY

[These requirements apply to contracts for the purchase of rolling stock.]

The Contractor agrees to comply with applicable Federal air pollution control and fuel economy regulations, such as: EPA regulations, "Control of Air Pollution from Mobile Sources," 40 CFR Part 85; EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 CFR Part 86; and EPA regulations, "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

30. ROLLING STOCK LIMITATIONS

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor and its subcontractors must comply with the limitation on certain rolling stock procurements at 49 U.S.C. § 5323(u), prohibiting the procurement of rolling stock from specified manufacturers for public transportation use.

31. PRE-AWARD & POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor shall comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 CFR part 663. Contractor shall comply with the Buy America certification(s) submitted with its offer. Contractor shall participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 CFR part 663 and related FTA guidance.

32. BUS TESTING

[These requirements apply to contracts for the purchase/lease of any bus model that is new or has any major change in configuration/components to be acquired/leased.]

Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, Contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the grantee.

33. ENVIRONMENTAL PROTECTIONS

Contractor shall comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

2. National Environmental Policy Act.

1. Contractor shall comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to: (a) federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139; (b) the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 et seq., as limited by 42 U.S.C. § 5159, and CEQ's implementing regulations 40 C.F.R. part 1500 – 1508; (c) joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. part 771 and 49 C.F.R. part 622; (d) Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note; and (e) other federal environmental protection laws, regulations, and requirements applicable to Contractor.
2. Contractor shall follow federal guidance to the extent that the guidance is consistent with applicable authorizing legislation, which may include: (a) joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013; (b) joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and (c) other federal environmental guidance applicable to the Contractor.
3. Environmental Justice. Contractor shall promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order; (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997; and (3) the most recent edition of FTA Circular 4703.1, "Environmental

Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

4. **Other Environmental Federal Laws.** Contractor shall comply or facilitate compliance with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to “Protection of Wetlands,” and Executive Order Nos. 11988 and 13690 relating to “Floodplain Management.”
5. **Use of Certain Public Lands.** Contractor shall comply with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as “section 4(f)), and joint FHWA and FTA regulations, “Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites,” 23 C.F.R. part 774, and referenced in 49 C.F.R. part 622.
6. **Historic Preservation.** Contractor shall comply with: (1) U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as “section 4(f)”), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places; (2) federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108; (3) the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 et seq.; (4) U.S. Advisory Council on Historic Preservation regulations, “Protection of Historic Properties,” 36 C.F.R. part 800; and (5) other federal requirements and federal guidance to avoid or mitigate adverse effects on historic properties.
7. **Indian Sacred Sites.** Contractor shall facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, “Indian Sacred Sites,” May 24, 1996, 42 U.S.C. § 3161 note.

34. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT

[These requirements do not apply to contracts and subcontracts under \$150,000.]

Contractor shall ensure that it: (A) will not use any violating facilities; (B) will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;” (C) will report violations of use of prohibited facilities to FTA; and (D) will comply with the inspection and other requirements of the Clean Air Act, as amended (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387).

35. ENERGY CONSERVATION

Contractor shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §§ 6321 et seq.).

36. RECYCLED PRODUCTS (SOLID WASTES)

[These requirements apply to all contracts and subcontracts involving the purchase of items designated by the EPA (that contain the highest percentage of recovered materials practicable) in excess of \$10,000. See 40 C.F.R. part 247 for federal designation of items.]

Contractor shall provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 CFR part 247. The requirements of Section 6002 include: (A) procuring only items designated in guidelines of the U.S. EPA at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (B) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (C) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. INTELLECTUAL PROPERTY/PATENT RIGHTS & RIGHTS IN DATA

[These requirements apply to contracts for the performance of experimental, developmental, or research work.]

- A. This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an

- academic institution. For purposes of this Contract, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of “subject data” include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.
- B. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes”: (1) any subject data developed under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA. For “Federal Government Purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.
 - C. Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA’s license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
 - D. Unless prohibited by state law, upon request by the Federal Government, Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
 - E. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
 - F. Data developed by Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by

the Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.

G. Contractor shall include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

38. COMPLIANCE WITH NATIONAL ITS ARCHITECTURE POLICY

[These requirements apply only to contracts for National Intelligent Transportation System projects.]

Contractor shall conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and follow FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.

39. NTD REPORTING

As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must: (A) facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (NTD); (B) conform to the NTD reporting system and the Uniform System of Accounts and Records; (C) comply with FTA regulations, “Uniform System of Accounts and Records and Reporting System,” 49 CFR Part 630; (D) report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, “National Transit Database,” and applicable FTA instructions: (1) any information relating to a transit asset inventory or condition assessment; (2) any data on assaults on transit workers; (3) any data on fatalities that result from an impact with a bus; and (4) such other information as FTA may require; (E) comply with any other applicable reporting regulations, and requirements; and (F) follow FTA guidance.

40. TRAFFICKING IN PERSONS

Contractor and its subcontractors or their employees shall not: (A) engage in severe forms of trafficking in persons during the Contract Term; (B) procure a commercial sex act during the Contract Term; or (C) use forced labor in the performance of the Contract. Contractor shall inform AGENCY immediately of any information Contractor receives from any source alleging a violation of a prohibition in this section. AGENCY may terminate this Contract for any violation of this section; such right of termination is in addition to all other remedies for noncompliance that are available to the AGENCY.

41. PRIVACY ACT

Contractor agrees to: (A) comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C.

§ 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract; and (B) include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

42. SECTION 508 COMPLIANCE

Any reports or information that will be provided to DOT or any other Federal agency must comply with Section 508 of the Rehabilitation Act of 1973.

43. DBE REQUIREMENTS

The City and its partners strive to advance the economic growth of small businesses through its Disadvantaged Business Enterprise (DBE) Program.

The City of Porterville DBE Program is managed and administered by the City's Transportation Department. Through a coordinated effort among several city departments and partner agencies, the DBE Program provides certification and opportunities in construction, purchasing, management and technical assistance, educational services, and networking.

A. General Requirements

1. **Applicable Federal Regulations.** This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, Joint Venture, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.
2. **DBE Participation.** For this solicitation, the Agency *has not* established a race- or gender-conscious DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for business. The Agency uses race- and gender-neutral measures to facilitate participation by DBEs and Small Businesses. The Agency encourages each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.

3. **Small Business Participation.** The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).
4. **DBE Certification.** Only firms (1) certified by the Agency or another CAUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from race- and gender-neutral (RGN) measures on this Contract. This DBE determination affects the Agency's tracking and reporting obligations to USDOT.
5. **Civil Rights Assurances.** As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance verbatim:

“The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Porterville deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible.”

Note: For purposes of the required Contract and Subcontract language above, Successful Submitter is the “contractor” awarded the contract.

6. **Subcontracts.** If subcontracts will be let under this Contract, Contractor shall take the affirmative steps listed in 2 C.F.R. 200.321, which addresses contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

Exhibit A – Required Forms

Form A

ADDENDUM RECEIPT

The Proposer acknowledges it has received and read the following Addenda:

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form B

DEBARMENT AND SUSPENSION CERTIFICATION

This certification does not apply to contracts and subcontracts under \$25,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

Check one box below (and provide explanation if necessary):

☐ The Proposer certifies that the Proposer and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any federal department or agency;
2. Have not, within the preceding three years, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense described in Paragraph 2 of this certification;
4. Have not, within the preceding three years, had one or more public transactions (federal, state, or local) terminated for cause or default.

- OR -

☐ The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In the explanation, the Proposer must certify to those statements that can be certified and explain why the other statements cannot be certified.)

The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form C

BUY AMERICA CERTIFICATION

This certification applies to contracts over \$150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

If this Offer is valued in excess of \$150,000 and involves the procurement of steel, iron, or manufactured products (as defined in 49 CFR §§ 661.3 and 661.5), the Proposer hereby certifies that it:

☐ Will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 CFR part 661;

OR

☐ Cannot comply the requirements of 49 U.S.C. § 5323(j) (and 49 CFR part 661) but may qualify for an exception to the requirements pursuant to 49 U.S.C. § 5323(j)(2), as amended, and the applicable regulations in 49 CFR § 661.7.

If this Offer is valued in excess of \$150,000 and involves the procurement of buses or other rolling stock (including associated equipment), the Proposer hereby certifies that it:

☐ Will comply with the requirements of 49 U.S.C. § 5323(j) and the applicable regulations of 49 CFR § 661.11;

OR

☐ Cannot comply with the requirements of 49 § U.S.C. 5323(j) (and 49 CFR § 661.11), but may qualify for an exception to the requirements consistent with 49 U.S.C. § 5323(j)(2)(C), as amended, and the applicable regulations in 49 CFR § 661.7.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form D

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF CALIFORNIA

COUNTY OF _____

_____ declares and says:

1. That he/she is the (owner, partner, representative, or agent) of _____, hereinafter referred to as (CONTRACTOR) or (subcontractor).
2. That he/she is fully informed regarding the preparation and contents of this proposal for certain work in the City of Porterville, State of California.
3. That his/her proposal is genuine and is not collusive or a sham proposal.
4. That any of its officers, owners, agents, representatives, employees, or parties in interest, including this affiliate, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer, firm, or person to submit a collusive or sham proposal in connection with such contract or to refrain to submitting a proposal in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful Contract or connivance with any other proposer, firm, or person to fix the price or prices in said proposal, or to secure through collusion, conspiracy, connivance, or unlawful Contract any advantage against the City of Porterville or any person interested in the proposed contract; and,
5. That the price or prices quoted in the proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful Contract on the part of the proposer or any of its agents, owners, representatives, employees, or parties in interest, including this affiliate.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

This certification does not apply to contracts and subcontracts under \$100,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an 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.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form F

TAX LIABILITY CERTIFICATION

This certificate applies to all contracts. Offers that do not include this completed certification will be rejected as nonresponsive.

The Proposer certifies that:

1. It has no 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;
2. It has not been convicted of a felony criminal violation under any federal law within the preceding 24 months; and
3. It shall require that the language of this certification be included in the award documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form G

ACKNOWLEDGEMENT OF “BEST VALUE” SELECTION PROCESS

PROPOSER hereby acknowledges that the selection process under this RFP will evaluate Proposals on a “Best Value” basis, which the Federal Transit Administration’s (FTA) Best Practices Manual defines as follows:

“Best Value” is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.

As a result, PROPOSER further acknowledges that pricing will not be the sole basis upon which Proposals are evaluated.

An individual authorized to bind the PROPOSER to this Agreement must sign below acknowledging and understanding of the foregoing.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Exhibit B – Sample General Services Agreement

CITY OF PORTERVILLE GENERAL SERVICES AGREEMENT WITH *[insert full name of Contractor and Project Name and/or number]*

This General Services Agreement (Agreement) is entered into between the City of Porterville, a municipal corporation (**City**), and _____ [complete name of legal business entity], a _____ [business status, such as a California corporation] (**Contractor**). City and Contractor are referred to individually as “Party” and collectively as “Parties.”

Recitals

- A. City desires to retain Contractor to complete a XXXXXXXXXX Project (Project); and
- B. On XXXXXXXX, the City issued a Request for Proposals (RFP) for the XXXXXXXXXX (Project). On XXXXXXXX, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the goods and services.
- C. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.
- D. This Agreement is being executed pursuant to Resolution No. _____-2024 approved by the Porterville City Council on _____, 2024.

Now therefore, the Parties mutually agree as follows:

1. **Scope of Work.** Contractor shall provide the goods and services required to complete the Project, described in Exhibit “A” attached hereto and incorporated herein by reference. The goods and services shall be performed by, or under the direct supervision of, Contractor’s Authorized Representative: _____. Contractor shall not replace its Authorized Representative, nor shall Contractor use or replace any subcontractor or subcontractor, without City’s prior written consent. The City may terminate this Agreement if Contractor makes any such change or replacement, or uses any unapproved subcontractor or subcontractor.
2. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit “A.” Any services for which times for performance are not specified in this Agreement shall be started and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all

requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1. Term. The Term of this Agreement shall begin on _____ and end on _____, unless terminated in accordance with Section 6.

3. Compensation. City shall pay Contractor on a lump sum basis, at the billing rate set forth in Exhibit “C”, attached hereto and incorporated herein by this reference for goods and services performed under this Agreement.

3.1. Not to Exceed Amount. Contractor’s total compensation under this Agreement shall not exceed \$ _____. Contractor’s billing rates shall cover all costs and expenses for Contractor’s performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City’s prior written approval. Notwithstanding anything contained herein to the contrary, the payment of any funds under this Agreement shall be subject to the City of Porterville’s appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

3.2. Invoices. Contractor shall submit monthly invoice(s) to the City that describe the goods and services performed, including times, dates, and names of persons performing the services.

3.2.1. Contractor’s failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Contractor.

3.3. Payment. Subject to the City acceptance of the Services as discussed in Exhibit A attached hereto and completion of the Project to the City’s satisfaction, within 30 days after the City’s receipt of invoice(s), City shall make payment to the Contractor based upon the services described on the invoice(s).

3.4. The acceptance by Contractor of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Contractor for anything completed, finished or relating to Contractor’s services. Contractor agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Contractor or its employees, subcontractors, agents and subcontractors for the accuracy and competency of the information provided and/or services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Contractor, its employees, subcontractors, agents and subcontractors.

3.5. Contractor agrees to maintain books, accounts, payroll records and other information relating to the performance of Contractor’s obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Contractor in the

performance of Contractor's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

- 4. Indemnification.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In the event there is a finding and/or determination that Contractor is not an independent contractor and/or is an employee of City, including but not limited to any such finding and/or determination made by the California Public Employees' Retirement System (CalPERS), the Department of Industrial Relations (DIR), or the Internal Revenue Service (IRS), Contractor shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from and against any all claims relating to or in connection with such a finding and/or determination.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Contractor" means the Contractor, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

Contractor and City mutually waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

The provisions of this section survive completion of the services or the termination of this Agreement, and are not limited by the provisions of Section 5 relating to insurance.

- 1. Insurance.** Contractor shall, throughout the duration of this Agreement, maintain insurance to cover Contractor, its agents, representative, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

- 1.1. Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$4,000,000 general aggregate and \$2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

- 1.2. Automobile Liability** (with coverage at least as broad as ISO CA 00 01 07 097, for “any auto”) “claims made” coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 1.3. Workers’ Compensation** coverage shall be maintained as required by the State of California.
- 1.4. Professional Liability** “claims made” coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than \$1,000,000 per claim.
- 1.5. Endorsements.** Contractor shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
- 1.5.1.** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 1.5.2.** For any claims related to this Agreement, Contractor’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor’s insurance and shall not contribute with it.
- 1.6. Notice of Cancellation.** Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.
- 1.7. Authorized Insurers.** All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 1.8. Insurance Certificate.** Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.
- 1.9. Substitute Certificates.** Contractor shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.
- 1.10. Contractor’s Obligation.** Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Contractor may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

2. **Termination.** The City may terminate this Agreement in its sole and absolute discretion by giving ten (10) days' written notice to Contractor. Within five (5) days of such a termination, Contractor shall give the City all original documents relating to the Services in Contractor's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Contractor pursuant to this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
3. **Dispute Resolution.** If any dispute arises between the City and Contractor that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:
 - 3.1. Each Party shall designate a senior management or executive level representative to negotiate the dispute.
 - 3.2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority,
 - 3.3. If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiations between legal counsel. If the aforementioned process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
 - 3.4. The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person to serve as the mediator, shall be commenced within thirty (30) days of selection of a mediator, and shall be concluded within fifteen (15) days from the commencement of the mediation.
 - 3.5. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
 - 3.6. The dispute resolution process is a material condition of this Agreement and must be exhausted prior to either Party initiating legal action. This dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.
4. **Labor Code Compliance.** Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

5. **Rates.** These prevailing wage rates are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.
6. **Registration with DIR.** Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5
7. **Monitoring.** This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.
8. **Ownership of Work.** All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's Services, upon termination of this Agreement, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.
9. **Independent Contractor Status.** Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.
10. **Conflicts of Interest.** Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.
11. **Rebates, Kickbacks, or Other Unlawful Consideration.** Contractor warrants this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; to deduct from the contract price the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.
12. **Notices.** All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after

the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

City of Porterville
Transportation Department
291 N. Main Street
Porterville, CA 93257

To Contractor

13. Miscellaneous

13.1. Standard of Care. Unless otherwise specified in this Agreement, the standard of care applicable to Contractor's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

13.2. Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

13.3. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. No waiver shall be effective unless it is in writing and signed by the waiving party.

13.4. Assignment and Delegation. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's prior written consent. Any attempt to do so will void. City's consent to one assignment, transfer or delegation shall not be deemed to be consent to any subsequent assignment, transfer or delegation.

13.5. Jurisdiction and Venue. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Tulare.

13.6. Compliance with Law. Contractor shall comply with all applicable local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

13.6.1. Hazardous Materials. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.

13.6.2. Non-discrimination. Contractor represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, color, national origin,

handicap, ancestry, sex or age. Contractor shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.)

- 13.7. Business Entity Status.** Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters this Agreement, City may take steps to have this Agreement declared voidable.
- 13.8. Business License.** Before the City signs this Agreement, Contractor shall obtain a City of Porterville Business License. Contractor shall maintain an active City of Porterville Business License during the term of this Agreement.
- 13.9. Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.
- 13.10. Construction of Agreement.** Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.
- 13.11. Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.
- 13.12. Controlling Provisions.** In the case of any conflict between the terms of this Agreement and Exhibits hereto, and Contractor's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's proposal (if any), the Exhibits shall control.
- 13.13. Entire Agreement.** This Agreement and the Attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.
- 13.14. Counterparts.** City and Contractor agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.
- 13.15. Expenses for Enforcement.** Contractor and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

14. Signatures. The individuals executing this Agreement on behalf of Contractor represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Contractor.

The Parties agree to the full performance of these terms set forth here.

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

Contractor

By: Martha A. Flores

By: _____

Title: Mayor

Title: _____

Date: _____

Date: _____

Federal Employer Tax ID No. _____

Signature: _____

Signature: _____

Attest:

Patrice Hildreth, City Clerk

Approved as to form:

Julia M. Lew, City Attorney

Exhibits:

- A. RFP No.XXX XXXXXXXXXXXXX
- B. Contractor Proposal
- C. Compensation



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Authorization to Distribute a Request for Proposals for Two Mini Side Loading Refuse Trucks

SOURCE: Public Works

COMMENT: The City's current transit operations include servicing trash receptacles at 150 transit bus stops and the downtown transit center. These receptacles often require frequent servicing due to high usage, particularly in areas with heavy pedestrian traffic and high ridership. In the past, this task was either performed using larger refuse trucks or using pickup trucks and trailers.

To improve efficiency and reduce operational costs, the Transportation Department proposes the acquisition of two mini refuse trucks specifically designed for servicing smaller trash receptacles. These smaller, more maneuverable trucks will allow for easier access to bus stop areas, reduce fuel consumption, and minimize the impact on city streets.

The proposed RFP will seek vendors who can supply mini refuse trucks that meet the city's operational requirements. The RFP will include specifications for the trucks, including size, capacity, fuel efficiency, and durability. Proposals will be evaluated based on cost and compliance with the City's specifications.

The Independent Cost Estimate (ICE) for the project is \$400,000. Funding is sourced from a Federal Transit Administration (FTA) grant amounting to \$320,000. A local match of \$80,000 is required, which will be covered by Local Transportation Funds (LTF). These funds have been appropriated in the FY 2024-2025 Budget. The negotiated contract will be presented to the Council for final approval.

RECOMMENDATION: That the City Council:

1. Approve the draft Request for Proposals;
2. Authorize staff to advertise for proposals on the project; and
3. Authorize staff to negotiate with the most responsive and responsible Proposer who has demonstrated the ability to perform the project in an acceptable manner and is most advantageous to the City.

ATTACHMENTS: 1. Draft Request for Proposals - Mini Side Load Refuse Truck

Appropriated/Funded:

Review By:

Department Director:
Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager



**CITY OF PORTERVILLE
REQUEST FOR PROPOSAL RFP No. XXXXX
TWO (2) MINI AUTO SIDE LOAD REFUSE TRUCK**



August 27, 2024

The City of Porterville does not discriminate on the basis of race, gender, ethnicity, age, national origin, religion or disability in its employment opportunities, programs, services, contracting opportunities or activities. It is the City's policy to ensure compliance with the Title VI of the Civil Rights Act of 1964 in its contracting opportunities.

The project is funded in part by the Federal Transit Administration Catalog of Federal Domestic Assistance (CFDA) 20.500 and 20.507. The City of Porterville reserves the right to reject any or all proposals.



**CITY OF PORTERVILLE, CALIFORNIA
REQUEST FOR PROPOSALS (RFP) NO. XXXXX
TWO (2) MINI AUTO SIDE LOAD REFUSE TRUCK**

SEALED PROPOSALS will be received by the Transportation Department located at 291 N. Main Street, Porterville, CA 93257, until 2:00 P.M. on Thursday, September 26, 2024, for the Contract to provide two (2) complete mini auto aide load refuse trucks.

A mandatory site visit is NOT REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us.

This contract is federally funded and as such, the Federal Requirements associated with the performance of services under this contract have been included with this RFP. The awarded Proposer will be responsible for adherence to all local, state, and federal requirements listed herein. These requirements are hereby incorporated into the subsequent contract arising from this RFP.

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. All addenda and correspondence during the process will be handled electronically through the Public Purchase website.

The City has not established a DBE goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract. The City of Porterville overall DBE goal is 1% of total contracts (including subcontracts) awarded.

The City hereby affirmatively ensures that Minority Business Enterprises and Disadvantaged Business Enterprises (DBE) will be afforded the full opportunity to submit proposals in response to this notice. Individuals and/or entities submitting bids/proposals to the City of Porterville will not be discriminated against on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, gender, gender identity or expression, age, sexual orientation, or military or veteran status in any consideration leading to the award of contract.

The right is reserved by the City of Porterville to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted and to award the contract according to the proposal which best serves the interests of said City.

Publication Dates:

August 27, 2024

Table of Contents

Section I - Instructions	4
Section II – Standard Terms and Conditions.....	14
Section III – Special Terms and Conditions	25
Section IV – Insurance and Indemnification.....	34
Section V - SCOPE OF WORK.....	38
Section VI – Federal Transit Administration (FTA) Terms and Conditions	41
Exhibit A – Required Forms.....	66
Exhibit B – Sample General Services Agreement.....	73
Attachment 1	82

Section I - Instructions

RFP/Agreement Schedule

Event	Date of Event
RFP Available to the public	August 27, 2024
Required Site Tour	N/A
Deadline to submit questions	September 5, 2024
Proposal submittal deadline @ 2:00 pm PST	September 26, 2024
Short list established and vendors notified	October 3, 2024
Interviews/Presentation with short-listed vendors (if required)	N/A
Award of Contract @ City Council Meeting	October 15, 2024
Contract Begins	November 1, 2024

City's Vendor Self-Registration and Notification

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. No proposal shall be received from an individual or firm that has not accessed the proposal documents from the Public Purchase website. All addenda and correspondence during the process will be handled electronically through the Public Purchase website. Questions regarding this request for proposals must be submitted through the Public Purchase website.

Background

The City of Porterville ("CITY") is located in Tulare County, which is part of the Central San Joaquin Valley of California. The San Joaquin Valley is a rich agricultural area and Tulare County is recognized as the largest agricultural-producing county in the world.

Porterville has a land area of approximately 14.3 square miles (9,161 acres), situated at the base of the foothills of the Sierra Nevada Mountain Range. It is approximately 30 miles southeast of Visalia (the County seat); 60 miles northeast of Bakersfield, 165 miles northeast of Los Angeles, and 254 miles southeast of San Francisco. State Routes 65 and 190 bisect the community.

The Porterville City Council is the policy-making body for the City of Porterville's Transportation Department. It adopts the Short-Range Transit Plan, and through the annual budgetary process, establishes operational and funding levels for the system. The City Council also sets operational policies and parameters.

Management of the City's public transportation system, referred to as Porterville Transit, is an integrated function of the City of Porterville. The Transportation department is responsible for the overall management of the service. The City is also responsible for the maintenance of the transit fleet, through its Field Services Division.

The City outsources, to a private contractor, to perform daily operations of Porterville Transit. The Director of Transportation is responsible for the overall administration, planning, monitoring, and

marketing of the system. The Director of Transportation also acts as a liaison to the Tulare County Association of Governments (TCAG), the California Department of Transportation (Caltrans) and the Federal Transit Administration (FTA). The contracted local General Manager is responsible for the day-to-day operations management; the hiring, testing, training and supervision of all drivers and dispatch staff; fare collection; reporting; ridership data collection; and the operation of Porterville Transit vehicles in accordance with City policy and all State and Federal regulations. The County of Tulare contracts with the City of Porterville to provide transit service to unincorporated areas surrounding Porterville. The County reimburses the City for service provided to County residents using Local Transportation Funds (LTF).

Porterville Transit provides an array of transportation services in the form of fixed route bus services, ADA complementary paratransit, and innovative On-Demand services.

Preparation of Offer

1. Any person (“Proposer”) submitting a Proposal (“Proposal”) in response to this Request for Proposals (“RFP”) shall examine the Scope of Work carefully and be informed thoroughly regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract to be awarded under this RFP (the “Contract”). No allowances shall be made because of lack of knowledge of any specifications, conditions, or requirements of this RFP.
2. All forms provided must be completed and submitted with your Proposal.
3. It is permissible to copy submittal forms if necessary. Erasures, interlineations, or other modifications of the Proposal must be initialed in original ink by the authorized person signing the offer. No Proposal will be altered, amended, or withdrawn after the specified offer due date and time. The City is not responsible for Proposer’s errors or omissions.
4. All time periods stated as a number of days will be calendar days.
5. It is the responsibility of all Proposers to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a Proposal. Negligence in preparing a Proposal confers no right of withdrawal after due date and time. Proposers are strongly encouraged to:
 - 1) Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
 - 2) Study and carefully correlate Proposer’s knowledge and observations with the RFP document and other related data.

- 3) Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which a proposer has discovered in or between the RFP document and such other related documents.
- 4) The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Proposer is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.
- 5) Proposers are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Proposals offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
- 6) Proposers' responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products proposed. Proposals submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.
- 7) Prices shall be submitted on a per unit basis by line item, when applicable. Failure to submit any unit pricing will be sufficient grounds for the City to consider the proposal to be non-responsive. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

Exceptions

Proposer must not take any exceptions to any terms, conditions or material requirements of this solicitation. Proposals submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Proposals must conform to all the requirements specified in the solicitation. The City encourages Proposers to send inquiries to the procurement officer rather than including exceptions in their Proposal.

Communications to City

All questions pertaining to this RFP, or any matters relating thereto the Scope of Work, or any questions pertaining to the RFP or RFP documents, shall be in writing and shall be submitted only through the Public Purchase website. Communications sent to any other person at the City or at any other address may, in the City's sole discretion, be deemed to be "non-responsive" and the

City in its discretion may elect to disregard any such questions. The City shall not respond to oral inquiries, and oral statements of any nature by the City or any of its representatives may not be relied upon for any purpose whatsoever.

Addenda

The City of Porterville will not be responsible for any oral instructions made by any employees or officers of the City of Porterville regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal.

Business in California

The City will not enter contracts with Proposers (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of California, unless the proposer asserts a statutory exception prior to entering a contract with the City.

Licenses

If required by law for the operation of the business or work related to this Proposal, Proposer must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

Certification

By signing the Proposal, proposer certifies:

- The Proposer's submission of the Proposal did not involve collusion or other anti-competitive practices
- The Proposer shall not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The Proposer has not given, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

Minimum Qualifications

- Proposer must have been in operation a minimum of five years.

Certificates of Insurance

Upon notification of a recommended award, the Proposer will have 14 calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

Award of Contract

Unless otherwise indicated, award(s) will be made to the most responsive and responsible Proposer whose proposal, in the sole and absolute discretion of City, for providing the goods and/or services contained in this solicitation, who have demonstrated the ability to perform in an acceptable manner, and is most advantageous to the City.

Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

A response to a solicitation is a Proposal to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Proposals do not become contracts until they are executed by the Mayor. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

Solicitation Transparency Policy

Commencing on the date and time a solicitation is published, potential or actual proposers or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under California Statutes, until the resulting contract(s) are awarded to all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation.

As long as the solicitation is not discussed, Proposers may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff. Proposers may not discuss the solicitation with any City employees or evaluation panel members.

Proposers may discuss their proposal or the solicitation with the Mayor or one or more members of the Porterville City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

With respect to the selection of the successful Proposals, the City Manager will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.

This policy is intended to create a level playing field for all Proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. PROPOSERS THAT

VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Proposer may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

“To discuss” means any contact by the Proposer, regardless of whether the City responds to the contact. Proposers that violate this policy will be disqualified until the resulting contract(s) are awarded, or all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City’s intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

Protest Process

In the event any person wishes to file a Protest regarding this RFP, such Protest shall be made in accordance with City’s FTA Procurement and Contract Administration Manual (which is available at www.ci.porterville.ca.us), the terms of which are hereby included herein by this reference. The City reserves the right to modify the terms of the protest procedure if it determines that such modification is in its best interest. Should there be any dispute between the City’s FTA Procurement and Contract Administration Manual and the provisions of this Section, the City in its discretion shall determine which provision governs.

By way of background, all Proposers understand and agree that the procurement process undertaken by virtue of this RFP is solely for the benefit of the City, and it is for the City to determine in its discretion which Proposal the City desires to accept. The City has provided for a Protest procedure not to grant any rights to any particular Proposer but, rather, to provide the City the opportunity to review and examine any information regarding any Proposal which it may not have fully evaluated. Thus, no Proposer has any legal right in connection with any Protest Proceeding and the City may, in its discretion, determine whether or not to reject any Protest.

In the event a Protest is rejected, the Proposer may appeal the rejection as set forth in the City’s FTA Procurement and Administration Manual or herein but, again, said appeal shall be decided by the City based upon what it determines to be in its best interest. As such, legal concepts (such as the California or Federal Rules of Civil Procedure and the Judicial Rules of Evidence) and other matters which may be applicable to judicial or other proceedings are not applicable to a Protest in accordance with the City’s FTA Procurement and Contract Administration Manual. In addition, the appeal process set forth in the City’s FTA Procurement and Contract Administration Manual is exclusive and upon the exhaustion of the appeal, no further appeal may be taken, or separate suit filed against the City.

By virtue of submitting its Proposal, any Protesting Party expressly agrees that its remedies are exclusively limited to the City’s Protest procedure set forth in the City’s FTA Procurement and Contract Administration Manual (as the same may be modified hereby) and that there shall be no appeal or litigation resulting from the final award of any Contract by the City. The foregoing is a material consideration in the consideration by the City of any Proposal.

Public Record

All Proposals submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to California State law. If a Proposer believes that a specific section of its Proposal response is confidential, the Proposer will isolate the pages marked confidential in a specific and clearly labeled section of its Proposal response. A Proposer may request specific information contained within its Proposal is treated by the Procurement Officer as confidential provided the Proposer clearly labels the information “confidential.” To the extent necessary for the evaluation process, information marked as “confidential” will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Proposers as “confidential” available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Proposer in writing of any request to view any portion of its Proposal marked “confidential.” The Proposer will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Proposer does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

Right to Disqualify

The City reserves the right to disqualify any Proposer who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Proposer on the basis of any real or apparent conflict of interest that is disclosed by the Proposer submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Proposer waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City of Porterville or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Proposer.

Late Proposals

Late Proposals must be rejected, except for good cause. If a late Proposal is submitted, the Department will document the date and time of the submittal of the late Proposal, keep the Proposal and notify the Proposer that its Proposal was disqualified for being late.

Pre-Bid Meeting

A mandatory site visit is NOT REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us.

Contract Award

The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple award contracts.

Determining Responsiveness and Responsibility

Proposals will be reviewed for documentation of any required minimum qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

Responsiveness: Nonresponsive Proposals will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Proposals will render a Proposal nonresponsive.

Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and a Proposal that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Proposer remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so in writing, the City may determine the Proposal to be nonresponsive.

Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by Contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Proposer be a responsible contractor. Responsibility includes the Proposer's integrity, compliance with public policy, skill, capacity, experience, record of past performance, financial and technical resources, and facilities for conducting the work to be performed.

The Procurement Officer will review each Proposal to determine if the Proposer is responsible. The City's determination as to whether an Proposer is responsible will be based on all information furnished by the Proposer, interviews (if any), any information at the City's request and information received from Proposer's references, including information about Proposer's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Proposer agrees to permit by submitting its Proposal, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

The Proposer's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Proposal.

Clarifications

The City may request written clarifications for such purposes as information gathering or eliminating minor irregularities in offers. Clarifications shall not otherwise afford the Offerors the opportunity to alter or change their offers.

Detailed Evaluation of Proposals and Determination of Competitive Range

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Proposer's rankings and which Proposals are within the Competitive Range, when appropriate.

Proposals Not Within The Competitive Range

The City may notify Proposers of Proposals that the City determined are not in the Competitive Range.

Discussions With Proposers In The Competitive Range

The City will notify each Proposer whose Proposal is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Proposer. Each Proposer so notified may be interviewed by the City and asked to discuss answers to written or oral questions or provide clarifications to any facet of its Proposal. The Proposers in the competitive range may be required to provide a demonstration of their product.

Demonstrations - Proposers in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City of Porterville. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

If a Proposal in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation Scope requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Proposer to remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so, the City may determine the Proposal is nonresponsive, and the City may revoke its determination that the Proposer is in the Competitive Range.

To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Proposer about other Proposals received in response to this solicitation. During discussions with Proposers in the Competitive Range, the City will not give Proposers specific prices or specific financial requirements that Proposers must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace

or otherwise unacceptable. Proposers will not be told of their relative rankings before Contract award.

Best and Final Offers (BAFO)

A BAFO is an option available for negotiations. Each Proposer in the Competitive Range, which is determined in the City's sole discretion, may be afforded the opportunity to amend its Proposal and make one BAFO.

If a Proposer's BAFO modifies its initial offer, the BAFO should include a "Change Log" identifying all modifications made to the Proposal. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Proposals. The City will adjust appropriately, at its sole discretion, the initial scores for criteria that have been affected by Proposal modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.

The Evaluation Panel will recommend the Proposal that is the most advantageous to the City based on the evaluation criteria.

The City reserves the right to make an award to a Proposer whose Proposal is the highest rated and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.

Section II – Standard Terms and Conditions

Contract Interpretation

Applicable Law

This Contract will be governed by the law of the State of California, and suits pertaining to this Contract will be brought only in Federal or State courts in Tulare County, State of California.

Contract Order Of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:

- Federal Terms and Conditions
- Special Terms and Conditions
- Standard Terms and Conditions
- Amendments
- Scope of Work
- Specifications
- Attachments
- Exhibits
- Instructions to Contractors
- Other documents referenced or included in the RFP

Organization – Employment Disclaimer

The Agreement resulting hereunder is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons and will save and hold the City harmless with respect thereto.

Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

Non-Waiver of Liability

The City of Porterville as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable California law.

Parol Evidence

This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

Contract Administration and Operation

Records

All books, accounts, reports, files, and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Porterville office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.

Discrimination Prohibited

Any Contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The Contractor will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts.

Equal Employment Opportunity and Pay

For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts.

For a Contractor with more than 35 employees: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

Documentation: Contractors may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

Monitoring: The City shall monitor the employment policies and practices of Contractors subject to this article as deemed necessary. The City is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

Health, Environmental and Safety Requirements

The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City.

At the request of City representatives, the Contractor will provide the City:

- Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.
- A list of all federal, state, or local (EPA, OSHA, Tulare County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this Agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).

Compliance With Laws

Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance.

Because the Contractor will be acting as an independent Contractor, the City assumes no responsibility for the Contractor's acts.

Continuation During Disputes

Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by a California Court of competent jurisdiction.

Emergency Purchases

The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

Costs and Payments

General

Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Proposal.

Payment Deduction Offset Provision

Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.

Late Submission of Claim By Contractor

The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.

Discounts

Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.

No Advance Payment

Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.

Fund Appropriation Contingency

The Contractor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Contractor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.

Maximum Prices

The City will not be invoiced at prices higher than those stated in any contract resulting from this Proposal. Contractor certifies, by signing this Proposal that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Proposal and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.

F.O.B Point

All prices are to be quoted F.O.B. destination, unless specified elsewhere in this solicitation.

Contract Changes

Contract Amendments

Contracts will be modified only by a written contract amendment signed persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

Assignment – Delegation

No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

Non-Exclusive Contract

Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source when necessary.

Risk of Loss and Liability

Title and Risk of Loss

The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.

Acceptance

All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.

Force Majeure

Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

Loss of Materials

The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the project manager.

Contract Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.

The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.

Damage to City Property

Contractor will perform all work so that no damage to the building or grounds results. Contractor will repair any damage caused to the satisfaction of the City at no cost to the City.

Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and finish to match existing material as approved by the City at Contractor's expense.

City's Contractual Rights

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made, and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Non-Exclusive Remedies

The rights and remedies of the City under this Contract are non-exclusive.

Default In One Installment To Constitute Breach

Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

On Time Delivery

Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

Default

In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.

Covenant Against Contingent Fees

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

Cost Justification

In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Proposal price is fair and reasonable.

Work Product, Equipment and Materials

All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

Contract Termination

Gratuities

The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

Conditions and Causes for Termination

This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Contractor will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.

The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
- In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
- Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

State and Local Sales and Use Taxes

In accordance with applicable state and local law, sales and use taxes may be applicable to this transaction. The state and local sales and use tax burden and legal liability to remit taxes are on the vendor that is conducting business in California and the City of Porterville. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or

application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. Once your proposal is submitted, the Proposal is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

Tax Indemnification

Contractor shall, and require the same of all subcontractors, pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require the same of all subcontractors, hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including sales and use taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

Tax Responsibility Qualifications

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of California for any License or Sales taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in California statutes relative to State Sales and Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the California State Department of Revenue to release tax information relative to California Sales and Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

Russia Sanctions

Executive Order N-6-22 – Russia Sanctions. On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. By submitting a bid or proposal, Contractor represents that it is not a target of Economic Sanctions. Should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, which shall be grounds for rejection of the Contractor's bid/proposal any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination by the State.

Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The City may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to

prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.
- Ability to take regular and necessary breaks as needed and additional breaks for hydration.
- Access to shaded areas and/or air conditioning.
- Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.
- Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.
- Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures, and how to report heat illness and injury to emergency medical personnel.

The Contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the Contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the Contractor to ensure compliance by its subcontractors.

Section III – Special Terms and Conditions

Term of Contract and Option To Extend

The Contract shall commence on the date both the City and Contractor execute the Agreement (“Contract’s start date”), and end when the City Council accepts the project as completed (“Contract’s end date”).

Post Award Conference

A post award conference may be held by the City prior to commencement of any work. Contractor will be required to attend. The purpose of this conference would be to discuss critical elements of the work schedule, operational problems, the transition plan and procedures.

Estimated Quantities

Quantities listed are the City’s best estimate and do not obligate the City to order or accept more than City’s actual requirements during the period of this Contract, as determined by actual needs. It is expressly understood and agreed that the Contract is to supply the City with its complete actual requirement for the Contract period.

Authorized Changes

The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within sixty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the City Council prior to the institution of the change

Alteration In Character Of Work

No changes in the scope, character, or complexity of work may be made by Contractor without first receiving approval by contract amendment properly defining and limiting the change. The City will not pay any claim for extra work done or materials furnished by Contractor except as provided in this Contract, and Contractor may not do any work or furnish any materials not covered by this Contract unless first approved by the City through contract amendment. Any such work or materials furnished by Contractor without prior contract amendment is Contractor’s sole risk, cost, and expense, and Contractor may not make any claim for compensation for any such work or materials.

Method Of Invoicing And Payment

The CITY will compensate Contractor for satisfactory and complete performance of work under the Contract at the prices set forth in the Contract, with no additional charges for equipment, supplies, overhead, travel or administrative support.

Contractor shall be paid monthly in arrears. On or before the 10th day of each calendar month, Contractor shall submit one (1) invoice to the City for services provided during the previous month and each invoice shall contain the date, contract number, supporting documentation, and invoice amount. Advance payments are not authorized. Payment may only be made for actual goods and/or services that have been received, less liquidated damages.

The invoice must contain the associated purchase order number on the invoice itself and must be free of mathematical errors and/or missing supporting documentation. Upon finding an error and/or missing documentation, the City will return the invoice to Contractor. Contractor shall promptly resubmit the revised invoice to the City. Failure to identify an error does not waive any of the City's rights. The City shall make every effort to process payment for the purchase of services within 45 calendar days after receipt and approval of a correct invoice.

Any prompt payment discounts offered must be clearly noted by Contractor on all invoices submitted to the City. Monthly invoice must be sent for review to the City's Project Manager. The City shall notify the Contractor if the invoice has been approved or if it requires additional documentation and/or correction.

Following invoice approval, Contractor will email the invoice in PDF format to ap@ci.porterville.ca.us, copying the City's Project Manager. Each PDF attachment will contain only one invoice, although multiple PDFs may accompany an email. The email will be in plain text format free of any signatures or images (jpeg, bmp, etc.).

A "remit to" address must also be on the invoice and must match the address on file with the City. Any changes to the remit to address must be updated by the vendor.

Key Personnel

Contractor shall maintain the Key Personnel identified in its proposal for a minimum of 24 months from the "Effective Date" of contract award by City Council unless they are no longer employed by Contractor. Contractor shall notify the City in writing prior to removing, reassigning, or appointing an individual from or to any Key Personnel position whether in an acting or permanent capacity. For all Key Personnel, Contractor shall fill vacancies with City approval within 45 calendar days of the vacancy, unless otherwise approved by the City in writing. All of Contractor's Key Personnel shall be assigned full-time (a minimum of 40 hours per week) to this project, unless otherwise approved in writing by the City. In the event one or more of Contractor's Key Personnel is permanently replaced, Contractor shall notify the City in writing at least 72 hours prior to the replacement date and time. The replacement personnel shall be subject to the City's prior approval in writing.

Strict Performance

Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

Performance Interference

Contractor shall notify the City's Project Manager immediately of any occurrence and/or condition that threatens to interfere with the full performance of the contract and confirm it in writing within 24 hours.

Unsatisfactory Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the Scope of Work, or elsewhere in this Contract. The City shall decide all questions as to the quality and acceptability of any work performed under the Contract as monitored and documented by the City. If, in the opinion of the City, performance becomes unsatisfactory, the City shall notify Contractor. Contractor shall have a reasonable time to cure the unsatisfactory performance.

If the unsatisfactory performance is not cured within the time specified, the City may immediately correct or complete the work to its satisfaction and deduct the associated costs from any balances due or to become due to Contractor. Contractor will be liable for difference between cost to the City to complete the Work with other forces and the cost to the City for completion of the Work by Contractor per the contract. Repeated incidences of unsatisfactory performance may result in cancellation of the Contract for default.

Employee Identification and Facility Access

Only authorized Contractor employees are allowed on the premises of City facilities. Contractor employees are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor or subcontractor employee.

Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the "Effective Date" of contract award by City Council, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential

Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Contract; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Contract; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Contract. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.

Upon the City's written request or expiration of this Contract, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.

If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Data Protection

The parties agree this Section shall apply to the City's Confidential Information and all categories of legally protected personally identifiable information (collectively "PII") that Contractor processes pursuant to the Contract. "Personally identifiable information" is defined as in the Federal Privacy Council's Glossary available at: fpc.gov/resources/glossary.

As between the parties, the City is the data controller and owner of PII and Contractor is a data processor. In this Section, the term “process,” “processing,” or its other variants shall mean: an operation or set of operations which is performed on PII, whether or not by automated means, including without limitation: collection, recording, copying, analyzing, caching, organizing, structuring, storage, adaptation, alteration, retrieval, transmission, dissemination, alignment, combination, restriction, erasure, or destruction.

When Contractor processes PII pursuant to the Contract, Contractor shall, at no additional cost to the City:

- (1) process PII only within the United States and only in accordance with the Contract and not for Contractor’s own purposes, including product research, product development, marketing, or commercial data mining, even if the City’s data has been aggregated, anonymized, or pseudonymized;
- (2) implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice. (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)
- (3) not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;
- (4) as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;
- (5) take reasonable steps to ensure the competence and reliability of Contractor’s personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;

(6) maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Contract and applicable laws;

(7) allow the City or its authorized agents to conduct audit inspection during the term of the Contract, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section.

If Contractor becomes aware of any actual or potential data breach (each an "Incident") arising from Contractor's processing obligations pursuant to the Contract, Contractor shall notify the City without undue delay within 48 hours; and:

(1) provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;

(2) take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;

(3) cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and

(4) not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Security Inquiries

Contractor acknowledges that all of the employees that it provides pursuant to this Contract shall, at Contractor's expense, be subject to background and security checks and screening at the request of the City. Contractor shall perform all such security inquiries and shall make the results available

to the City for all employees considered for performing work (including supervision and oversight) under this Contract. City may make further security inquiries. Whether or not further security inquiries are made by the City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by the Contractor for performing work under this Contract. Employees rejected by the City for performing services under this Contract may still be engaged by Contractor for other work not involving the City. An employee rejected for work under this Contract shall not be proposed to perform work under other City contracts or engagements without the City's prior approval.

The City, in its sole discretion, reserves the right, but not the obligation to:

- (1) require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information;
- (2) act on newly acquired information whether or not such information should have been previously discovered;
- (3) unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and
- (4) object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Contract. Contractor will bear the costs of all inquiries requested by the City.

Contacts With Third Parties

Contractor or its subcontractors shall not contact third parties to provide any information in connection with the deliverables provided under this Contract without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Contract or any other prior or existing contract with the City, Contractor or its subcontractors shall promptly inform the City, giving the particulars of the information sought, and shall not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Contractor and its subcontractors under this Section shall survive the termination of this Contract.

Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

No Third Party Beneficiaries

The parties expressly agree that this Contract is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract.

Non-Disclosure

Contractor shall not disclose, without the City's prior written consent, any information in the performance of the Services under this Contract to any person, firm, corporation, association, or other entity other than persons in the City's organization qualified to receive such information, for any reason or purpose whatsoever, nor shall Contractor make use of any such confidential or proprietary information for its own purposes or for the benefit of any person, firm, corporation, or other entity, except the City.

Contractor agrees to act as a trustee of the foregoing information and as trustee of any other confidential information learned in connection by Contractor's relationship with the City. Contractor further represents to the City that, as an inducement to enter this Contract, Contractor will hold this information in trust and confidence for the City's sole benefit and use.

Further, there shall be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the City.

Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Contract, then, and in that event, upon written demand, Contractor shall relinquish to the possession and control of the City its entire file related to this Contract and only those portions of said file deemed by the City to be not privileged shall be returned to Contractor pending the resolution of the existing or anticipated litigation.

Contractor agrees that the requirements of this Section shall be incorporated into any subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Advertising

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Contract or any part thereof without the prior written consent of the City. The name of any City site on which services are performed by the Contractor pursuant to this Contract shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

Accrued Liabilities

Contractor shall be responsible for the payment of all liabilities to its employees accrued during the contract term, including but not limited to accrued vacation, sick time, and any other benefits accrued under the terms of any collective bargaining agreement between Contractor and the union representing its employees or under the terms of any employment contract or agreement. All such payments shall be made by Contractor at the end of the contract term and no additional

compensation shall be provided by the City for such accrued liabilities. Contractor shall not have any obligation for the liabilities of the prior contractor to its employees.

Claims or Demands Against The City

Contractor acknowledges and accepts the provisions of the Charter of the City of Porterville pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in the Charter of the City of Porterville alters, amends or modifies the supplemental and complementary requirements of the State of California Notice of Claim statutes pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

Moreover, nothing in this Contract will constitute a dispute resolution process, an administrative claims process, or contractual term sufficient to affect the date on which the cause of action accrues.

Conflicts of Interest

Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Contract upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Porterville City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Contract without liability, including any such commission, percentage, brokerage or contingent fee.

The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in a California court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

Section IV – Insurance and Indemnification

Standard General Defense and Indemnification

Contractor (“Indemnitor”) must defend, indemnify, and hold harmless the City of Porterville and its officers, officials (elected or appointed), agents, and employees (“Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever (“Losses”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors (“Indemnitor’s Agents”) arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnatee harmless for any Losses arising out of or recovered under any state’s Workers’ Compensation Law or arising out of the failure of Indemnitor or Indemnitor’s Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor’s duty to defend Indemnatee accrues immediately at the time a claim is threatened or a claim is made against Indemnatee, whichever is first. Indemnitor’s duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnatee from and against any and all Losses, except where it is proven that those Losses are solely a result of Indemnatee’s own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Indemnitor waives all rights of subrogation against Indemnatee for losses arising from the work performed by Indemnitor or Indemnitor’s Agents for the City of Porterville. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

Contractor’s Insurance

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this Section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors and Contractor may purchase such additional insurance as they determined necessary.

Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a “following form” basis, and (2) all terms under each line of coverage below are met.

Commercial General Liability – Occurrence Form

General Aggregate - \$1,000,000

Products – Completed Operations Aggregate - \$1,000,000

Personal and Advertising Injury - \$1,000,000

Fire Damage - \$1,000,000

Each Occurrence - \$1,000,000

The policy must name the City of Porterville as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations, and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.

There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Porterville as an additional insured.

City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.

The Contractor's insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

Automobile Liability

Bodily injury and property damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

UM/UIM Per Person Limit \$1,000,000

UM/UIM Per Accident Limit \$1,000,000

- The policy must be endorsed to include the City of Porterville as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor's insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

Worker's Compensation and Employers' Liability

Workers' Compensation

Employers' Liability: Statutory

Each Accident \$100,000

Disease – Each Employee \$100,000

Disease – Policy Limit \$500,000

- Policy must contain a waiver of subrogation against the City of Porterville.
- This requirement does not apply when a contractor or subcontractor is exempt, AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

Property Insurance – Contractor’s Property and Equipment

Contractor must maintain all risk property insurance for Contractor’s personal property. The CITY will have no responsibility for any damage to Contractor’s personal property and Contractor’s property insurance must be endorsed to include a waiver of subrogation against the CITY.

Additional Insurance Requirements

Policies must include, or be endorsed to include, the following provisions:

- 1) On insurance policies where the City of Porterville is named as an additional insured, the City of Porterville must be an additional insured to the full limits of liability purchased by Contractor even if those limits of liability are in excess of those required by Contract.
- 2) Contractor’s insurance coverage or self-insurance must be primary insurance and non-contributory with respect to all other available sources.
- 3) Coverage provided by Contractor must not be limited to the liability assumed under the indemnification provisions of the Contract.

Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Porterville.

Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of California and with an “A.M. Best” rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

Verification of Coverage

Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be mailed, emailed, or hand delivered to City of Porterville.

Section V - SCOPE OF WORK

The scope of work set forth in this Request for Proposals represents an outline of the goods and services which the CITY anticipates the successful Proposer to perform, and is presented for the primary purpose of allowing the CITY to compare proposals. The precise scope of work to be incorporated into the General Services Agreement shall be negotiated between the City and the successful Proposer. **The CITY requests that the Proposer suggest changes to the scope of work (as a part of the proposal) in order to achieve the CITY's Project Objectives.**

Quantities

The work under this Contract document consists of the manufacture and delivery of two (2) Gas or Diesel Powered Mini Auto Side Load Non-CDL Refuse Trucks.

Configuration Approval

In order to assess the Contractor's compliance with the Specifications, the City and the Contractor shall, at the Pre-Production Meeting, jointly develop a configuration review document for review of the vehicles. This document shall include appropriate performance standards for each test that is being required, and the document shall become part of the official record of the Pre- Production Meeting.

Post-Delivery Tests

The City will conduct acceptance tests on each delivered truck. These tests shall be completed within 30 days after truck delivery and shall be conducted in accordance with written test plans. The purpose of these tests is to identify defects that have become apparent between the time of truck release and delivery to the City. The post-delivery tests shall include visual inspection and truck operations. No post-delivery test shall apply criteria that are different from the criteria applied in an analogous pre-delivery test (if any).

Trucks that fail to pass the post-delivery tests are subject to non-acceptance. The City shall record details of all defects on the appropriate test forms and shall notify the Contractor of acceptance or non-acceptance of each truck according to "Inspection, Testing and Acceptance" after completion of the tests. The defects detected during these tests shall be repaired according to the procedures defined in "Repairs after Non- Acceptance."

Repairs after Non-Acceptance

The Contractor, or its designated representative, shall perform the repairs after non-acceptance. If the Contractor fails or refuses to begin the repairs within five (5) days, then the Work may be done by the City's personnel with reimbursement by the Contractor.

Truck Delivery

Delivery of trucks shall be determined by signed receipt of the City's designated agent, Russell Isom, 555 N. Prospect St., Porterville, CA 93257, and may be preceded by a cursory inspection of the bus.

Delivery Schedule

Delivery shall be completed within the contractually agreed upon delivery date of the executed Contract documents. Hours of delivery shall be 8AM – 5PM PST. on the following days of the week: Monday - Friday.

General Specifications

1. Non-CDL or Under-CDL
2. Complete unit shall be a new 2024 or 2025 model and shall include all standard equipment unless otherwise specified. On Attachment 1, Proposer shall provide an explanation for all specifications items without a “yes” response.
3. Dealer will submit warranty on complete unit with bid.
4. One (1) complete service manual (electronic), One (1) complete parts manual (electronic), and One (1) complete operation manual (electronic).
5. Proposer must state the number of days for delivery from time of order and a \$150.00 per day will be accessed against the purchase price for each day exceeding the proposed date.
6. Proposers must have a local dealer with a reasonable amount of parts inventory for the unit that has been proposed and a complete service facility.
7. There shall be a \$500,000 minimum of product liability coverage by the manufacturer and a minimum \$500,000 liability coverage by the product installers to protect the City. Certification shall be provided with Proposal.
8. Proposer must supply a list of equipment users who have purchased their units in the past two years. Information shall include the name of contact person, telephone, and email.

Proposal Format

Proposals should be clear, concise, and provide detailed information concerning the Proposer’s ability to successfully perform the obligations as described in the Scope of Work. All Proposals shall include the following documentation in the proposal package:

1. Cover Letter
 - a. Cover letter shall introduce the Proposer and establish interest in providing mini auto side load refuse trucks that meet the requirements of the City.
 - i. An individual duly authorized to commit resources on behalf of the Proposer must sign the letter.
2. Experience Statement

- a. Indicate how many years of experience Proposer has in providing mini auto side loader trucks.
3. Describe procedures in place to provide assurances that trucks will meet the needs of the intended use for the City.
4. Provide a list of at least three (3) references, current or past customers; including company name, address, contact name, phone number, current email address that have purchased units similar to the City's request.
5. Provide a contract price proposal
6. Provide an estimated delivery schedule
7. Complete and submit all required forms

Section VI – Federal Transit Administration (FTA) Terms and Conditions

These clauses are required because this procurement is funded in whole or in part by the United States Department of Transportation (USDOT), Federal Transit Administration. The requirements in these clauses are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this Contract. If any requirements in these clauses are inconsistent with a provision found elsewhere in this Contract and is irreconcilable with such provision, the requirement in these clauses shall prevail.

Contractor shall comply with the following FTA requirements. For purposes of these clauses, the AGENCY is the City of Porterville (FTA recipient) that is entering the Contract with Contractor.

1. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES.

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

The AGENCY and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the AGENCY, Contractor or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the Contract. Contractor shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. NOTIFICATION TO FTA.

[These requirements apply to all contracts and subcontracts in excess of \$25,000.]

If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the AGENCY, which must then promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region 9. Contractor must include an equivalent provision in its subagreements at every tier for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- A. **Types of Legal Matters Requiring Notification.** The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- B. **Matters Affecting the Federal Government.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the Contract, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- C. **Additional Notice to U.S. DOT Inspector General.** Contractor must promptly notify the AGENCY, which must then promptly notify the U.S. DOT Inspector General in

addition to the FTA Chief Counsel or Regional Counsel for Region 9 if Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Contract or another agreement between the AGENCY and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the AGENCY. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision also applies to all divisions of the AGENCY,

3. PROGRAM FRAUD & FALSE/FRAUDULENT STATEMENTS OR RELATED ACTS.

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

- A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
- B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on Contractor, to the extent the Federal Government deems appropriate.
- C. Contractor shall include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS, REPORTS, and SITES

- A. **Record Retention**. Contractor shall retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- B. **Retention Period**. Contractor shall comply with the record retention requirements in accordance with 2 CFR § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- C. **Access to Records**. Contractor shall provide sufficient access to the U.S. Secretary of Transportation, the Comptroller General of the United States, FTA, the Agency, and their duly authorized representatives to inspect and audit records and information, including such records and information the AGENCY or Contractor may regard as confidential or proprietary related to performance of this contract as reasonably may be required.
- D. **Access to the Sites of Performance**. Contractor shall permit FTA, the Agency, and their duly authorized representatives' access to the

5. FEDERAL CHANGES

Contractor shall at all times comply with all applicable federal laws, regulations, requirements, policies, procedures, guidance, and directives, including without limitation those listed directly or by reference in the FTA Master Agreement between the City of Porterville and the FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

6. CIVIL RIGHTS

The AGENCY must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless an AGENCY or federal program, including any Indian Tribe or Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.

A. Nondiscrimination in Federal Public Transportation Programs.

1. Contractor must prohibit: (a) discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age; (b) exclusion from participation in employment or a of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; and (d) discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.
2. Contractor must follow the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance. However, FTA does not require an Indian Tribe to comply with FTA program specific guidelines for Title VI when administering its agreement supported with federal assistance under the Tribal Transit Program.

B. Nondiscrimination – Title VI of the Civil Rights Act.

1. Contractor must prohibit discrimination based on race, color, or national origin;
2. Contractor must comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.; (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR Part 21; and (c) Federal transit law, specifically 49 U.S.C. § 5332; and
3. Contractor must follow: (a) the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance; (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3; and (c) all other applicable federal guidance that may be issued.

C. Equal Employment Opportunity.

1. Federal Requirements and Guidance. Contractor must prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor must also comply with: (a) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.; (b) Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; (c) Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs; (d) federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement; and (e) FTA Circular 4704.1 “Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients.” Further, Contractor must follow other federal guidance pertaining to EEO laws, regulations, and requirements.

2. Affirmative Action. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), Contractor must take affirmative action that includes, but is not limited to: (a) recruitment advertising, recruitment, and employment; (b) rates of pay and other forms of compensation; (c) selection for training, including apprenticeship, and upgrading; and (d) transfers, demotions, layoffs, and terminations.
3. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.
4. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.
5. Indian Tribe. Contractor recognizes that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."
6. Equal Employment Opportunity for Construction Activities. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor must comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60 (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," 42 U.S.C. § 2000e note).
7. Access for Elderly Individuals and Individuals with Disabilities. Contractor agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the Architectural Barrier Act of 1968, as amended, 42 U.S.C. § 4151, et seq. In addition, Contractor agrees to comply with applicable Federal implementing regulations.

7. INCORPORATION OF FTA TERMS

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the

preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of the AGENCY that would cause the AGENCY to be in violation of the FTA terms and conditions. Contractor shall include this clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA.

8. FREE SPEECH & RELIGIOUS LIBERTY

All Federal funding must be expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements, including but not limited to those prohibiting discrimination and protecting free speech, religious liberty, public welfare, and the environment.

9. FEDERAL TERMINATION RIGHTS

The termination rights under this Contract are in addition to, and in no way limit, the Federal Government's right to terminate as described in 2 CFR § 200.340.

10. DEBARMENT, SUSPENSION, INELIGIBILITY, & VOLUNTARY EXCLUSION

[This requirement does not apply to contracts and subcontracts under \$25,000.]

- A. Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-Wide Debarment and Suspension (Non-procurement)," 2 CFR part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.
- B. Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally-funded contract (which includes review of SAM at sam.gov, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200) and are not presently declared by any Federal department or AGENCY to be: (1) debarred from participation in any federally-assisted Award; (2) suspended from participation in any federally-assisted Award; (3) proposed for debarment from participation in any federally-assisted Award; (4) declared ineligible to participate in any federally-assisted Award; (5) voluntarily excluded from participation in any federally-assisted Award; or (6) disqualified from participation in any federally-assisted Award.
- C. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that Contractor available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor shall comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- D. Contractor agrees that it will not enter into any “covered transaction” (as defined at 2 CFR 180.220 and 1200.220) with any “third party participant” (as defined in Section 1 of FTA’s Master Agreement (Version 31, dated May 2, 2024), as may be updated or amended) that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions except as otherwise authorized by applicable Federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants. Contractor further agrees that it will review the Federal Government’s “System for Award Management — Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by USDOT regulations (2 C.F.R. Part 1200).

11. TERMINATION

The AGENCY must include provisions in their contracts and subcontracts that allows for termination for cause and for convenience by the AGENCY, including the manner by which it will be effected and the basis for settlement. See Appendix II(B) to 2 CFR part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, and FTA Circular 4220.1F, Chapter IV, paragraph 2.b.(6)(b)4 – Termination.

12. VIOLATION & BREACH OF CONTRACT

[These requirements are not applicable to contracts and subcontracts under the simplified acquisition threshold (currently set at \$250,000).]

Unless otherwise provided for by the AGENCY, the following provisions shall apply:

- A. **Dispute Resolution.** Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY. This decision shall be final and conclusive unless within ten calendar days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to the authorized representative of AGENCY. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of AGENCY shall be binding upon Contractor, and Contractor shall abide by the decision.
- B. **Performance During Disputes.** Notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, Contractor shall

continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an California Court of competent jurisdiction.

- C. **Rights and Remedies.** The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the AGENCY or Contractor shall constitute a waiver of any right or duty afforded any of them under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed upon in writing.

13. LOBBYING RESTRICTIONS

[These requirements do not apply to contracts and subcontracts under \$100,000.]

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the AGENCY.

14. CARGO PREFERENCE (USE OF U.S.-FLAG VESSELS)

[These requirements apply to all contracts involving equipment, material, or commodities that may be transported by ocean vessels.]

- A. At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Contract, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels (46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR Part 381);
- B. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-

loading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the AGENCY (through the Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and

- C. Contractor shall include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

15. FLY AMERICA

[These requirements apply to contracts and subcontracts involving the transportation of persons or property by air between a place in the United States and a place outside of the United States, or between places outside the United States, when the FTA will participate in the cost of such air transportation.]

- A. As used in this clause: **(1) “international air transportation”** means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States; **(2) “United States”** means the 50 States, the District of Columbia, and outlying areas; and **(3) “U.S.-flag air carrier”** means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- B. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 – 301-10.143, requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- C. If available, Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- D. If Contractor selects a carrier other than a U.S.-flag air carrier for international involving such transportation essentially as follows:

Statement of Unavailability of U.S. - Flag Air Carriers - International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

(End of statement)

- E. Contractor shall include the substance of this clause, including this paragraph (E), in each subcontract or purchase under this contract that may involve international air transportation.

16. EMPLOYEE PROTECTIONS

A. Prevailing Wage & Anti-Kickback

[These requirements apply to all prime construction, alteration, or repair contracts in excess of \$2,000.]

1. For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
2. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

B. Contract Work Hours/Safety Standards for Awards Involving Construction

[These requirements apply to all contracts involving construction in excess of \$100,000 that involve the employment of mechanics or laborers.]

1. For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 CFR part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working

conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

2. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.
3. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.
4. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

C. Contract Work Hours/Safety Standards for Awards Not Involving Construction

[These requirements apply to all contracts (not involving construction) in excess of \$100,000 that involve the employment of mechanics or laborers.]

1. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.
2. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

3. Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.
4. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

17. SEISMIC SAFETY

[These requirements apply only to contracts for the construction of new buildings or additions to existing buildings.]

Contractor shall design and construct any new building or addition to an existing building in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations (49 CFR part 41) and will certify its compliance to the extent required by the regulation. Contractor shall ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

18. VETERANS EMPLOYMENT

[These requirements apply only to capital projects. See 49 U.S.C. § 5302(3).]

Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in U.S.C. Section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the Contract. This requirement shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

19. BONDING

[These requirements are applicable to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold (currently set at \$250,000). See FTA Circular C 4220.1F for specific bonding requirements.]

Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the AGENCY if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

- A. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon

acceptance of the bid, execute such contractual documents as may be required within the time specified.

- B. A performance bond on the part of Contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all of Contractor's obligations under such contract.
- C. A payment bond on the part of Contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

20. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

[These requirements apply only to contracts for transit operations performed by employees of contractors and subcontractors recognized by FTA to be a transit operator.]

Contractor shall comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

- A. **U.S. DOL Certification.** To the extent that FTA determines that this Contract or any Amendments thereto involve public transportation operations financed in whole or in part with Federal assistance, Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient’s project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL Letter. The requirements of this subsection (A), however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.
- B. **Special Warranty.** If the Contract involves public transportation operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.
- C. **Special Arrangements.** If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the

employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL Letter.

- D. **Flow Down.** Contractor shall include the substance of this clause in each subcontract that may involve operating public transit services.

21. CHARTER SERVICE

[These requirements apply to contracts for operating public transportation service.]

- A. Contractor shall comply with 49 U.S.C. 5323(d), (g), and (r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: (1) federal transit laws, specifically 49 U.S.C. § 5323(d); (2) FTA regulations, "Charter Service," 49 CFR part 604; (3) any other federal Charter Service regulations; or (4) Federal guidance, except as FTA determines otherwise in writing.
- B. If Contractor engages in a pattern of violations of FTA's Charter Service regulations, then FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: (1) barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; (2) withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or (3) any other appropriate remedy that may apply.
- C. Contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

22. SCHOOL BUS OPERATIONS

[These requirements apply to contracts for operating public transportation service.]

Contractor shall comply with 49 U.S.C. 5323(f) and (g), and 49 CFR part 605, and not engage in school bus operations using federally-funded equipment or facilities in competition with private operators of school buses, except as permitted under: (A) federal transit laws, specifically 49 U.S.C. § 5323(f); (B) FTA regulations, "School Bus Operations," 49 CFR part 605; (C) any other Federal School Bus regulations; or (D) federal guidance, except as FTA determines otherwise in writing. If Contractor violates these school bus requirements, then FTA may bar Contractor from receiving Federal assistance for public transportation or require

Contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, Contractor may not use federally-funded equipment, vehicles, or facilities. Contractor should include the substance of this clause in each subcontract or purchase under this Contract that may operate public transportation services.

23. MOTOR CARRIER SAFETY

[These requirements apply to contracts for operating bus operation service.]

- A. **Financial Responsibility.** Contractor shall comply with the economic and insurance registration requirements of: (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, “Minimum Levels of Financial Responsibility for Motor Carriers,” 49 C.F.R. part 387, if Contractor is: (a) engaged in operations requiring compliance with 49 C.F.R. part 387, (b) engaged in interstate commerce, and (c) not within a defined commercial zone; and (2) provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.
- B. **U.S. FMCSA Requirements.** Contractor shall comply with: (1) safety requirements of U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, “Federal Motor Carrier Safety Regulations,” 49 C.F.R. parts 390 – 397, to the extent applicable; and (2) driver’s license requirements of U.S. FMCSA regulations, “Commercial Driver’s License Standards, Requirements, and Penalties,” 49 C.F.R. part 383, and “State Compliance with Commercial Driver’s License,” 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA’s regulations, “Drug and Alcohol Use and Testing Requirements,” 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

24. SAFE OPERATIONS OF MOTOR VEHICLES

- A. **Seat Belt Use.** Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by Contractor or AGENCY.
- B. **Distracted Driving.** Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

- C. **Subcontracts.** Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

25. CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

- A. **Definitions.** As used in this clause: (1) "driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise (note: "driving" does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary); and (2) "text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication (note: "text messaging" does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park).
- B. **Executive Order.** This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving company-owned/rented vehicles, Government-owned vehicles, and privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. Contractor is also encouraged to conduct initiatives in a manner commensurate with the size of the business, such as: (1) establishment of new rules and programs or reevaluation of existing programs to prohibit text messaging while driving; and (2) education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- C. **Subcontracts.** Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

26. SUBSTANCE ABUSE (DRUG & ALCOHOL TESTING)

[These requirements apply to contracts with contractors who perform safety-sensitive functions, as defined in 49 CFR Part 655.4, "Definitions."]

- A. Contractor shall establish and implement a drug and alcohol testing program that complies with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR Part 40) and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR Part 655), produce any documentation necessary

- to establish its compliance with parts 655 and 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or the City of Porterville, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and 49 CFR part 40 and review the testing process.
- B. Contractor shall also submit for review and approval a copy of its substance abuse prevention policy developed to implement its drug and alcohol testing program. Further, Contractor shall certify annually its compliance with parts 655 and 40 and to submit the Drug and Alcohol Management Information System (DAMIS) reports before March 15 to Transit Compliance Officer, City of Porterville Transportation Department, 291 N. Main St. Porterville, CA 93257. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.
 - C. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers involving the performance of a safety-sensitive function under the Contract.

27. BUY AMERICA

[These requirements apply to contracts over \$150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock.]

- A. Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11. Contractor must submit to AGENCY the appropriate Buy America certification with its offer. Offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.
- B. Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184.
- C. Compliance with FTA's "Buy America Requirements," 49 CFR Part 661, and "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184 shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

28. PROHIBITED TELECOMMUNICATIONS & SURVEILLANCE SERVICES & EQUIPMENT

The AGENCY is prohibited from obligating or expending loan or grant funds to: procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractor shall not provide covered telecommunications equipment or services in the performance of the Contract. As described in Public Law 115-232, section 889, covered telecommunications equipment is: (A) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (B) video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes; (C) telecommunications or video surveillance services provided by such entities or using such equipment; and (D) 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.

29. AIR POLLUTION & FUEL ECONOMY

[These requirements apply to contracts for the purchase of rolling stock.]

The Contractor agrees to comply with applicable Federal air pollution control and fuel economy regulations, such as: EPA regulations, "Control of Air Pollution from Mobile Sources," 40 CFR Part 85; EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 CFR Part 86; and EPA regulations, "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

30. ROLLING STOCK LIMITATIONS

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor and its subcontractors must comply with the limitation on certain rolling stock procurements at 49 U.S.C. § 5323(u), prohibiting the procurement of rolling stock from specified manufacturers for public transportation use.

31. PRE-AWARD & POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor shall comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 CFR part 663. Contractor shall comply with the Buy America certification(s) submitted with its offer. Contractor shall participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 CFR part 663 and related FTA guidance.

32. BUS TESTING

[These requirements apply to contracts for the purchase/lease of any bus model that is new or has any major change in configuration/components to be acquired/leased.]

Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, Contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the grantee.

33. ENVIRONMENTAL PROTECTIONS

Contractor shall comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

2. National Environmental Policy Act.

1. Contractor shall comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to: (a) federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139; (b) the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 et seq., as limited by 42 U.S.C. § 5159, and CEQ's implementing regulations 40 C.F.R. part 1500 – 1508; (c) joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. part 771 and 49 C.F.R. part 622; (d) Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note; and (e) other federal environmental protection laws, regulations, and requirements applicable to Contractor.
2. Contractor shall follow federal guidance to the extent that the guidance is consistent with applicable authorizing legislation, which may include: (a) joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013; (b) joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and (c) other federal environmental guidance applicable to the Contractor.
3. Environmental Justice. Contractor shall promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order; (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997; and (3) the most recent edition of FTA Circular 4703.1, "Environmental

Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

4. **Other Environmental Federal Laws.** Contractor shall comply or facilitate compliance with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to “Protection of Wetlands,” and Executive Order Nos. 11988 and 13690 relating to “Floodplain Management.”
5. **Use of Certain Public Lands.** Contractor shall comply with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as “section 4(f)”), and joint FHWA and FTA regulations, “Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites,” 23 C.F.R. part 774, and referenced in 49 C.F.R. part 622.
6. **Historic Preservation.** Contractor shall comply with: (1) U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as “section 4(f)”), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places; (2) federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108; (3) the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 et seq.; (4) U.S. Advisory Council on Historic Preservation regulations, “Protection of Historic Properties,” 36 C.F.R. part 800; and (5) other federal requirements and federal guidance to avoid or mitigate adverse effects on historic properties.
7. **Indian Sacred Sites.** Contractor shall facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, “Indian Sacred Sites,” May 24, 1996, 42 U.S.C. § 3161 note.

34. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT

[These requirements do not apply to contracts and subcontracts under \$150,000.]

Contractor shall ensure that it: (A) will not use any violating facilities; (B) will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;” (C) will report violations of use of prohibited facilities to FTA; and (D) will comply with the inspection and other requirements of the Clean Air Act, as amended (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387).

35. ENERGY CONSERVATION

Contractor shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §§ 6321 et seq.).

36. RECYCLED PRODUCTS (SOLID WASTES)

[These requirements apply to all contracts and subcontracts involving the purchase of items designated by the EPA (that contain the highest percentage of recovered materials practicable) in excess of \$10,000. See 40 C.F.R. part 247 for federal designation of items.]

Contractor shall provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247. The requirements of Section 6002 include: (A) procuring only items designated in guidelines of the U.S. EPA at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (B) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (C) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. INTELLECTUAL PROPERTY/PATENT RIGHTS & RIGHTS IN DATA

[These requirements apply to contracts for the performance of experimental, developmental, or research work.]

- A. This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an

academic institution. For purposes of this Contract, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of “subject data” include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

- B. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes”: (1) any subject data developed under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA. For “Federal Government Purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.
- C. Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA’s license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
- D. Unless prohibited by state law, upon request by the Federal Government, Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
- E. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
- F. Data developed by Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by

the Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.

G. Contractor shall include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

38. COMPLIANCE WITH NATIONAL ITS ARCHITECTURE POLICY

[These requirements apply only to contracts for National Intelligent Transportation System projects.]

Contractor shall conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and follow FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.

39. NTD REPORTING

As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must: (A) facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (NTD); (B) conform to the NTD reporting system and the Uniform System of Accounts and Records; (C) comply with FTA regulations, “Uniform System of Accounts and Records and Reporting System,” 49 CFR Part 630; (D) report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, “National Transit Database,” and applicable FTA instructions: (1) any information relating to a transit asset inventory or condition assessment; (2) any data on assaults on transit workers; (3) any data on fatalities that result from an impact with a bus; and (4) such other information as FTA may require; (E) comply with any other applicable reporting regulations, and requirements; and (F) follow FTA guidance.

40. TRAFFICKING IN PERSONS

Contractor and its subcontractors or their employees shall not: (A) engage in severe forms of trafficking in persons during the Contract Term; (B) procure a commercial sex act during the Contract Term; or (C) use forced labor in the performance of the Contract. Contractor shall inform AGENCY immediately of any information Contractor receives from any source alleging a violation of a prohibition in this section. AGENCY may terminate this Contract for any violation of this section; such right of termination is in addition to all other remedies for noncompliance that are available to the AGENCY.

41. PRIVACY ACT

Contractor agrees to: (A) comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C.

§ 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract; and (B) include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

42. SECTION 508 COMPLIANCE

Any reports or information that will be provided to DOT or any other Federal agency must comply with Section 508 of the Rehabilitation Act of 1973.

43. DBE REQUIREMENTS

The City and its partners strive to advance the economic growth of small businesses through its Disadvantaged Business Enterprise (DBE) Program.

The City of Porterville DBE Program is managed and administered by the City's Transportation Department. Through a coordinated effort among several city departments and partner agencies, the DBE Program provides certification and opportunities in construction, purchasing, management and technical assistance, educational services, and networking.

A. General Requirements

1. **Applicable Federal Regulations.** This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, Joint Venture, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.
2. **DBE Participation.** For this solicitation, the Agency *has not* established a race- or gender-conscious DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for business. The Agency uses race- and gender-neutral measures to facilitate participation by DBEs and Small Businesses. The Agency encourages each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.

3. **Small Business Participation.** The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).
4. **DBE Certification.** Only firms (1) certified by the Agency or another CAUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from race- and gender-neutral (RGN) measures on this Contract. This DBE determination affects the Agency's tracking and reporting obligations to USDOT.
5. **Civil Rights Assurances.** As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance verbatim:

“The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Porterville deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible.”

Note: For purposes of the required Contract and Subcontract language above, Successful Submitter is the “contractor” awarded the contract.

6. **Subcontracts.** If subcontracts will be let under this Contract, Contractor shall take the affirmative steps listed in 2 C.F.R. 200.321, which addresses contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

Exhibit A – Required Forms

Form A

ADDENDUM RECEIPT

The Proposer acknowledges it has received and read the following Addenda:

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Addendum # _____ Signature _____

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form B

DEBARMENT AND SUSPENSION CERTIFICATION

This certification does not apply to contracts and subcontracts under \$25,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

Check one box below (and provide explanation if necessary):

☐ The Proposer certifies that the Proposer and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any federal department or agency;
2. Have not, within the preceding three years, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense described in Paragraph 2 of this certification;
4. Have not, within the preceding three years, had one or more public transactions (federal, state, or local) terminated for cause or default.

- OR -

☐ The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In the explanation, the Proposer must certify to those statements that can be certified and explain why the other statements cannot be certified.)

The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form C

BUY AMERICA CERTIFICATION

This certification applies to contracts over \$150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

If this Offer is valued in excess of \$150,000 and involves the procurement of steel, iron, or manufactured products (as defined in 49 CFR §§ 661.3 and 661.5), the Proposer hereby certifies that it:

☐ Will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 CFR part 661;

OR

☐ Cannot comply the requirements of 49 U.S.C. § 5323(j) (and 49 CFR part 661) but may qualify for an exception to the requirements pursuant to 49 U.S.C. § 5323(j)(2), as amended, and the applicable regulations in 49 CFR § 661.7.

If this Offer is valued in excess of \$150,000 and involves the procurement of buses or other rolling stock (including associated equipment), the Proposer hereby certifies that it:

☐ Will comply with the requirements of 49 U.S.C. § 5323(j) and the applicable regulations of 49 CFR § 661.11;

OR

☐ Cannot comply with the requirements of 49 § U.S.C. 5323(j) (and 49 CFR § 661.11), but may qualify for an exception to the requirements consistent with 49 U.S.C. § 5323(j)(2)(C), as amended, and the applicable regulations in 49 CFR § 661.7.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form D

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF CALIFORNIA

COUNTY OF _____

_____ declares and says:

1. That he/she is the (owner, partner, representative, or agent) of _____, hereinafter referred to as (CONTRACTOR) or (subcontractor).
2. That he/she is fully informed regarding the preparation and contents of this proposal for certain work in the City of Porterville, State of California.
3. That his/her proposal is genuine and is not collusive or a sham proposal.
4. That any of its officers, owners, agents, representatives, employees, or parties in interest, including this affiliate, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer, firm, or person to submit a collusive or sham proposal in connection with such contract or to refrain to submitting a proposal in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful Contract or connivance with any other proposer, firm, or person to fix the price or prices in said proposal, or to secure through collusion, conspiracy, connivance, or unlawful Contract any advantage against the City of Porterville or any person interested in the proposed contract; and,
5. That the price or prices quoted in the proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful Contract on the part of the proposer or any of its agents, owners, representatives, employees, or parties in interest, including this affiliate.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

This certification does not apply to contracts and subcontracts under \$100,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an 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.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form F

TAX LIABILITY CERTIFICATION

This certificate applies to all contracts. Offers that do not include this completed certification will be rejected as nonresponsive.

The Proposer certifies that:

1. It has no 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;
2. It has not been convicted of a felony criminal violation under any federal law within the preceding 24 months; and
3. It shall require that the language of this certification be included in the award documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form G

ACKNOWLEDGEMENT OF “BEST VALUE” SELECTION PROCESS

PROPOSER hereby acknowledges that the selection process under this RFP will evaluate Proposals on a “Best Value” basis, which the Federal Transit Administration’s (FTA) Best Practices Manual defines as follows:

“Best Value” is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.

As a result, PROPOSER further acknowledges that pricing will not be the sole basis upon which Proposals are evaluated.

An individual authorized to bind the PROPOSER to this Agreement must sign below acknowledging and understanding of the foregoing.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Exhibit B – Sample General Services Agreement

CITY OF PORTERVILLE GENERAL SERVICES AGREEMENT WITH *[insert full name of Contractor and Project Name and/or number]*

This General Services Agreement (Agreement) is entered into between the City of Porterville, a municipal corporation (**City**), and _____ [complete name of legal business entity], a _____ [business status, such as a California corporation] (**Contractor**). City and Contractor are referred to individually as “Party” and collectively as “Parties.”

Recitals

- A. City desires to retain Contractor to complete a XXXXXXXXXX Project (Project); and
- B. On XXXXXXXX, the City issued a Request for Proposals (RFP) for the XXXXXXXXXX (Project). On XXXXXXXX, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the goods and services.
- C. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.
- D. This Agreement is being executed pursuant to Resolution No. _____-2024 approved by the Porterville City Council on _____, 2024.

Now therefore, the Parties mutually agree as follows:

1. **Scope of Work.** Contractor shall provide the goods and services required to complete the Project, described in Exhibit “A” attached hereto and incorporated herein by reference. The goods and services shall be performed by, or under the direct supervision of, Contractor’s Authorized Representative: _____. Contractor shall not replace its Authorized Representative, nor shall Contractor use or replace any subcontractor or subcontractor, without City’s prior written consent. The City may terminate this Agreement if Contractor makes any such change or replacement, or uses any unapproved subcontractor or subcontractor.
2. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit “A.” Any services for which times for performance are not specified in this Agreement shall be started and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all

requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1. Term. The Term of this Agreement shall begin on _____ and end on _____, unless terminated in accordance with Section 6.

3. Compensation. City shall pay Contractor on a lump sum basis, at the billing rate set forth in Exhibit "C", attached hereto and incorporated herein by this reference for goods and services performed under this Agreement.

3.1. Not to Exceed Amount. Contractor's total compensation under this Agreement shall not exceed \$ _____. Contractor's billing rates shall cover all costs and expenses for Contractor's performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City's prior written approval. Notwithstanding anything contained herein to the contrary, the payment of any funds under this Agreement shall be subject to the City of Porterville's appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

3.2. Invoices. Contractor shall submit monthly invoice(s) to the City that describe the goods and services performed, including times, dates, and names of persons performing the services.

3.2.1. Contractor's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Contractor.

3.3. Payment. Subject to the City acceptance of the Services as discussed in Exhibit A attached hereto and completion of the Project to the City's satisfaction, within 30 days after the City's receipt of invoice(s), City shall make payment to the Contractor based upon the services described on the invoice(s).

3.4. The acceptance by Contractor of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Contractor for anything completed, finished or relating to Contractor's services. Contractor agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Contractor or its employees, subcontractors, agents and subcontractors for the accuracy and competency of the information provided and/or services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Contractor, its employees, subcontractors, agents and subcontractors.

3.5. Contractor agrees to maintain books, accounts, payroll records and other information relating to the performance of Contractor's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Contractor in the

performance of Contractor's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

- 4. Indemnification.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In the event there is a finding and/or determination that Contractor is not an independent contractor and/or is an employee of City, including but not limited to any such finding and/or determination made by the California Public Employees' Retirement System (CalPERS), the Department of Industrial Relations (DIR), or the Internal Revenue Service (IRS), Contractor shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from and against any all claims relating to or in connection with such a finding and/or determination.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Contractor" means the Contractor, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

Contractor and City mutually waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

The provisions of this section survive completion of the services or the termination of this Agreement, and are not limited by the provisions of Section 5 relating to insurance.

- 1. Insurance.** Contractor shall, throughout the duration of this Agreement, maintain insurance to cover Contractor, its agents, representative, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

- 1.1. Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$4,000,000 general aggregate and \$2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

- 1.2. Automobile Liability** (with coverage at least as broad as ISO CA 00 01 07 097, for “any auto”) “claims made” coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 1.3. Workers’ Compensation** coverage shall be maintained as required by the State of California.
- 1.4. Professional Liability** “claims made” coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than \$1,000,000 per claim.
- 1.5. Endorsements.** Contractor shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
- 1.5.1.** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 1.5.2.** For any claims related to this Agreement, Contractor’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor’s insurance and shall not contribute with it.
- 1.6. Notice of Cancellation.** Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.
- 1.7. Authorized Insurers.** All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 1.8. Insurance Certificate.** Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.
- 1.9. Substitute Certificates.** Contractor shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.
- 1.10. Contractor’s Obligation.** Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Contractor may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

2. **Termination.** The City may terminate this Agreement in its sole and absolute discretion by giving ten (10) days' written notice to Contractor. Within five (5) days of such a termination, Contractor shall give the City all original documents relating to the Services in Contractor's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Contractor pursuant to this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
3. **Dispute Resolution.** If any dispute arises between the City and Contractor that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:
 - 3.1. Each Party shall designate a senior management or executive level representative to negotiate the dispute.
 - 3.2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority,
 - 3.3. If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiations between legal counsel. If the aforementioned process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
 - 3.4. The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person to serve as the mediator, shall be commenced within thirty (30) days of selection of a mediator, and shall be concluded within fifteen (15) days from the commencement of the mediation.
 - 3.5. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
 - 3.6. The dispute resolution process is a material condition of this Agreement and must be exhausted prior to either Party initiating legal action. This dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.
4. **Labor Code Compliance.** Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

5. **Rates.** These prevailing wage rates are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.
6. **Registration with DIR.** Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5
7. **Monitoring.** This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.
8. **Ownership of Work.** All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's Services, upon termination of this Agreement, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.
9. **Independent Contractor Status.** Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.
10. **Conflicts of Interest.** Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.
11. **Rebates, Kickbacks, or Other Unlawful Consideration.** Contractor warrants this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; to deduct from the contract price the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.
12. **Notices.** All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after

the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

City of Porterville
Transportation Department
291 N. Main Street
Porterville, CA 93257

To Contractor

13. Miscellaneous

13.1. Standard of Care. Unless otherwise specified in this Agreement, the standard of care applicable to Contractor's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

13.2. Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

13.3. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. No waiver shall be effective unless it is in writing and signed by the waiving party.

13.4. Assignment and Delegation. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's prior written consent. Any attempt to do so will void. City's consent to one assignment, transfer or delegation shall not be deemed to be consent to any subsequent assignment, transfer or delegation.

13.5. Jurisdiction and Venue. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Tulare.

13.6. Compliance with Law. Contractor shall comply with all applicable local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

13.6.1. Hazardous Materials. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.

13.6.2. Non-discrimination. Contractor represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, color, national origin,

handicap, ancestry, sex or age. Contractor shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.)

- 13.7. Business Entity Status.** Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters this Agreement, City may take steps to have this Agreement declared voidable.
- 13.8. Business License.** Before the City signs this Agreement, Contractor shall obtain a City of Porterville Business License. Contractor shall maintain an active City of Porterville Business License during the term of this Agreement.
- 13.9. Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.
- 13.10. Construction of Agreement.** Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.
- 13.11. Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.
- 13.12. Controlling Provisions.** In the case of any conflict between the terms of this Agreement and Exhibits hereto, and Contractor's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's proposal (if any), the Exhibits shall control.
- 13.13. Entire Agreement.** This Agreement and the Attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.
- 13.14. Counterparts.** City and Contractor agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.
- 13.15. Expenses for Enforcement.** Contractor and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

14. Signatures. The individuals executing this Agreement on behalf of Contractor represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Contractor.

The Parties agree to the full performance of these terms set forth here.

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

Contractor

By: Martha A. Flores

By: _____

Title: Mayor

Title: _____

Date: _____

Date: _____

Federal Employer Tax ID No. _____

Signature: _____

Signature: _____

Attest:

Patrice Hildreth, City Clerk

Approved as to form:

Julia M. Lew, City Attorney

Exhibits:

- A. RFP No.XXX XXXXXXXXXXXXX
- B. Contractor Proposal
- C. Compensation

Attachment 1

General	COMPLY	
	YES	NO
1. Successful proposer shall supply a complete unit (truck and refuse body) that does not require a commercial driver's license to operate.		
2. The city's preference is a complete unit (truck and refuse body) that is Non-CDL, single axle, equipped with an 8 -14 yd ³ capacity, right side loading. Automated lift arm shall be capable of lifting ANSI approved container ranging from 45 to 90 gallons.		
3. The automated arm and packer shall be operated from the right side of the cab. The cab will be acceptable if it is right hand steer only.		
4. The automated arm unit shall also have the ability to be operated from the ground level outside the cab.		
5. Grip arms shall be pad style.		
Safety and Compliance		
1. Refuse body shall meet OSHA regulations with proper shielding and visible warning labels and lights.		
2. Complete unit shall meet all applicable standards and regulations in effect at the time of manufacture.		
Body Specifications		
1. The body has a rounded shape enhancing resistance to deformation, durability, and better legal payload		
2. Body Trough - ¼" AR450 175,000 PSI		
3. Body Floor - ¼" 100QT 100,000 PSI		
4. Body Sides (lower) - 3/16" 100QT 100,000 PSI		
5. Body Sides (upper) - 12ga A1011 80,000 PSI		
6. Body Roof - 12ga A1011 80,000 PSI		
7. Tailgate - 12ga A715 80,000 PSI		
8. Pre-Crusher plate shall be provided if available.		
9. Body and chassis shall be white in color.		
Lighting and Electrical Specifications		
1. All lighting shall use LED.		
2. Flashing warning system shall use signal lights and automatically switch to signals when turn signal is activated.		
3. All electrical connections to be soldered and weatherproof.		
4. Peterson Smart Light system or approved equal.		
5. Electronic back-up alarm.		
6. Shall have remote start jumper studs and master cut-off switch.		
Hopper Specifications		
1. Hopper size - 1.5 yd ³		
2. Loading Height – 20.5" above frame		
3. Hopper Trough – ¼" AR450 175,000 PSI		
4. Hopper Floor – ¼" AR450		
5. Hopper Sides (lower) 3/16" 100QT 100,000 PSI		

6. Hopper shall have broom and shovel brackets preferably on the inside of a compartment door.		
7. Work lights for both the hopper area and picking area for automated arm.		
Packer Specifications		
1. Compaction Ratio – 900 lbs/ yd ³		
2. Packer Panel Face Plate – 3/16” AR450 175,000 PSI		
3. Packer Width – 62-3/4”		
4. Packer Height – 17”		
5. Packer Stroke – 38”		
Hydraulic Specifications		
1. Pump Make & Model – Single Vane (Manual) / Dual Vane (Automated)		
2. Pump Capacity (Manual) – 20 gpm@1200 rpm		
3. Pump Capacity (Automated) – Body: 20 gpm@1200 rpm, Arm 14 gpm@1200 rpm		
4. Max. Operating Pressure – 2,500 PSI		
5. Oil Reservoir – 51 gal		
Arm Specification		
1. Arm Lift Capacity – 400lbs		
2. Arm Reach 84”		
3. Swing Out – 27”		
4. Arm Controls – Proportional joystick, electric over hydraulic		
Cylinder Specifications		
1. Packer Cylinder – 3 stages 4-1/2” bore x 138” stroke		
2. Tailgate Cylinder – 2-1/2” bore x 1-3/4” rod x 31” stroke		
3. Arm Extension Cylinder – 2” bore x 1-1/4” rod x 70” stroke		
4. Lifting Cylinder – 3” bore x 1-1/2” rod x 16” stroke		
5. Grabber Cylinder – 1-1/2” bore x 1” rod x 6-1/4” stroke		
Performance Specifications		
1. Arm in – 3.0-3.5 sec @ 1200 rpm		
2. Arm out – 5.0-5.5 sec @ 1200 rpm		
3. Arm up – 3.0-3.5 sec @ 1200 rpm		
4. Arm down – 3.0-3.5 sec @ 1200 rpm		
5. Grabber Open – 1.3-1.8 sec @ 1200 rpm		
6. Grabber Close – 1.0-1.5 sec @ 1200 rpm		
Cab and Chassis Specifications		
1. Isuzu NPR Standard Cab or approved equal based on body		
2. Cab shall have a LH or RH cloth air ride seat with armrest. RH is preferred.		
3. Power windows, Power Locks, Cruise Control, Prewired two-way radio.		
4. Cab shall have air conditioning and heater.		
5. Cab shall have tilt steering column with an 18” maximum steering wheel diameter.		
6. Cab shall have remote adjustable, heated mirrors with extra convex mirrors for additional visibility.		
7. Frame shall have front and rear tow hooks.		

8. Instrument panel shall have full instrumentation including hour meter, transmission temperature and air filter restriction gauge.		
9. Power supply and ground shall be provided for the installation of a two-way radio.		
10. A color camera monitoring system with cameras monitoring the automated arm, hopper, and rear of truck. Factory installed is preferred.		
11. Monitor shall be mounted in the upper right corner of the cab.		
12. Bidder shall work with chassis manufacture(s) to ensure proper chassis specifications are complete.		
Engine		
1. CNG, Gas, Diesel, or EV		
2. Engine sizing is dependent on cu. yard capacity proposed		
Transmission		
1. Automatic		
2. Heavy duty oil cooler.		
3. Synthetic fluid.		
Suspension and Differential		
1. Suspension system should be spec'd based on proposed cu. yard capacity		
Controls		
1. Joystick control inside the cab for automated arm system.		
2. Secondary controls located on the lower right side of the seat for plenum and automated arm system. Controls must be reached from ground level.		
3. Pack on the go if available.		
4. Operator shall have the ability to feather the control lever to vary the speed of the arm.		
5. Operation of arm, after gripping container, will dump and return the container to the side of the truck once dumped.		
Maintenance		
1. All system components are easily accessible and suitable for maintenance and repair with common hand tools. Grease fittings shall be incorporated into banks that are accessible from the standing position on the ground.		
2. One operator and parts manual from the truck and refuse body manufacture.		
3. One complete repair manual including electrical schematics for the refuse body and all subcomponents.		
Warranty		
1. Three year all-inclusive warranty on chassis.		
2. Three year all-inclusive warranty on refuse body.		
3. Warranty details provided in Proposal		
Accessories		
1. Fire extinguisher and triangles.		
2. Rear fenders that cover both axles, front and rear mud flaps with anti-sale brackets.		
3. Side mounted ladder for hopper access.		
Exceptions & Deviations		
1. Proposer shall fully describe every variance exception and/or deviation.		



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Authorization to Distribute a Request for Proposals for Trash Receptacles

SOURCE: Public Works

COMMENT: The Request for Proposals (RFP) has been prepared for Phase 1 of the Bus Stop Improvement Project. The Phase 1 project will include the purchase of fully enclosed, non-compacting trash and recycling receptacles to be installed at the Transit Center and major locations throughout the City. The project's primary goals are to 1) provide cleaner spaces, 2) reduce operations costs, and 3) promote citywide sustainability goals. A sample of what the trash and recycling receptacles could look like is attached.

The Independent Cost Estimate (ICE) for this project is \$360,000. Funding for this project is a Federal Transit Administration (FTA) grant in the amount of \$288,000. A local match of \$72,000 is required, which will be covered by Local Transportation Funds (LTF). These funds are approved in the amended FY 2024-2025 Transit Budget. The negotiated contract will be brought back to the City Council for final approval.

RECOMMENDATION: That the City Council:

1. Approve the draft Request for Proposal;
2. Authorize staff to advertise for proposals on the project; and
3. Authorize staff to negotiate with the most responsive and responsible Proposer who has demonstrated the ability to perform the project in an acceptable manner and is most advantageous to the City.

ATTACHMENTS:

1. Smart Trash Receptacle
2. Draft Request for Proposals - Trash Receptacles

Appropriated/Funded:

Review By:

Department Director:
Richard Tree, Director of Transportation

Final Approver: Patrice Hildreth, City Manager



SOLAR-POWERED
TRASH & RECYCLING
STATION

KEEP MCKINNEY
BEAUTIFUL
UNIQUE BY NATURE



RECYCLING
ONLY



KEEP MCKINNEY
BEAUTIFUL



TRASH
ONLY

SOLAR-POWERED
TRASH COMPACTOR & RECYCLING STATION



**CITY OF PORTERVILLE
REQUEST FOR PROPOSAL RFP No. XXXXX
TRASH RECEPTACLES**



August 27, 2024

The City of Porterville does not discriminate on the basis of race, gender, ethnicity, age, national origin, religion or disability in its employment opportunities, programs, services, contracting opportunities or activities. It is the City's policy to ensure compliance with the Title VI of the Civil Rights Act of 1964 in its contracting opportunities.

The project is funded in part by the Federal Transit Administration Catalog of Federal Domestic Assistance (CFDA) 20.500 and 20.507. The City of Porterville reserves the right to reject any or all proposals.



**CITY OF PORTERVILLE, CALIFORNIA
REQUEST FOR PROPOSALS (RFP) NO. XXXXX
TRASH RECEPTACLES**

SEALED PROPOSALS will be received by the Transportation Department located at 291 N. Main Street, Porterville, CA 93257, until 2:00 P.M. on Thursday, September 26, 2024, for the Contract to provide trash receptacles.

A mandatory site visit is NOT REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us.

This contract is federally funded and as such, the Federal Requirements associated with the performance of services under this contract have been included with this RFP. The awarded Proposer will be responsible for adherence to all local, state, and federal requirements listed herein. These requirements are hereby incorporated into the subsequent contract arising from this RFP.

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. All addenda and correspondence during the process will be handled electronically through the Public Purchase website.

The City has not established a DBE goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract. The City of Porterville overall DBE goal is 1% of total contracts (including subcontracts) awarded.

The City hereby affirmatively ensures that Minority Business Enterprises and Disadvantaged Business Enterprises (DBE) will be afforded the full opportunity to submit proposals in response to this notice. Individuals and/or entities submitting bids/proposals to the City of Porterville will not be discriminated against on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, gender, gender identity or expression, age, sexual orientation, or military or veteran status in any consideration leading to the award of contract.

The right is reserved by the City of Porterville to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted and to award the contract according to the proposal which best serves the interests of said City.

Publication Dates:

August 27, 2024

Table of Contents

Section I - Instructions	4
Section II – Standard Terms and Conditions.....	14
Section III – Special Terms and Conditions	25
Section IV – Insurance and Indemnification.....	34
Section V - SCOPE OF WORK.....	38
Section VI – Federal Transit Administration (FTA) Terms and Conditions	40
Exhibit A – Required Forms.....	65
Exhibit B – Sample General Services Agreement.....	72

Section I - Instructions

RFP/Agreement Schedule

Event	Date of Event
RFP Available to the public	August 27, 2024
Required Site Tour	N/A
Deadline to submit questions	September 5, 2024
Proposal submittal deadline @ 2:00 pm PST	September 26, 2024
Short list established and vendors notified	October 3, 2024
Interviews/Presentation with short-listed vendors (if required)	N/A
Award of Contract @ City Council Meeting	October 15, 2024
Contract Begins	November 1, 2024

City's Vendor Self-Registration and Notification

Proposal forms and documents may be inspected and electronically downloaded at no cost, at the Public Purchase website, www.publicpurchase.com. No copies of said documents will be provided by the City. No proposal shall be received from an individual or firm that has not accessed the proposal documents from the Public Purchase website. All addenda and correspondence during the process will be handled electronically through the Public Purchase website. Questions regarding this request for proposals must be submitted through the Public Purchase website.

Background

The City of Porterville ("CITY") is located in Tulare County, which is part of the Central San Joaquin Valley of California. The San Joaquin Valley is a rich agricultural area and Tulare County is recognized as the largest agricultural-producing county in the world.

Porterville has a land area of approximately 14.3 square miles (9,161 acres), situated at the base of the foothills of the Sierra Nevada Mountain Range. It is approximately 30 miles southeast of Visalia (the County seat); 60 miles northeast of Bakersfield, 165 miles northeast of Los Angeles, and 254 miles southeast of San Francisco. State Routes 65 and 190 bisect the community.

The Porterville City Council is the policy-making body for the City of Porterville's Transportation Department. It adopts the Short-Range Transit Plan, and through the annual budgetary process, establishes operational and funding levels for the system. The City Council also sets operational policies and parameters.

Management of the City's public transportation system, referred to as Porterville Transit, is an integrated function of the City of Porterville. The Transportation department is responsible for the overall management of the service. The City is also responsible for the maintenance of the transit fleet, through its Field Services Division.

The City outsources, to a private contractor, to perform daily operations of Porterville Transit. The Director of Transportation is responsible for the overall administration, planning, monitoring, and

marketing of the system. The Director of Transportation also acts as a liaison to the Tulare County Association of Governments (TCAG), the California Department of Transportation (Caltrans) and the Federal Transit Administration (FTA). The contracted local General Manager is responsible for the day-to-day operations management; the hiring, testing, training and supervision of all drivers and dispatch staff; fare collection; reporting; ridership data collection; and the operation of Porterville Transit vehicles in accordance with City policy and all State and Federal regulations. The County of Tulare contracts with the City of Porterville to provide transit service to unincorporated areas surrounding Porterville. The County reimburses the City for service provided to County residents using Local Transportation Funds (LTF).

Porterville Transit provides an array of transportation services in the form of fixed route bus services, ADA complementary paratransit, and innovative On-Demand services.

Preparation of Offer

1. Any person (“Proposer”) submitting a Proposal (“Proposal”) in response to this Request for Proposals (“RFP”) shall examine the Scope of Work carefully and be informed thoroughly regarding any and all conditions and requirements that may in any manner affect the work to be performed under the contract to be awarded under this RFP (the “Contract”). No allowances shall be made because of lack of knowledge of any specifications, conditions, or requirements of this RFP.
2. All forms provided must be completed and submitted with your Proposal.
3. It is permissible to copy submittal forms if necessary. Erasures, interlineations, or other modifications of the Proposal must be initialed in original ink by the authorized person signing the offer. No Proposal will be altered, amended, or withdrawn after the specified offer due date and time. The City is not responsible for Proposer’s errors or omissions.
4. All time periods stated as a number of days will be calendar days.
5. It is the responsibility of all Proposers to examine the entire solicitation and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a Proposal. Negligence in preparing a Proposal confers no right of withdrawal after due date and time. Proposers are strongly encouraged to:
 - 1) Consider applicable laws and/or economic conditions that may affect cost, progress, performance, or furnishing of the products or services.
 - 2) Study and carefully correlate Proposer’s knowledge and observations with the RFP document and other related data.

- 3) Promptly notify the City of all conflicts, errors, ambiguities, or discrepancies which a proposer has discovered in or between the RFP document and such other related documents.
- 4) The City does not reimburse the cost of developing, presenting or providing any response to this solicitation. Proposals submitted for consideration should be prepared simply and economically, providing adequate information in a straightforward and concise manner. The Proposer is responsible for all costs incurred in responding to this solicitation. All materials and documents submitted in response to this solicitation become the property of the City and will not be returned.
- 5) Proposers are reminded that the specifications stated in the solicitation are the minimum level required and that offers submitted must be for products or services that meet or exceed the minimum level of all features specifically listed in this solicitation. Proposals offering less than any minimum specifications or criteria specified are not responsive and should not be submitted.
- 6) Proposers' responses submitted for products considered by the seller to be acceptable alternates to the brand names or manufacturer's catalog references specified herein must be submitted with technical literature and/or detailed product brochures for the City's use to evaluate the products proposed. Proposals submitted without this product information may be considered as non-responsive and rejected. The City will be the sole judge as to the acceptability of alternate products offered.
- 7) Prices shall be submitted on a per unit basis by line item, when applicable. Failure to submit any unit pricing will be sufficient grounds for the City to consider the proposal to be non-responsive. In the event of a disparity between the unit price and extended price, the unit price shall prevail unless obviously in error.

Exceptions

Proposer must not take any exceptions to any terms, conditions or material requirements of this solicitation. Proposals submitted with exceptions may be deemed non-responsive and disqualified from further consideration in the City's sole discretion. Proposals must conform to all the requirements specified in the solicitation. The City encourages Proposers to send inquiries to the procurement officer rather than including exceptions in their Proposal.

Communications to City

All questions pertaining to this RFP, or any matters relating thereto the Scope of Work, or any questions pertaining to the RFP or RFP documents, shall be in writing and shall be submitted only through the Public Purchase website. Communications sent to any other person at the City or at any other address may, in the City's sole discretion, be deemed to be "non-responsive" and the

City in its discretion may elect to disregard any such questions. The City shall not respond to oral inquiries, and oral statements of any nature by the City or any of its representatives may not be relied upon for any purpose whatsoever.

Addenda

The City of Porterville will not be responsible for any oral instructions made by any employees or officers of the City of Porterville regarding this solicitation. Any changes will be in the form of an addendum. The Offeror must acknowledge receipt of any/all addenda by signing and returning the document with the offer submittal.

Business in California

The City will not enter contracts with Proposers (or any company(ies)) not granted authority to transact business, or not in good standing, in the state of California, unless the proposer asserts a statutory exception prior to entering a contract with the City.

Licenses

If required by law for the operation of the business or work related to this Proposal, Proposer must possess all valid certifications and/or licenses as required by federal, state or local laws at the time of submittal.

Certification

By signing the Proposal, proposer certifies:

- The Proposer's submission of the Proposal did not involve collusion or other anti-competitive practices
- The Proposer shall not discriminate against any employee, or applicant for employment in violation of Federal or State Law.
- The Proposer has not given, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal.

Minimum Qualifications

- Proposer must have been in operation a minimum of five years.

Certificates of Insurance

Upon notification of a recommended award, the Proposer will have 14 calendar days to submit a complete certificate of insurance in the minimum amounts and the coverages as required in the Insurance Requirements of this solicitation. Insurance requirements are non-negotiable.

Award of Contract

Unless otherwise indicated, award(s) will be made to the most responsive and responsible Proposer whose proposal, in the sole and absolute discretion of City, for providing the goods and/or services contained in this solicitation, who have demonstrated the ability to perform in an acceptable manner, and is most advantageous to the City.

Notwithstanding any other provision of this solicitation, the City reserves the right to: (1) waive any immaterial defect or informality; or (2) reject any or all offers or portions thereof; or (3) reissue a solicitation.

A response to a solicitation is a Proposal to contract with the City based upon the terms, conditions, and specifications contained in the City's solicitation. Proposals do not become contracts until they are executed by the Mayor. A contract has its inception in the award, eliminating a formal signing of a separate contract. For that reason, all of the terms, conditions and specifications of the procurement contract are contained in the solicitation, and in any addendum or contract amendment.

Solicitation Transparency Policy

Commencing on the date and time a solicitation is published, potential or actual proposers or respondents (including their representatives) shall only discuss matters associated with the solicitation with the Mayor, any members of City Council, the City Manager, Deputy City Manager, or any department director directly associated with the solicitation (including in each case their assigned staff, except for the designated procurement officer) at a public meeting, posted under California Statutes, until the resulting contract(s) are awarded to all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City's intent to reissue the same or similar solicitation.

As long as the solicitation is not discussed, Proposers may continue to conduct business with the City and discuss business that is unrelated to the solicitation with the City staff. Proposers may not discuss the solicitation with any City employees or evaluation panel members.

Proposers may discuss their proposal or the solicitation with the Mayor or one or more members of the Porterville City Council, provided such meetings are scheduled through the Procurement Officer, and are posted as open meetings with the City Clerk at least 24 hours prior to the scheduled meetings. The City Clerk will be responsible for posting the meetings. The posted notice shall identify the participants and the subject matter, as well as invite the public to participate.

With respect to the selection of the successful Proposals, the City Manager will continue the past practice of exerting no undue influence on the process. In all solicitations of bids and proposals, any direction on the selection from the City Manager and Department Head (or representative) to the proposal review panel or selecting authority must be provided in writing to all prospective Offerors.

This policy is intended to create a level playing field for all Proposers, assure that contracts are awarded in public, and protect the integrity of the selection process. PROPOSERS THAT

VIOLATE THIS POLICY SHALL BE DISQUALIFIED. After official Notice is received by the City for disqualification, the Proposer may follow the Protest process, unless the Solicitation is cancelled without notice of intent to re-issue.

“To discuss” means any contact by the Proposer, regardless of whether the City responds to the contact. Proposers that violate this policy will be disqualified until the resulting contract(s) are awarded, or all proposals or responses are rejected and the solicitation is cancelled without any announcement by the Procurement Officer of the City’s intent to reissue the same or a similar solicitation. The City interprets the policy as continuing through a cancellation of a solicitation until Council award of the contract, as long as the City cancels with a statement that the City will rebid the solicitation.

Protest Process

In the event any person wishes to file a Protest regarding this RFP, such Protest shall be made in accordance with City’s FTA Procurement and Contract Administration Manual (which is available at www.ci.porterville.ca.us), the terms of which are hereby included herein by this reference. The City reserves the right to modify the terms of the protest procedure if it determines that such modification is in its best interest. Should there be any dispute between the City’s FTA Procurement and Contract Administration Manual and the provisions of this Section, the City in its discretion shall determine which provision governs.

By way of background, all Proposers understand and agree that the procurement process undertaken by virtue of this RFP is solely for the benefit of the City, and it is for the City to determine in its discretion which Proposal the City desires to accept. The City has provided for a Protest procedure not to grant any rights to any particular Proposer but, rather, to provide the City the opportunity to review and examine any information regarding any Proposal which it may not have fully evaluated. Thus, no Proposer has any legal right in connection with any Protest Proceeding and the City may, in its discretion, determine whether or not to reject any Protest.

In the event a Protest is rejected, the Proposer may appeal the rejection as set forth in the City’s FTA Procurement and Administration Manual or herein but, again, said appeal shall be decided by the City based upon what it determines to be in its best interest. As such, legal concepts (such as the California or Federal Rules of Civil Procedure and the Judicial Rules of Evidence) and other matters which may be applicable to judicial or other proceedings are not applicable to a Protest in accordance with the City’s FTA Procurement and Contract Administration Manual. In addition, the appeal process set forth in the City’s FTA Procurement and Contract Administration Manual is exclusive and upon the exhaustion of the appeal, no further appeal may be taken, or separate suit filed against the City.

By virtue of submitting its Proposal, any Protesting Party expressly agrees that its remedies are exclusively limited to the City’s Protest procedure set forth in the City’s FTA Procurement and Contract Administration Manual (as the same may be modified hereby) and that there shall be no appeal or litigation resulting from the final award of any Contract by the City. The foregoing is a material consideration in the consideration by the City of any Proposal.

Public Record

All Proposals submitted in response to this solicitation will become the property of the City and become a matter of public record available for review pursuant to California State law. If a Proposer believes that a specific section of its Proposal response is confidential, the Proposer will isolate the pages marked confidential in a specific and clearly labeled section of its Proposal response. A Proposer may request specific information contained within its Proposal is treated by the Procurement Officer as confidential provided the Proposer clearly labels the information “confidential.” To the extent necessary for the evaluation process, information marked as “confidential” will not be treated as confidential. Once the procurement file becomes available for public inspection, the Procurement Officer will not make any information identified by the Proposers as “confidential” available to the public unless necessary to support the evaluation process or if specifically requested in accordance with applicable public records law. When a public records request for such information is received, the Procurement Officer will notify the Proposer in writing of any request to view any portion of its Proposal marked “confidential.” The Proposer will have the time set forth in the notice to obtain a court order enjoining such disclosure. If the Proposer does not provide the Procurement Officer with a court order enjoining release of the information during the designated time, the Procurement Officer will make the information requested available for inspection.

Right to Disqualify

The City reserves the right to disqualify any Proposer who fails to provide information or data requested or who provides materially inaccurate or misleading information or data. The City further reserves the right to disqualify any Proposer on the basis of any real or apparent conflict of interest that is disclosed by the Proposer submitted or any other data or information available to the City. This disqualification is at the sole discretion of the City. By submission of a solicitation response, the Proposer waives any right to object now or at any future time, before any agency or body including, but not limited to, the City Council of the City of Porterville or any court as to the exercise by the City of such right to disqualify or as to any disqualification by reason of real or apparent conflict of interest determined by the City. The City reserves the right to replace the disqualified Proposer.

Late Proposals

Late Proposals must be rejected, except for good cause. If a late Proposal is submitted, the Department will document the date and time of the submittal of the late Proposal, keep the Proposal and notify the Proposer that its Proposal was disqualified for being late.

Pre-Bid Meeting

A mandatory site visit is NOT REQUIRED in order to be familiar with the site and the work to be performed. To examine the site, please contact the Director of Transportation, Richard Tree at (559) 782-7514 or rtree@ci.porterville.ca.us.

Contract Award

The City reserves the right to award a contract by individual line items, by group, all or none, or any other combination most advantageous to the City. The City reserves the right to multiple award contracts.

Determining Responsiveness and Responsibility

Proposals will be reviewed for documentation of any required minimum qualifications, completeness, and compliance with the Solicitation requirements. The City reserves sole discretion to determine responsiveness and responsibility.

Responsiveness: Nonresponsive Proposals will not be considered in the evaluation process. The solicitation states criteria that determine responsiveness, and the solicitation includes terms and conditions that if included or excluded from Proposals will render a Proposal nonresponsive.

Exceptions, conditions, reservations, or understandings are presumed to be unacceptable, and a Proposal that includes unacceptable exceptions, conditions, reservations, or understandings may be rejected as nonresponsive. Alternatively, the City in its sole discretion may instruct in writing that any Proposer remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so in writing, the City may determine the Proposal to be nonresponsive.

Responsibility: To obtain true economy, the City must conduct solicitations to minimize the possibility of a subsequent default by Contractor, late deliveries, or other unsatisfactory performance that may result in additional administrative costs. It is important that the Proposer be a responsible contractor. Responsibility includes the Proposer's integrity, compliance with public policy, skill, capacity, experience, record of past performance, financial and technical resources, and facilities for conducting the work to be performed.

The Procurement Officer will review each Proposal to determine if the Proposer is responsible. The City's determination as to whether an Proposer is responsible will be based on all information furnished by the Proposer, interviews (if any), any information at the City's request and information received from Proposer's references, including information about Proposer's history, terminations for convenience or cause, contract breach lawsuits or notices of claim and any other sources the City deems appropriate. Award of the Contract resulting from the solicitation will not be made until any necessary investigation, which each Proposer agrees to permit by submitting its Proposal, is made by the City as it deems necessary. A review of responsibility may occur up to contract award.

The Proposer's unreasonable failure to promptly supply information about an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such Proposal.

Clarifications

The City may request written clarifications for such purposes as information gathering or eliminating minor irregularities in offers. Clarifications shall not otherwise afford the Offerors the opportunity to alter or change their offers.

Detailed Evaluation of Proposals and Determination of Competitive Range

During deliberations, the Evaluation Panel will reach a consensus score for each evaluation criterion except price. The Procurement Officer will score the price, which will be added to the overall consensus score. The overall consensus scores will determine the Proposer's rankings and which Proposals are within the Competitive Range, when appropriate.

Proposals Not Within The Competitive Range

The City may notify Proposers of Proposals that the City determined are not in the Competitive Range.

Discussions With Proposers In The Competitive Range

The City will notify each Proposer whose Proposal is in the Competitive Range or made the 'short list' and provide in writing any questions or requests for clarification to the Proposer. Each Proposer so notified may be interviewed by the City and asked to discuss answers to written or oral questions or provide clarifications to any facet of its Proposal. The Proposers in the competitive range may be required to provide a demonstration of their product.

Demonstrations - Proposers in the competitive range may be invited to construct a hands-on sample or presentation of their solution at the City of Porterville. In addition, each finalist may prepare and deliver a presentation of their proposed solution based on the script developed by the evaluation panel. The City may also require a hands-on lab demonstration designed specifically for the evaluation panel. The results of the surveys will be tabulated and delivered to the evaluation team for the final review and solution selection session(s).

If a Proposal in the Competitive Range contains conditions, exceptions, reservations or understandings to or about any Contract or Solicitation Scope requirement, the City may discuss or negotiate the conditions, exceptions, reservations or understandings during these meetings. But the City in its sole discretion may reject any and all conditions, exceptions, reservations and understandings, and the City may instruct any Proposer to remove the conditions, exceptions, reservations or understandings. If the Proposer fails to do so, the City may determine the Proposal is nonresponsive, and the City may revoke its determination that the Proposer is in the Competitive Range.

To the fullest extent permitted by law, the City will not provide any information, financial or otherwise, to any Proposer about other Proposals received in response to this solicitation. During discussions with Proposers in the Competitive Range, the City will not give Proposers specific prices or specific financial requirements that Proposers must meet to qualify for further consideration. The City may state that proposed prices are too high with respect to the marketplace

or otherwise unacceptable. Proposers will not be told of their relative rankings before Contract award.

Best and Final Offers (BAFO)

A BAFO is an option available for negotiations. Each Proposer in the Competitive Range, which is determined in the City's sole discretion, may be afforded the opportunity to amend its Proposal and make one BAFO.

If a Proposer's BAFO modifies its initial offer, the BAFO should include a "Change Log" identifying all modifications made to the Proposal. The City will evaluate BAFOs based on the same requirements and criteria applicable to initial Proposals. The City will adjust appropriately, at its sole discretion, the initial scores for criteria that have been affected by Proposal modifications made by a BAFO. Based on the criteria defined in the solicitation as weighted, the City will then perform final scoring and prepare final rankings.

The Evaluation Panel will recommend the Proposal that is the most advantageous to the City based on the evaluation criteria.

The City reserves the right to make an award to a Proposer whose Proposal is the highest rated and most advantageous to the City based on the evaluation criteria, without conducting written or oral discussions with any Offeror, without negotiations, and without soliciting BAFOs.

Section II – Standard Terms and Conditions

Contract Interpretation

Applicable Law

This Contract will be governed by the law of the State of California, and suits pertaining to this Contract will be brought only in Federal or State courts in Tulare County, State of California.

Contract Order Of Precedence

In the event of a conflict in the provisions of the Contract, as accepted by the City and as they may be amended, the following will prevail in the order set forth below:

- Federal Terms and Conditions
- Special Terms and Conditions
- Standard Terms and Conditions
- Amendments
- Scope of Work
- Specifications
- Attachments
- Exhibits
- Instructions to Contractors
- Other documents referenced or included in the RFP

Organization – Employment Disclaimer

The Agreement resulting hereunder is not intended to constitute, create, give rise to, or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties will be only those expressly set forth in the agreement. The parties agree that no persons supplied by the Contractor in the performance of Contractor's obligations under the agreement are considered to be City's employees and that no rights of City civil service, retirement or personnel rules accrue to such persons. The Contractor will have total responsibility for all salaries, wage bonuses, retirement, withholdings, workmen's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons and will save and hold the City harmless with respect thereto.

Severability

The provisions of this Contract are severable to the extent that any provision or application held to be invalid will not affect any other provision or application of the contract which may remain in effect without the invalid provision or application.

Non-Waiver of Liability

The City of Porterville as a public entity supported by tax monies, in execution of its public trust, cannot agree to waive any lawful or legitimate right to recover monies lawfully due it. Therefore, any Contractor agrees that it will not insist upon or demand any statement whereby the City agrees to limit in advance or waive any right the City might have to recover actual lawful damages in any court of law under applicable California law.

Parol Evidence

This Agreement is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage in the trade will be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this contract will not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

Contract Administration and Operation

Records

All books, accounts, reports, files, and other records relating to the contract will be subject at all reasonable times to inspection and audit by the City for five years after completion of the contract. Such records will be produced at a City of Porterville office as designated by the City. Confidentiality will be maintained, and City will not violate any proprietary or other confidentiality agreements vendor has in place.

Discrimination Prohibited

Any Contractor, in performing under this contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age or disability nor otherwise commit an unfair employment practice. The Contractor will take action to ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, or national origin, age or disability and adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action will include but not be limited to the following: Employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled, and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts.

Equal Employment Opportunity and Pay

For a Contractor with 35 employees or fewer: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability. Such action shall include but not be limited to the following: employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts related to this Agreement that involve furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Agreement. Contractor further agrees that this clause will be incorporated in all subcontracts.

For a Contractor with more than 35 employees: Contractor in performing under this Agreement shall not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, sex, national origin, age, or disability, nor otherwise commit an unfair employment practice. The Contractor will ensure that applicants are employed, and employees are dealt with during employment without regard to their race, color, religion, sex, national origin, age, or disability, and shall adhere to a policy to pay equal compensation to men and women who perform jobs that require substantially equal skill, effort, and responsibility, and that are performed within the same establishment under similar working conditions. Such action shall include but not be limited to the following: employment, promotion, 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 further agrees that this clause will be incorporated in all subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this contract. Contractor further agrees that this clause will be incorporated in all subcontracts, job-Contractor agreements. The Contractor further agrees not to discriminate against any worker, employee or applicant, or any member of the public, because of sexual orientation or gender identity or expression and shall ensure that applicants are employed, and employees are dealt with during employment without regard to their sexual orientation or gender identity or expression.

Documentation: Contractors may be required to provide additional documentation to the Equal Opportunity Department affirming that a nondiscriminatory policy is being utilized.

Monitoring: The City shall monitor the employment policies and practices of Contractors subject to this article as deemed necessary. The City is authorized to conduct on-site compliance reviews of selected firms, which may include an audit of personnel and payroll records, if necessary.

Health, Environmental and Safety Requirements

The Contractor's products, services and facilities will be in full compliance with all applicable Federal, State and local health, environmental and safety laws, regulations, standards, codes and ordinances, regardless of whether or not they are referred to by the City.

At the request of City representatives, the Contractor will provide the City:

- Environmental, safety and health regulatory compliance documents (written safety programs, training records, permits, etc.) applicable to services provided by the Contractor in this contract.
- A list of all federal, state, or local (EPA, OSHA, Tulare County, etc.) citations or notice of violations issued against their firm or their subcontractors including dates, reasons, dispositions and resolutions.

The City will have the right, but not the obligation to inspect the facilities, transportation vehicles or vessels, containers and disposal facilities provided by the Contractor or subcontractor. The City will also have the right to inspect operations conducted by the Contractor or subcontractor in the performance of this Agreement. The City further reserves the right to make unannounced inspections of the Contractor's facilities (during normal business hours).

Compliance With Laws

Contractor agrees to fully observe and comply with all applicable Federal, State and local laws, regulations, standards, codes and ordinances when performing under this Contract regardless of whether they are being referred to by the City. Contractor agrees to permit City inspection of Contractor's business records, including personnel records to verify any such compliance.

Because the Contractor will be acting as an independent Contractor, the City assumes no responsibility for the Contractor's acts.

Continuation During Disputes

Contractor agrees that notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the contract, the Contractor will continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by a California Court of competent jurisdiction.

Emergency Purchases

The City reserves the right to purchase from other sources those items which are required on an emergency basis and cannot be supplied immediately from stock by the Contractor.

Costs and Payments

General

Any prompt payment terms offered must be clearly noted by the Contractor on all invoices submitted to the City for the payment of goods or services received. The City will make every effort to process payment for the purchase of material or services within thirty to forty-five calendar days after receipt of a correct invoice, unless a good faith dispute exists to any obligation to pay all or a portion of the account. Payment terms are specified in the Proposal.

Payment Deduction Offset Provision

Contractor acknowledges that the City Charter requires that no payment be made to any Contractor as long as there is an outstanding obligation due to the City. Contractor agrees that any obligation it owes to the City will be offset against any payment due to the Contractor from the City.

Late Submission of Claim By Contractor

The City will not honor any invoices or claims which are tendered one year after the last item of the account accrued.

Discounts

Payment discounts will be computed from the date of receiving acceptable products, materials and/or services or correct invoice, whichever is later to the date payment is mailed.

No Advance Payment

Advance payments are not authorized. Payment will be made only for actual services or commodities that have been received, unless addressed specifically in the Scope of work for subscription services.

Fund Appropriation Contingency

The Contractor recognizes that any agreement entered into will commence upon the day first provided and continue in full force and effect until termination in accordance with its provisions. The Contractor and the City herein recognize that the continuation of any contract after the close of any given fiscal year of the City, which ends on June 30th of each year, will be subject to the approval of the budget of the City providing for or covering such contract item as an expenditure therein. The City does not represent that said budget item will be actually adopted, said determination being the determination of the City Council at the time of the adoption of the budget.

Maximum Prices

The City will not be invoiced at prices higher than those stated in any contract resulting from this Proposal. Contractor certifies, by signing this Proposal that the prices offered are no higher than the lowest price the Contractor charges other buyers for similar quantities under similar conditions, as applicable and shown by quotes for like services and goods. Contractor further agrees that any reductions in the price of the goods or services covered by this Proposal and occurring after award will apply to the undelivered balance. The Contractor will promptly notify the City of such price reductions.

F.O.B Point

All prices are to be quoted F.O.B. destination, unless specified elsewhere in this solicitation.

Contract Changes

Contract Amendments

Contracts will be modified only by a written contract amendment signed persons duly authorized to enter into contracts on behalf of the Contractor. No verbal agreement or conversation with any officer, agent, or employee of the City either before or after execution of the contract, will affect or modify any of the terms or obligations contained or to be contained in the contract. Any such verbal agreements or conversation shall be considered as unofficial information and in no way binding upon the City or the Contractor. All agreements shall be in writing and contract changes shall be by written amendment signed by both parties.

Assignment – Delegation

No right or interest in this contract nor monies due hereunder will be assigned in whole or in part without written permission of the City, and no delegation of any duty of Contractor will be made without prior written permission of the City, which may be withheld for good cause. Any assignment or delegation made in violation of this section will be void.

Non-Exclusive Contract

Any contract resulting from this solicitation will be awarded with the understanding and agreement that it is for the sole convenience of the City. The City reserves the right to obtain like goods or services from another source when necessary.

Risk of Loss and Liability

Title and Risk of Loss

The title and risk of loss of material or service will not pass to the City until the City actually receives the material or service at the point of delivery; and such loss, injury, or destruction will not release seller from any obligation hereunder.

Acceptance

All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this contract will be held at Contractor's risk and may be returned to the Contractor. If so returned, all costs are the responsibility of the Contractor. Noncompliance will conform to the cancellation clause set forth in this document.

Force Majeure

Except for payment of sums due, neither party will be liable to the other nor deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure will not include late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition.

If either party is delayed at any time in the progress of the work by force majeure, the delayed party will notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and will specify the causes of such delay in such notice. Such notice will be hand-delivered or mailed certified-return receipt and will make a specific reference to this provision, thereby invoking its provisions. The delayed party will cause such delay to cease as soon as practicable and will notify the other party in writing when it has done so. The time of completion will be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this contract.

Loss of Materials

The City does not assume any responsibility, at any time, for the protection of or for loss of materials, from the time that the contract operations have commenced until the final acceptance of the work by the project manager.

Contract Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the scope, or elsewhere in this Agreement. The City's authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the City's authorized representative, performance becomes unsatisfactory, the City will notify the Contractor.

The Contractor will have 30 days from that time to correct any specific instances of unsatisfactory performance, unless a different amount of time is specified in the agreement. In the event the unsatisfactory performance is not corrected within the time specified, the City will have the immediate right to complete the work to its satisfaction and will deduct the cost to cover from any balances due or to become due the Contractor. Repeated incidences of unsatisfactory performance may result in cancellation of the agreement for default.

Damage to City Property

Contractor will perform all work so that no damage to the building or grounds results. Contractor will repair any damage caused to the satisfaction of the City at no cost to the City.

Contractor will take care to avoid damage to adjacent finished materials that are to remain. If finished materials are damaged, Contractor will repair and finish to match existing material as approved by the City at Contractor's expense.

City's Contractual Rights

Whenever one party to this contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made, and no written assurance is given within five days, the demanding party may treat this failure as an anticipatory repudiation of this contract.

Non-Exclusive Remedies

The rights and remedies of the City under this Contract are non-exclusive.

Default In One Installment To Constitute Breach

Each installment or lot of the agreement is dependent on every other installment or lot and a delivery of non-conforming goods or a default of any nature under one installment or lot will impair the value of the whole agreement and constitutes a total breach of the agreement as a whole.

On Time Delivery

Because the City is providing services which involve health, safety and welfare of the general public, delivery time is of the essence. Delivery must be made in accordance with the delivery schedule promised by the Contractor.

Default

In case of default by the Contractor, the City may, by written notice, cancel this contract and repurchase from another source and may recover the excess costs by (1) deduction from an unpaid balance due; (2) collection against the bid and/or performance bond, or (3) a combination of the aforementioned remedies or other remedies as provided by law.

Covenant Against Contingent Fees

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employers or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City will have the right to annul the contract without liability or in its discretion to deduct from the contract price a consideration, or otherwise recover the full amount of such commission, brokerage or contingent fee.

Cost Justification

In the event only one response is received, the City may require that the Contractor submit a cost proposal in sufficient detail for the City to perform a cost/price analysis to determine if the Proposal price is fair and reasonable.

Work Product, Equipment and Materials

All work product, equipment, or materials created or purchased under this contract belongs to the City and must be delivered to the City at City's request upon termination of this contract. Contractor agrees to assign to City all rights and interests Contractor may have in materials prepared under this contract that are "works for hire" within the meaning of the copyright laws of the United States, including any right to derivative use of the material.

Contract Termination

Gratuities

The City may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City making any determinations with respect to the performing of such contract. In the event this contract is canceled by the City pursuant to this provision, the City will be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

Conditions and Causes for Termination

This contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty-day written notice to Contractor. The City at its convenience, by written notice, may terminate this contract, in whole or in part. If this contract is terminated, the City will be liable only for payment under the payment provisions of this contract for services rendered and accepted material received by the City before the effective date of termination. Title to all materials, work-in-process and completed but undeliverable goods, will pass to the City after costs are claimed and allowed. The Contractor will submit detailed cost claims in an acceptable manner and will permit the City to examine such books and records as may be necessary in order to verify the reasonableness of any claims.

The City reserves the right to cancel the whole or any part of this contract due to failure of Contractor to carry out any term, promise, or condition of the contract. The City will issue a written notice of default to Contractor for acting or failing to act as in any of the following:

- In the opinion of the City, Contractor provides personnel who do not meet the requirements of the contract;
- In the opinion of the City, Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this contract;
- In the opinion of the City, Contractor attempts to impose on the City personnel or materials, products or workmanship, which is of an unacceptable quality.
- Contractor fails to furnish the required service and/or product within the time stipulated in the contract;
- In the opinion of the City, Contractor fails to make progress in the performance of the requirements of the contract and/or give the City a positive indication that Contractor will not or cannot perform to the requirements of the contract.

State and Local Sales and Use Taxes

In accordance with applicable state and local law, sales and use taxes may be applicable to this transaction. The state and local sales and use tax burden and legal liability to remit taxes are on the vendor that is conducting business in California and the City of Porterville. It is the responsibility of the prospective bidder to determine any applicable taxes. The City will look at the price or offer submitted and will not deduct, add or alter pricing based on speculation or

application of any taxes, nor will the City provide advice or guidance. If you have questions regarding your tax liability, please seek advice from a tax professional prior to submitting your offer. Once your proposal is submitted, the Proposal is valid for the time specified in this Solicitation, regardless of mistake or omission of tax liability. If the City finds over payment of a project due to tax consideration that was not due, the Contractor will be liable to the City for that amount, and by contracting with the City, the Contractor agrees to remit any overpayments back to the City for miscalculations on taxes included in an offer price.

Tax Indemnification

Contractor shall, and require the same of all subcontractors, pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall, and require the same of all subcontractors, hold the City harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under federal, and/or state and local laws and regulations and any other costs including sales and use taxes, unemployment compensation insurance, Social Security and Worker's Compensation, and require the same of all subcontractors.

Tax Responsibility Qualifications

Contractor may be required to establish, to the satisfaction of City, that any and all fees and taxes due to the City or the State of California for any License or Sales taxes, Use Taxes or similar excise taxes, are currently paid (except for matters under legal protest). Contractor agrees to a waiver of the confidentiality provisions contained in the City Finance Code and any similar confidentiality provisions contained in California statutes relative to State Sales and Use Taxes. Contractor agrees to provide written authorization to the City Finance Department and to the California State Department of Revenue to release tax information relative to California Sales and Use Taxes in order to assist the Department in evaluating Contractor's qualifications for and compliance with contract for duration of the term of contract.

Russia Sanctions

Executive Order N-6-22 – Russia Sanctions. On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. By submitting a bid or proposal, Contractor represents that it is not a target of Economic Sanctions. Should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, which shall be grounds for rejection of the Contractor's bid/proposal any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination by the State.

Mitigation of Heat-Related Illnesses and Injuries in the Workplace

Any contractor whose employees and contract workers perform work in an outdoor environment under this contract must keep on file a written heat safety plan. The City may request a copy of this plan and documentation of all heat safety and mitigation efforts currently implemented to

prevent heat-related illnesses and injuries in the workplace. The plan must also be posted where it is accessible to employees. At a minimum, the heat safety and mitigation plan and documentation required under this provision shall include each of the following as it relates to heat safety and mitigation:

- Availability of sanitized cool drinking water free of charge at locations that are accessible to all employees and contract workers.
- Ability to take regular and necessary breaks as needed and additional breaks for hydration.
- Access to shaded areas and/or air conditioning.
- Access to air conditioning in vehicles with enclosed cabs. All such vehicles must contain functioning air conditioning by no later than May 1, 2025.
- Effective acclimatization practices to promote the physiological adaptations of employees or contract workers newly assigned or reassigned to work in an outside environment.
- Conduct training and make it available and understandable to all employees and contract workers on heat illness and injury that focuses on the environmental and personal risk factors, prevention, how to recognize and report signs and symptoms of heat illness and injury, how to administer appropriate first aid measures, and how to report heat illness and injury to emergency medical personnel.

The Contractor further agrees that this clause will be incorporated in all subcontracts with subcontractors, sublicensees or sublessees who may perform labor or services in connection with this contract. Additionally, the Contractor agrees to require all subcontractors, sublicensees or sublessees to include this clause in all contracts with any third party who is contracted to perform labor or services in connection with this contract. It is the obligation of the Contractor to ensure compliance by its subcontractors.

Section III – Special Terms and Conditions

Term of Contract and Option To Extend

The Contract shall commence on the date both the City and Contractor execute the Agreement (“Contract’s start date”), and end when the City Council accepts the project as completed (“Contract’s end date”).

Post Award Conference

A post award conference may be held by the City prior to commencement of any work. Contractor will be required to attend. The purpose of this conference would be to discuss critical elements of the work schedule, operational problems, the transition plan and procedures.

Estimated Quantities

Quantities listed are the City’s best estimate and do not obligate the City to order or accept more than City’s actual requirements during the period of this Contract, as determined by actual needs. It is expressly understood and agreed that the Contract is to supply the City with its complete actual requirement for the Contract period.

Authorized Changes

The City reserves the right at any time to make changes in any one or more of the following: (a) specifications; (b) methods of shipment or packing; (c) place of delivery; (d) time of delivery; and/or (e) quantities. If the change causes an increase or decrease in the cost of or the time required for performance, an equitable adjustment may be made in the price or delivery schedule, or both. Any claim for adjustment will be deemed waived unless asserted in writing within sixty days from the receipt of the change. Price increases or extensions of delivery time will not be binding on the City unless evidenced in writing and approved by the City Council prior to the institution of the change

Alteration In Character Of Work

No changes in the scope, character, or complexity of work may be made by Contractor without first receiving approval by contract amendment properly defining and limiting the change. The City will not pay any claim for extra work done or materials furnished by Contractor except as provided in this Contract, and Contractor may not do any work or furnish any materials not covered by this Contract unless first approved by the City through contract amendment. Any such work or materials furnished by Contractor without prior contract amendment is Contractor’s sole risk, cost, and expense, and Contractor may not make any claim for compensation for any such work or materials.

Method Of Invoicing And Payment

The CITY will compensate Contractor for satisfactory and complete performance of work under the Contract at the prices set forth in the Contract, with no additional charges for equipment, supplies, overhead, travel or administrative support.

Contractor shall be paid monthly in arrears. On or before the 10th day of each calendar month, Contractor shall submit one (1) invoice to the City for services provided during the previous month and each invoice shall contain the date, contract number, supporting documentation, and invoice amount. Advance payments are not authorized. Payment may only be made for actual goods and/or services that have been received, less liquidated damages.

The invoice must contain the associated purchase order number on the invoice itself and must be free of mathematical errors and/or missing supporting documentation. Upon finding an error and/or missing documentation, the City will return the invoice to Contractor. Contractor shall promptly resubmit the revised invoice to the City. Failure to identify an error does not waive any of the City's rights. The City shall make every effort to process payment for the purchase of services within 45 calendar days after receipt and approval of a correct invoice.

Any prompt payment discounts offered must be clearly noted by Contractor on all invoices submitted to the City. Monthly invoice must be sent for review to the City's Project Manager. The City shall notify the Contractor if the invoice has been approved or if it requires additional documentation and/or correction.

Following invoice approval, Contractor will email the invoice in PDF format to ap@ci.porterville.ca.us, copying the City's Project Manager. Each PDF attachment will contain only one invoice, although multiple PDFs may accompany an email. The email will be in plain text format free of any signatures or images (jpeg, bmp, etc.).

A "remit to" address must also be on the invoice and must match the address on file with the City. Any changes to the remit to address must be updated by the vendor.

Key Personnel

Contractor shall maintain the Key Personnel identified in its proposal for a minimum of 24 months from the "Effective Date" of contract award by City Council unless they are no longer employed by Contractor. Contractor shall notify the City in writing prior to removing, reassigning, or appointing an individual from or to any Key Personnel position whether in an acting or permanent capacity. For all Key Personnel, Contractor shall fill vacancies with City approval within 45 calendar days of the vacancy, unless otherwise approved by the City in writing. All of Contractor's Key Personnel shall be assigned full-time (a minimum of 40 hours per week) to this project, unless otherwise approved in writing by the City. In the event one or more of Contractor's Key Personnel is permanently replaced, Contractor shall notify the City in writing at least 72 hours prior to the replacement date and time. The replacement personnel shall be subject to the City's prior approval in writing.

Strict Performance

Failure of either party to insist upon the strict performance of any item or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract, or by law, will not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

Performance Interference

Contractor shall notify the City's Project Manager immediately of any occurrence and/or condition that threatens to interfere with the full performance of the contract and confirm it in writing within 24 hours.

Unsatisfactory Performance

Contractor will furnish all necessary labor, tools, equipment, permitting, and supplies to perform the required services at the City facilities designated, unless otherwise specifically addressed in the Scope of Work, or elsewhere in this Contract. The City shall decide all questions as to the quality and acceptability of any work performed under the Contract as monitored and documented by the City. If, in the opinion of the City, performance becomes unsatisfactory, the City shall notify Contractor. Contractor shall have a reasonable time to cure the unsatisfactory performance.

If the unsatisfactory performance is not cured within the time specified, the City may immediately correct or complete the work to its satisfaction and deduct the associated costs from any balances due or to become due to Contractor. Contractor will be liable for difference between cost to the City to complete the Work with other forces and the cost to the City for completion of the Work by Contractor per the contract. Repeated incidences of unsatisfactory performance may result in cancellation of the Contract for default.

Employee Identification and Facility Access

Only authorized Contractor employees are allowed on the premises of City facilities. Contractor employees are not to be accompanied in the work area by acquaintances, family members, assistants or any other person unless said person is an authorized Contractor or subcontractor employee.

Confidentiality

"Confidential Information" means all non-public, confidential, sensitive, or proprietary information disclosed or made available by City to Contractor or its affiliates, employees, contractors, partners, or agents (collectively "Recipient"), whether disclosed before or after the "Effective Date" of contract award by City Council, whether disclosed orally, in writing, or via permitted electronic access, and whether or not marked, designated, or otherwise identified as confidential. Confidential Information includes, but is not limited to: user contents, electronic data, meta data, employment data, network configurations, information security practices, business operations, strategic plans, financial accounts, personally identifiable information, protected health information, protected criminal justice information, and any other information that by the nature and circumstance of the disclosure should be deemed confidential. Confidential Information does not include this document or information that: (a) is now or subsequently becomes generally available to the public through no wrongful act or omission of Recipient; (b) Recipient can demonstrate by its written records to lawfully have had in its possession prior to receiving such information from the City; (c) Recipient can demonstrate by its written records to have been independently developed by Recipient without direct or indirect use of any Confidential

Information; (d) Recipient lawfully obtains from a third party who has the right to transfer or disclose it; or (e) the City has approved in writing for disclosure.

Recipient shall: (a) protect and safeguard Confidential Information with at least the same degree of care as Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care, such as ensuring data is encrypted in transit and at rest and maintaining appropriate technical and organizational measures in performing the Services under the Contract; (b) not use Confidential Information, or permit it to be accessed or used, for any purpose other than in accordance with the Contract; (c) not use Confidential Information, or permit it to be accessed or used, in any manner that would constitute a violation of law, including without limitation export control and data privacy laws; and (d) not disclose Confidential Information except to the minimum number of recipients who have a need to know and who have been informed of and agree to abide by confidentiality obligations that are no less restrictive than the terms of this Contract. If Recipient is required by law or court order to disclose any Confidential Information, Recipient will first give written notice to the City and provide the City with a meaningful opportunity to seek a protective order or limit disclosure.

Upon the City's written request or expiration of this Contract, whichever is earlier, Recipient shall, at no additional costs to the City, promptly return or destroy all Confidential Information belonging to the City that Recipient has in its possession or control. After return or destruction of the Confidential Information, Recipient shall certify in writing as to its compliance with this paragraph.

If applicable, Contractor agrees to comply with all City information technology policies and security standards, as may be updated from time to time, when accessing City networks and computerized systems whether onsite or remotely.

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Data Protection

The parties agree this Section shall apply to the City's Confidential Information and all categories of legally protected personally identifiable information (collectively "PII") that Contractor processes pursuant to the Contract. "Personally identifiable information" is defined as in the Federal Privacy Council's Glossary available at: fpc.gov/resources/glossary.

As between the parties, the City is the data controller and owner of PII and Contractor is a data processor. In this Section, the term “process,” “processing,” or its other variants shall mean: an operation or set of operations which is performed on PII, whether or not by automated means, including without limitation: collection, recording, copying, analyzing, caching, organizing, structuring, storage, adaptation, alteration, retrieval, transmission, dissemination, alignment, combination, restriction, erasure, or destruction.

When Contractor processes PII pursuant to the Contract, Contractor shall, at no additional cost to the City:

- (1) process PII only within the United States and only in accordance with the Contract and not for Contractor’s own purposes, including product research, product development, marketing, or commercial data mining, even if the City’s data has been aggregated, anonymized, or pseudonymized;
- (2) implement and maintain appropriate technical and organizational measures to protect PII against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure, including at a minimum, and as applicable, those measures specified by the National Institute of Standards and Technology (NIST) SP800-53; Health Information Technology for Economic and Clinical Health (HITECH) Act; Payment Card Industry Data Security Standards; and good industry practice. (When considering what measures are appropriate and in line with good industry practice, Contractor shall keep abreast of current regulatory trends in data security and the state of technological development to ensure a level of security appropriate to the nature of the data to be protected and the harm that might result from such unauthorized or unlawful processing or accidental loss, destruction, damage, theft, alteration or disclosure. At minimum, Contractor will timely remediate any vulnerabilities found within its network that are rated medium or more critical by the Common Vulnerability Scoring System (CVSS); however, Contractor must remediate vulnerabilities that are rated critical within 14 days and vulnerabilities that are rated high within 30 days. If requested by the City, Contractor shall promptly provide a written description of the technical and organizational methods it employs for processing PII.)
- (3) not subcontract any processing of PII to any third party (including affiliates, group companies or sub-contractors) without the prior written consent of the City; and Contractor shall remain fully liable to the City for any processing of PII conducted by a sub-processor appointed by Contractor;
- (4) as applicable, implement and maintain appropriate policies and procedures to manage payment card service providers with whom Contractor shares sensitive financial information or cardholder data; and provide the City with a Qualified Security Assessor Attestation of Compliance for Payment Card Industry Data Security Standards on an annual basis, but no later than within 30 days of attestation report completion;
- (5) take reasonable steps to ensure the competence and reliability of Contractor’s personnel or sub-processor who have access to the PII, including verifications and background checks appropriate to the security level required for such data access;

(6) maintain written records of all information reasonably necessary to demonstrate Contractor's compliance with this Contract and applicable laws;

(7) allow the City or its authorized agents to conduct audit inspection during the term of the Contract, but no more than once per year, which may include providing access to the premises, documents, resources, personnel Contractor or Contractor's sub-contractors use in connection with the Services; provided however, the City may at its sole discretion accept a qualified and industry recognized independent third-party assessment report or certification (such as SSAE 18 SOC 2 or ISO/IEC 27001) provided by Contractor at no cost to the City in lieu of the audit inspection rights of this Section.

If Contractor becomes aware of any actual or potential data breach (each an "Incident") arising from Contractor's processing obligations pursuant to the Contract, Contractor shall notify the City without undue delay within 48 hours; and:

(1) provide the City with a detailed description of the Incident, the type of data that was the subject of the Incident, and the identity of each affected person as soon as such information can be collected or otherwise becomes available;

(2) take action immediately, at Contractor's own expense, to investigate the Incident and to identify, prevent, and mitigate the effects of the Incident and to carry out any recovery or other action necessary to remedy the Incident;

(3) cooperate with the City in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable laws or as otherwise required by the City; and

(4) not directly contact any individuals who may be impacted by the Incident or release or publish any filing, communication, notice, press release, or report concerning the Incident without the City's prior written approval (except where required to do so by applicable laws).

In addition to, and not in lieu of, all other rights and remedies available to the City, Contractor will defend, indemnify, and hold the City harmless against all losses, claims, costs, attorneys' fees, damages or proceedings arising out of Contractor's breach of this Section. Contractor's obligations pursuant to this Section shall not be subject to any limits of liability or exclusions as may be stated elsewhere in the Contract.

A violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may at the City's discretion result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Security Inquiries

Contractor acknowledges that all of the employees that it provides pursuant to this Contract shall, at Contractor's expense, be subject to background and security checks and screening at the request of the City. Contractor shall perform all such security inquiries and shall make the results available

to the City for all employees considered for performing work (including supervision and oversight) under this Contract. City may make further security inquiries. Whether or not further security inquiries are made by the City, City may, at its sole, absolute and unfettered discretion, accept or reject any or all of the employees proposed by the Contractor for performing work under this Contract. Employees rejected by the City for performing services under this Contract may still be engaged by Contractor for other work not involving the City. An employee rejected for work under this Contract shall not be proposed to perform work under other City contracts or engagements without the City's prior approval.

The City, in its sole discretion, reserves the right, but not the obligation to:

- (1) require an employee/prospective employee of the Contractor to provide fingerprints and execute such other documentation as may be necessary to obtain criminal justice information;
- (2) act on newly acquired information whether or not such information should have been previously discovered;
- (3) unilaterally change its standards and criteria relative to the acceptability of Contractor's employees and/or prospective employees; and
- (4) object, at any time and for any reason, to an employee of Contractor performing work (including supervision and oversight) under this Contract. Contractor will bear the costs of all inquiries requested by the City.

Contacts With Third Parties

Contractor or its subcontractors shall not contact third parties to provide any information in connection with the deliverables provided under this Contract without the prior written consent of the City. Should Contractor or its subcontractors be contacted by any person requesting information or requiring testimony relative to the Services provided under this Contract or any other prior or existing contract with the City, Contractor or its subcontractors shall promptly inform the City, giving the particulars of the information sought, and shall not disclose such information or give such testimony without the written consent of the City or court order. The obligations of Contractor and its subcontractors under this Section shall survive the termination of this Contract.

Contractor agrees that the requirements of this Section shall be incorporated into all subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice.

No Third Party Beneficiaries

The parties expressly agree that this Contract is not intended by any of its provisions to create any right of the public or any member thereof as a third-party beneficiary nor to authorize anyone not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract.

Non-Disclosure

Contractor shall not disclose, without the City's prior written consent, any information in the performance of the Services under this Contract to any person, firm, corporation, association, or other entity other than persons in the City's organization qualified to receive such information, for any reason or purpose whatsoever, nor shall Contractor make use of any such confidential or proprietary information for its own purposes or for the benefit of any person, firm, corporation, or other entity, except the City.

Contractor agrees to act as a trustee of the foregoing information and as trustee of any other confidential information learned in connection by Contractor's relationship with the City. Contractor further represents to the City that, as an inducement to enter this Contract, Contractor will hold this information in trust and confidence for the City's sole benefit and use.

Further, there shall be no dissemination or publication of any information gathered, or documents prepared in the course of the performance of the Services without the prior written consent of the City.

Should the City, upon advice of counsel, deem it necessary, due to existing or anticipated litigation, to assert a legal privilege of protection and non-disclosure with regard to the subject matter of this Contract, then, and in that event, upon written demand, Contractor shall relinquish to the possession and control of the City its entire file related to this Contract and only those portions of said file deemed by the City to be not privileged shall be returned to Contractor pending the resolution of the existing or anticipated litigation.

Contractor agrees that the requirements of this Section shall be incorporated into any subcontractor agreements entered into by Contractor. It is further agreed that a violation of this Section shall be deemed to cause irreparable harm that justifies injunctive relief in court. A violation of this Section may result in immediate termination of this Contract without notice. The obligations of Contractor under this Section shall survive the termination of this Contract.

Advertising

Except as required by law, Contractor shall not publish, release, disclose or announce to any member of the public, press, official body, or any other third party any information or documents concerning this Contract or any part thereof without the prior written consent of the City. The name of any City site on which services are performed by the Contractor pursuant to this Contract shall not be used in any advertising or other promotional context by Contractor without the prior written consent of the City.

Accrued Liabilities

Contractor shall be responsible for the payment of all liabilities to its employees accrued during the contract term, including but not limited to accrued vacation, sick time, and any other benefits accrued under the terms of any collective bargaining agreement between Contractor and the union representing its employees or under the terms of any employment contract or agreement. All such payments shall be made by Contractor at the end of the contract term and no additional

compensation shall be provided by the City for such accrued liabilities. Contractor shall not have any obligation for the liabilities of the prior contractor to its employees.

Claims or Demands Against The City

Contractor acknowledges and accepts the provisions of the Charter of the City of Porterville pertaining to claims or demands against the City, including provisions therein for set-off of indebtedness to the City against demands on the City, and Contractor agrees to adhere to the prescribed procedure for presentation of claims and demands. Nothing in the Charter of the City of Porterville alters, amends or modifies the supplemental and complementary requirements of the State of California Notice of Claim statutes pertaining to claims or demands against the City. If for any reason it is determined that the City Charter and state law conflict, then state law will control.

Moreover, nothing in this Contract will constitute a dispute resolution process, an administrative claims process, or contractual term sufficient to affect the date on which the cause of action accrues.

Conflicts of Interest

Contractor acknowledges that, to the best of its knowledge, information and belief, no person has been employed or retained to solicit or secure this Contract upon a promise of a commission, percentage, brokerage, or contingent fee, and that no member of the Porterville City Council or any employee of the City has any financial interest in the consulting firm. For breach of violation of this warranty, the City will have the right to annul this Contract without liability, including any such commission, percentage, brokerage or contingent fee.

The City reserves the right to immediately terminate the contract in the event that the City determines that Contractor has an actual or apparent conflict of interest.

Upon a finding by the City that gratuities in the form of entertainment, gifts or inducements were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of the City for the purpose of securing this Contract, or securing favorable treatment with respect to the awarding, amending, or making of any determination with respect to the performance of this Contract, the City may, by one calendar day written notice to Contractor, terminate the right of Contractor to proceed under this Contract, provided that the existence of the facts upon which the City made such finding will be an issue and may be litigated in a California court of competent jurisdiction. In the event of such termination, the City will be entitled to the same remedies against Contractor as could be pursued in the event of default by Contractor.

Section IV – Insurance and Indemnification

Standard General Defense and Indemnification

Contractor (“Indemnitor”) must defend, indemnify, and hold harmless the City of Porterville and its officers, officials (elected or appointed), agents, and employees (“Indemnatee”) from and against any and all claims, actions, liabilities, damages, losses or expenses (including but not limited to court costs, attorney fees, expert fees, and costs of claim processing, investigation and litigation) of any nature or kind whatsoever (“Losses”) caused, or alleged to be caused, in whole or in part, by the wrongful, negligent or willful acts, or errors or omissions of Indemnitor or any of its owners, officers, directors, members, managers, agents, employees or subcontractors (“Indemnitor’s Agents”) arising out of or in connection with this Contract. This defense and indemnity obligation includes holding Indemnatee harmless for any Losses arising out of or recovered under any state’s Workers’ Compensation Law or arising out of the failure of Indemnitor or Indemnitor’s Agents to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. Indemnitor’s duty to defend Indemnatee accrues immediately at the time a claim is threatened or a claim is made against Indemnatee, whichever is first. Indemnitor’s duty to defend exists regardless of whether Indemnitor is ultimately found liable. Indemnitor must indemnify Indemnatee from and against any and all Losses, except where it is proven that those Losses are solely a result of Indemnatee’s own negligent or willful acts or omissions. Indemnitor will be responsible for primary loss investigation, defense and judgment costs where this indemnification applies. In consideration of the award of this Contract, Indemnitor waives all rights of subrogation against Indemnatee for losses arising from the work performed by Indemnitor or Indemnitor’s Agents for the City of Porterville. The obligations of Indemnitor under this provision survive the termination or expiration of this Contract.

Contractor’s Insurance

Contractor and subcontractors must procure insurance against claims that may arise from or relate to performance of the work hereunder by Contractor and its agents, representatives, employees and subcontractors. Contractor and subcontractors must maintain that insurance until all their obligations have been discharged, including any warranty periods under this Contract.

The City in no way warrants that the limits stated in this Section are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors and Contractor may purchase such additional insurance as they determined necessary.

Contractor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the liability limits provided that (1) the coverage is written on a “following form” basis, and (2) all terms under each line of coverage below are met.

Commercial General Liability – Occurrence Form

General Aggregate - \$1,000,000

Products – Completed Operations Aggregate - \$1,000,000

Personal and Advertising Injury - \$1,000,000

Fire Damage - \$1,000,000

Each Occurrence - \$1,000,000

The policy must name the City of Porterville as an additional insured with respect to liability for bodily injury, property damage and personal and advertising injury with respect to premises, ongoing operations, products and completed operations, and liability assumed under an insured contract arising out of the activities performed by, or on behalf of the Contractor related to this Contract.

There shall be no endorsement or modification which limits the scope of coverage or the policy limits available to the City of Porterville as an additional insured.

City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.

The Contractor's insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

Automobile Liability

Bodily injury and property damage coverage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

UM/UIM Per Person Limit \$1,000,000

UM/UIM Per Accident Limit \$1,000,000

- The policy must be endorsed to include the City of Porterville as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, relating to this Contract.
- City of Porterville is an additional insured to the full limits of liability purchased by the Contractor.
- The Contractor's insurance coverage must be primary insurance and non-contributory with respect to any insurance or self-insurance carried by the City.

Worker's Compensation and Employers' Liability

Workers' Compensation

Employers' Liability: Statutory

Each Accident \$100,000

Disease – Each Employee \$100,000

Disease – Policy Limit \$500,000

- Policy must contain a waiver of subrogation against the City of Porterville.
- This requirement does not apply when a contractor or subcontractor is exempt, AND when such contractor or subcontractor executes the appropriate sole proprietor waiver form.

Property Insurance – Contractor’s Property and Equipment

Contractor must maintain all risk property insurance for Contractor’s personal property. The CITY will have no responsibility for any damage to Contractor’s personal property and Contractor’s property insurance must be endorsed to include a waiver of subrogation against the CITY.

Additional Insurance Requirements

Policies must include, or be endorsed to include, the following provisions:

- 1) On insurance policies where the City of Porterville is named as an additional insured, the City of Porterville must be an additional insured to the full limits of liability purchased by Contractor even if those limits of liability are in excess of those required by Contract.
- 2) Contractor’s insurance coverage or self-insurance must be primary insurance and non-contributory with respect to all other available sources.
- 3) Coverage provided by Contractor must not be limited to the liability assumed under the indemnification provisions of the Contract.

Notice of Cancellation

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to the City, within 5 business days of receipt, a notice if a policy is suspended, voided, or cancelled for any reason. Such notice must be mailed, emailed, or hand delivered to City of Porterville.

Acceptability of Insurers

Insurance is to be placed with insurers duly licensed or authorized to do business in the state of California and with an “A.M. Best” rating of not less than B+ VI. The City in no way warrants that the required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

Verification of Coverage

Contractor must furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract must be mailed, emailed, or hand delivered to City of Porterville.

Section V - SCOPE OF WORK

The scope of work set forth in this Request for Proposals represents an outline of the goods and services which the CITY anticipates the successful Proposer to perform, and is presented for the primary purpose of allowing the CITY to compare proposals. The precise scope of work to be incorporated into the General Services Agreement shall be negotiated between the City and the successful Proposer. **The CITY requests that the Proposer suggest changes to the scope of work (as a part of the proposal) in order to achieve the CITY's Project Objectives.**

The City is seeking proposals to purchase 50-gallon high capacity branded non-compacting waste and recycling receptacles for the existing Transit Center and major locations throughout the City. These units will be installed in pairs and outside on existing concrete. The City estimates that it will purchase a minimum of fifty (50) trash receptacles and fifty (50) recycling receptacles, and have the option to purchase up to one hundred (100) of each receptacle.

General Specifications

1. Construction:
 - a. Galvanized sheet metal, steel interior and exterior construction.
 - b. Powder-coat finish on exterior and full custom branding.
 - c. Locks on all access doors (keyed alike).
 - d. BAR Style Wheeled Lift Bin
 - e. Mounting brackets to secure to concrete.
 - f. Foot pedal for hands-free operation of hopper.
2. Public Safety:
 - a. Hopper mechanism design must prevent any possibility of user reaching the compaction mechanism through any opening.
 - b. Redundant failsafe mechanisms on safety critical system elements. CE certification is desirable.
3. Branding:
 - a. Supports custom graphic wraps.
 - b. Supports message panels.
4. Provide the City with a source for any ongoing product (liners or extra bins) needs.
5. Minimum, parts and labor, warranty of five (5) years

Proposal Format

Proposals should be clear, concise, and provide detailed information concerning the Proposer's ability to successfully perform the obligations as described in the Scope of Work. All Proposals shall include the following documentation in the proposal package:

1. Cover Letter
 - a. Cover letter shall introduce the Proposer and establish interest in providing smart trash and recycling receptacles that meet the requirements of the City. An individual duly authorized to commit resources on behalf of the Proposer must sign the letter.

2. Experience Statement
 - a. Indicate how many years of experience Proposer has in the development and construction of smart trash receptacles.
3. Describe procedures in place to provide assurances that smart trash receptacles will meet the needs of the intended use for the City.
4. Provide a list of at least three (3) references, current or past customers; including company name, address, contact name, phone number, current email address that have purchased units similar to the City's request.
5. Provide smart trash receptacle details on construction (drawings and/or pictures) and any unique design/safety features that will help the City evaluators in making a decision.
6. Provide a contract price proposal
7. Provide an estimated delivery schedule
8. Complete and submit all required forms

Section VI – Federal Transit Administration (FTA) Terms and Conditions

These clauses are required because this procurement is funded in whole or in part by the United States Department of Transportation (USDOT), Federal Transit Administration. The requirements in these clauses are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this Contract. If any requirements in these clauses are inconsistent with a provision found elsewhere in this Contract and is irreconcilable with such provision, the requirement in these clauses shall prevail.

Contractor shall comply with the following FTA requirements. For purposes of these clauses, the AGENCY is the City of Porterville (FTA recipient) that is entering the Contract with Contractor.

1. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES.

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

The AGENCY and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the AGENCY, Contractor or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the Contract. Contractor shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. NOTIFICATION TO FTA.

[These requirements apply to all contracts and subcontracts in excess of \$25,000.]

If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the AGENCY, which must then promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region 9. Contractor must include an equivalent provision in its subagreements at every tier for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- A. **Types of Legal Matters Requiring Notification.** The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- B. **Matters Affecting the Federal Government.** Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the Contract, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- C. **Additional Notice to U.S. DOT Inspector General.** Contractor must promptly notify the AGENCY, which must then promptly notify the U.S. DOT Inspector General in

addition to the FTA Chief Counsel or Regional Counsel for Region 9 if Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Contract or another agreement between the AGENCY and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the AGENCY. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision also applies to all divisions of the AGENCY,

3. PROGRAM FRAUD & FALSE/FRAUDULENT STATEMENTS OR RELATED ACTS.

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

- A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or the FTA-assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.
- B. Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on Contractor, to the extent the Federal Government deems appropriate.
- C. Contractor shall include the above two paragraphs in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS, REPORTS, and SITES

- A. **Record Retention**. Contractor shall retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.
- B. **Retention Period**. Contractor shall comply with the record retention requirements in accordance with 2 CFR § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- C. **Access to Records**. Contractor shall provide sufficient access to the U.S. Secretary of Transportation, the Comptroller General of the United States, FTA, the Agency, and their duly authorized representatives to inspect and audit records and information, including such records and information the AGENCY or Contractor may regard as confidential or proprietary related to performance of this contract as reasonably may be required.
- D. **Access to the Sites of Performance**. Contractor shall permit FTA, the Agency, and their duly authorized representatives' access to the

5. FEDERAL CHANGES

Contractor shall at all times comply with all applicable federal laws, regulations, requirements, policies, procedures, guidance, and directives, including without limitation those listed directly or by reference in the FTA Master Agreement between the City of Porterville and the FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

6. CIVIL RIGHTS

The AGENCY must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless an AGENCY or federal program, including any Indian Tribe or Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with each civil rights statute, including compliance with equity in service requirements.

A. Nondiscrimination in Federal Public Transportation Programs.

1. Contractor must prohibit: (a) discrimination based on race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age; (b) exclusion from participation in employment or a of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332; and (d) discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.
2. Contractor must follow the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance. However, FTA does not require an Indian Tribe to comply with FTA program specific guidelines for Title VI when administering its agreement supported with federal assistance under the Tribal Transit Program.

B. Nondiscrimination – Title VI of the Civil Rights Act.

1. Contractor must prohibit discrimination based on race, color, or national origin;
2. Contractor must comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, et seq.; (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 CFR Part 21; and (c) Federal transit law, specifically 49 U.S.C. § 5332; and
3. Contractor must follow: (a) the most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance; (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3; and (c) all other applicable federal guidance that may be issued.

C. Equal Employment Opportunity.

1. Federal Requirements and Guidance. Contractor must prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor must also comply with: (a) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.; (b) Title I of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101, et seq.; (c) Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs; (d) federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement; and (e) FTA Circular 4704.1 “Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients.” Further, Contractor must follow other federal guidance pertaining to EEO laws, regulations, and requirements.

2. Affirmative Action. If required to do so by U.S. DOT regulations (49 CFR Part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), Contractor must take affirmative action that includes, but is not limited to: (a) recruitment advertising, recruitment, and employment; (b) rates of pay and other forms of compensation; (c) selection for training, including apprenticeship, and upgrading; and (d) transfers, demotions, layoffs, and terminations.
3. Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age.
4. Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.
5. Indian Tribe. Contractor recognizes that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer."
6. Equal Employment Opportunity for Construction Activities. When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), Contractor must comply with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Chapter 60 (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," 42 U.S.C. § 2000e note).
7. Access for Elderly Individuals and Individuals with Disabilities. Contractor agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq., and the Architectural Barrier Act of 1968, as amended, 42 U.S.C. § 4151, et seq. In addition, Contractor agrees to comply with applicable Federal implementing regulations.

7. INCORPORATION OF FTA TERMS

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the

preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, and are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any requests of the AGENCY that would cause the AGENCY to be in violation of the FTA terms and conditions. Contractor shall include this clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA.

8. FREE SPEECH & RELIGIOUS LIBERTY

All Federal funding must be expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements, including but not limited to those prohibiting discrimination and protecting free speech, religious liberty, public welfare, and the environment.

9. FEDERAL TERMINATION RIGHTS

The termination rights under this Contract are in addition to, and in no way limit, the Federal Government's right to terminate as described in 2 CFR § 200.340.

10. DEBARMENT, SUSPENSION, INELIGIBILITY, & VOLUNTARY EXCLUSION

[This requirement does not apply to contracts and subcontracts under \$25,000.]

- A. Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-Wide Debarment and Suspension (Non-procurement)," 2 CFR part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount.
- B. Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally-funded contract (which includes review of SAM at sam.gov, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200) and are not presently declared by any Federal department or AGENCY to be: (1) debarred from participation in any federally-assisted Award; (2) suspended from participation in any federally-assisted Award; (3) proposed for debarment from participation in any federally-assisted Award; (4) declared ineligible to participate in any federally-assisted Award; (5) voluntarily excluded from participation in any federally-assisted Award; or (6) disqualified from participation in any federally-assisted Award.
- C. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that Contractor available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor shall comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

- D. Contractor agrees that it will not enter into any “covered transaction” (as defined at 2 CFR 180.220 and 1200.220) with any “third party participant” (as defined in Section 1 of FTA’s Master Agreement (Version 31, dated May 2, 2024), as may be updated or amended) that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions except as otherwise authorized by applicable Federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants. Contractor further agrees that it will review the Federal Government’s “System for Award Management — Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by USDOT regulations (2 C.F.R. Part 1200).

11. TERMINATION

The AGENCY must include provisions in their contracts and subcontracts that allows for termination for cause and for convenience by the AGENCY, including the manner by which it will be effected and the basis for settlement. See Appendix II(B) to 2 CFR part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, and FTA Circular 4220.1F, Chapter IV, paragraph 2.b.(6)(b)4 – Termination.

12. VIOLATION & BREACH OF CONTRACT

[These requirements are not applicable to contracts and subcontracts under the simplified acquisition threshold (currently set at \$250,000).]

Unless otherwise provided for by the AGENCY, the following provisions shall apply:

- A. **Dispute Resolution.** Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY. This decision shall be final and conclusive unless within ten calendar days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to the authorized representative of AGENCY. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized representative of AGENCY shall be binding upon Contractor, and Contractor shall abide by the decision.
- B. **Performance During Disputes.** Notwithstanding the existence of any dispute between the parties, insofar as is possible, under the terms of the Contract, Contractor shall

continue to perform the obligations required of Contractor during the continuation of any such dispute unless enjoined or prohibited by an California Court of competent jurisdiction.

- C. **Rights and Remedies.** The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the AGENCY or Contractor shall constitute a waiver of any right or duty afforded any of them under this Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed upon in writing.

13. LOBBYING RESTRICTIONS

[These requirements do not apply to contracts and subcontracts under \$100,000.]

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the AGENCY.

14. CARGO PREFERENCE (USE OF U.S.-FLAG VESSELS)

[These requirements apply to all contracts involving equipment, material, or commodities that may be transported by ocean vessels.]

- A. At least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this Contract, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. Contractor shall use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the Contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels (46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 CFR Part 381);
- B. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-

lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the AGENCY (through the Contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and

- C. Contractor shall include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

15. FLY AMERICA

[These requirements apply to contracts and subcontracts involving the transportation of persons or property by air between a place in the United States and a place outside of the United States, or between places outside the United States, when the FTA will participate in the cost of such air transportation.]

- A. As used in this clause: **(1) “international air transportation”** means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States; **(2) “United States”** means the 50 States, the District of Columbia, and outlying areas; and **(3) “U.S.-flag air carrier”** means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- B. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 – 301-10.143, requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- C. If available, Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- D. If Contractor selects a carrier other than a U.S.-flag air carrier for international involving such transportation essentially as follows:

Statement of Unavailability of U.S. - Flag Air Carriers - International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

(End of statement)

- E. Contractor shall include the substance of this clause, including this paragraph (E), in each subcontract or purchase under this contract that may involve international air transportation.

16. EMPLOYEE PROTECTIONS

A. Prevailing Wage & Anti-Kickback

[These requirements apply to all prime construction, alteration, or repair contracts in excess of \$2,000.]

1. For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
2. In addition, Contractor shall pay wages not less than once a week. Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

B. Contract Work Hours/Safety Standards for Awards Involving Construction

[These requirements apply to all contracts involving construction in excess of \$100,000 that involve the employment of mechanics or laborers.]

1. For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 CFR part 5. Under 40 U.S.C. § 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working

conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

2. In the event of any violation of the clause set forth herein, Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.
3. The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.
4. Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

C. Contract Work Hours/Safety Standards for Awards Not Involving Construction

[These requirements apply to all contracts (not involving construction) in excess of \$100,000 that involve the employment of mechanics or laborers.]

1. Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR part 5.
2. Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

3. Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.
4. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

17. SEISMIC SAFETY

[These requirements apply only to contracts for the construction of new buildings or additions to existing buildings.]

Contractor shall design and construct any new building or addition to an existing building in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations (49 CFR part 41) and will certify its compliance to the extent required by the regulation. Contractor shall ensure that all work performed under this Contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

18. VETERANS EMPLOYMENT

[These requirements apply only to capital projects. See 49 U.S.C. § 5302(3).]

Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in U.S.C. Section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the Contract. This requirement shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

19. BONDING

[These requirements are applicable to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold (currently set at \$250,000). See FTA Circular C 4220.1F for specific bonding requirements.]

Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the AGENCY if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

- A. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon

acceptance of the bid, execute such contractual documents as may be required within the time specified.

- B. A performance bond on the part of Contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all of Contractor's obligations under such contract.
- C. A payment bond on the part of Contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

20. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

[These requirements apply only to contracts for transit operations performed by employees of contractors and subcontractors recognized by FTA to be a transit operator.]

Contractor shall comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

- A. **U.S. DOL Certification.** To the extent that FTA determines that this Contract or any Amendments thereto involve public transportation operations financed in whole or in part with Federal assistance, Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. § 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient’s project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL Letter. The requirements of this subsection (A), however do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (B) and (C) of this clause.
- B. **Special Warranty.** If the Contract involves public transportation operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.
- C. **Special Arrangements.** If the Contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the

employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL Letter.

- D. **Flow Down.** Contractor shall include the substance of this clause in each subcontract that may involve operating public transit services.

21. CHARTER SERVICE

[These requirements apply to contracts for operating public transportation service.]

- A. Contractor shall comply with 49 U.S.C. 5323(d), (g), and (r), and 49 CFR part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: (1) federal transit laws, specifically 49 U.S.C. § 5323(d); (2) FTA regulations, "Charter Service," 49 CFR part 604; (3) any other federal Charter Service regulations; or (4) Federal guidance, except as FTA determines otherwise in writing.
- B. If Contractor engages in a pattern of violations of FTA's Charter Service regulations, then FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: (1) barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; (2) withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or (3) any other appropriate remedy that may apply.
- C. Contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

22. SCHOOL BUS OPERATIONS

[These requirements apply to contracts for operating public transportation service.]

Contractor shall comply with 49 U.S.C. 5323(f) and (g), and 49 CFR part 605, and not engage in school bus operations using federally-funded equipment or facilities in competition with private operators of school buses, except as permitted under: (A) federal transit laws, specifically 49 U.S.C. § 5323(f); (B) FTA regulations, "School Bus Operations," 49 CFR part 605; (C) any other Federal School Bus regulations; or (D) federal guidance, except as FTA determines otherwise in writing. If Contractor violates these school bus requirements, then FTA may bar Contractor from receiving Federal assistance for public transportation or require

Contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, Contractor may not use federally-funded equipment, vehicles, or facilities. Contractor should include the substance of this clause in each subcontract or purchase under this Contract that may operate public transportation services.

23. MOTOR CARRIER SAFETY

[These requirements apply to contracts for operating bus operation service.]

- A. **Financial Responsibility.** Contractor shall comply with the economic and insurance registration requirements of: (1) U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, “Minimum Levels of Financial Responsibility for Motor Carriers,” 49 C.F.R. part 387, if Contractor is: (a) engaged in operations requiring compliance with 49 C.F.R. part 387, (b) engaged in interstate commerce, and (c) not within a defined commercial zone; and (2) provisions of 49 U.S.C. § 31138(e)(4), which supersede inconsistent provisions of 49 C.F.R. part 387, and reduce the amount of insurance the Recipient must obtain to the highest amount required by any state in which the public transportation provider operates, if it operates within a public transportation service area located in more than one state, and receives federal assistance under 49 U.S.C. §§ 5307, 5310, and 5311.
- B. **U.S. FMCSA Requirements.** Contractor shall comply with: (1) safety requirements of U.S. Federal Motor Carrier Safety Administration (U.S. FMCSA) regulations, “Federal Motor Carrier Safety Regulations,” 49 C.F.R. parts 390 – 397, to the extent applicable; and (2) driver’s license requirements of U.S. FMCSA regulations, “Commercial Driver’s License Standards, Requirements, and Penalties,” 49 C.F.R. part 383, and “State Compliance with Commercial Driver's License,” 49 C.F.R. part 384, to the extent applicable, with the substance abuse requirements and guidance of U.S. FMCSA’s regulations, “Drug and Alcohol Use and Testing Requirements,” 49 C.F.R. part 382, and implementing federal guidance, to the extent applicable.

24. SAFE OPERATIONS OF MOTOR VEHICLES

- A. **Seat Belt Use.** Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by Contractor or AGENCY.
- B. **Distracted Driving.** Contractor shall adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

- C. **Subcontracts.** Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

25. CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING

[These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).]

- A. **Definitions.** As used in this clause: (1) "driving" means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise (note: "driving" does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary); and (2) "text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication (note: "text messaging" does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park).
- B. **Executive Order.** This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009. Contractor is encouraged to adopt and enforce policies that ban text messaging while driving company-owned/rented vehicles, Government-owned vehicles, and privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government. Contractor is also encouraged to conduct initiatives in a manner commensurate with the size of the business, such as: (1) establishment of new rules and programs or reevaluation of existing programs to prohibit text messaging while driving; and (2) education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- C. **Subcontracts.** Contractor shall insert the substance of this clause, including this paragraph, in all subcontracts that exceed the micro-purchase threshold, as defined in Federal Acquisition Regulation 2.101 on the date of subcontract award.

26. SUBSTANCE ABUSE (DRUG & ALCOHOL TESTING)

[These requirements apply to contracts with contractors who perform safety-sensitive functions, as defined in 49 CFR Part 655.4, "Definitions."]

- A. Contractor shall establish and implement a drug and alcohol testing program that complies with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs" (49 CFR Part 40) and "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" (49 CFR Part 655), produce any documentation necessary

- to establish its compliance with parts 655 and 40, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or the City of Porterville, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR part 655 and 49 CFR part 40 and review the testing process.
- B. Contractor shall also submit for review and approval a copy of its substance abuse prevention policy developed to implement its drug and alcohol testing program. Further, Contractor shall certify annually its compliance with parts 655 and 40 and to submit the Drug and Alcohol Management Information System (DAMIS) reports before March 15 to Transit Compliance Officer, City of Porterville Transportation Department, 291 N. Main St. Porterville, CA 93257. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.
 - C. Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers involving the performance of a safety-sensitive function under the Contract.

27. BUY AMERICA

[These requirements apply to contracts over \$150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock.]

- A. Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provide that federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11. Contractor must submit to AGENCY the appropriate Buy America certification with its offer. Offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.
- B. Construction materials used in FTA-funded projects are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget's "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184.
- C. Compliance with FTA's "Buy America Requirements," 49 CFR Part 661, and "Buy America Preferences for Infrastructure Projects," 2 CFR Part 184 shall be deemed to satisfy 2 CFR § 200.322, "Domestic Preferences for Procurements."

28. PROHIBITED TELECOMMUNICATIONS & SURVEILLANCE SERVICES & EQUIPMENT

The AGENCY is prohibited from obligating or expending loan or grant funds to: procure or obtain, extend or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Contractor shall not provide covered telecommunications equipment or services in the performance of the Contract. As described in Public Law 115-232, section 889, covered telecommunications equipment is: (A) telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (B) video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes; (C) telecommunications or video surveillance services provided by such entities or using such equipment; and (D) 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.

29. AIR POLLUTION & FUEL ECONOMY

[These requirements apply to contracts for the purchase of rolling stock.]

The Contractor agrees to comply with applicable Federal air pollution control and fuel economy regulations, such as: EPA regulations, "Control of Air Pollution from Mobile Sources," 40 CFR Part 85; EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 CFR Part 86; and EPA regulations, "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

30. ROLLING STOCK LIMITATIONS

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor and its subcontractors must comply with the limitation on certain rolling stock procurements at 49 U.S.C. § 5323(u), prohibiting the procurement of rolling stock from specified manufacturers for public transportation use.

31. PRE-AWARD & POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

[These requirements apply to contracts for the purchase of rolling stock.]

Contractor shall comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 CFR part 663. Contractor shall comply with the Buy America certification(s) submitted with its offer. Contractor shall participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 CFR part 663 and related FTA guidance.

32. BUS TESTING

[These requirements apply to contracts for the purchase/lease of any bus model that is new or has any major change in configuration/components to be acquired/leased.]

Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 CFR part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, Contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the grantee.

33. ENVIRONMENTAL PROTECTIONS

Contractor shall comply with all applicable environmental and resource use laws, regulations, and requirements, and follow applicable guidance, now in effect or that may become effective in the future, including state and local laws, ordinances, regulations, and requirements and follow applicable guidance.

2. National Environmental Policy Act.

1. Contractor shall comply and facilitate compliance with federal laws, regulations, and requirements, including, but not limited to: (a) federal transit laws, such as 49 U.S.C. § 5323(c)(2), and 23 U.S.C. § 139; (b) the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. §§ 4321 et seq., as limited by 42 U.S.C. § 5159, and CEQ's implementing regulations 40 C.F.R. part 1500 – 1508; (c) joint FHWA and FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. part 771 and 49 C.F.R. part 622; (d) Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," March 5, 1970, 42 U.S.C. § 4321 note; and (e) other federal environmental protection laws, regulations, and requirements applicable to Contractor.
2. Contractor shall follow federal guidance to the extent that the guidance is consistent with applicable authorizing legislation, which may include: (a) joint FHWA and FTA final guidance, "Interim Guidance on MAP-21 Section 1319, Accelerated Decision making in Environmental Reviews," January 14, 2013; (b) joint FHWA and FTA final guidance, "SAFETEA-LU Environmental Review Process (Pub. L. 109-59)," 71 Fed. Reg. 66576, November 15, 2006; and (c) other federal environmental guidance applicable to the Contractor.
3. Environmental Justice. Contractor shall promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order; (2) U.S. DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997; and (3) the most recent edition of FTA Circular 4703.1, "Environmental

Justice Policy Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

4. **Other Environmental Federal Laws.** Contractor shall comply or facilitate compliance with all applicable federal laws, regulations, and requirements, and will follow applicable guidance, including, but not limited to, the Clean Air Act, Clean Water Act, Wild and Scenic Rivers Act of 1968, Coastal Zone Management Act of 1972, the Endangered Species Act of 1973, Magnuson Stevens Fishery Conservation and Management Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Executive Order No. 11990 relating to “Protection of Wetlands,” and Executive Order Nos. 11988 and 13690 relating to “Floodplain Management.”
5. **Use of Certain Public Lands.** Contractor shall comply with U.S. DOT laws, specifically 49 U.S.C. § 303 (often referred to as “section 4(f)”), and joint FHWA and FTA regulations, “Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites,” 23 C.F.R. part 774, and referenced in 49 C.F.R. part 622.
6. **Historic Preservation.** Contractor shall comply with: (1) U.S. DOT laws, including 49 U.S.C. § 303 (often referred to as “section 4(f)”), which requires certain findings be made before an Award may be undertaken if it involves the use of any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places; (2) federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 54 U.S.C. § 306108; (3) the Archeological and Historic Preservation Act of 1974, as amended, 54 U.S.C. § 312501 et seq.; (4) U.S. Advisory Council on Historic Preservation regulations, “Protection of Historic Properties,” 36 C.F.R. part 800; and (5) other federal requirements and federal guidance to avoid or mitigate adverse effects on historic properties.
7. **Indian Sacred Sites.** Contractor shall facilitate compliance with federal efforts to promote the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, and facilitate compliance with the American Indian Religious Freedom Act, 42 U.S.C. § 1996, and Executive Order No. 13007, “Indian Sacred Sites,” May 24, 1996, 42 U.S.C. § 3161 note.

34. CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT

[These requirements do not apply to contracts and subcontracts under \$150,000.]

Contractor shall ensure that it: (A) will not use any violating facilities; (B) will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;” (C) will report violations of use of prohibited facilities to FTA; and (D) will comply with the inspection and other requirements of the Clean Air Act, as amended (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387).

35. ENERGY CONSERVATION

Contractor shall comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §§ 6321 et seq.).

36. RECYCLED PRODUCTS (SOLID WASTES)

[These requirements apply to all contracts and subcontracts involving the purchase of items designated by the EPA (that contain the highest percentage of recovered materials practicable) in excess of \$10,000. See 40 C.F.R. part 247 for federal designation of items.]

Contractor shall provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 CFR part 247. The requirements of Section 6002 include: (A) procuring only items designated in guidelines of the U.S. EPA at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; (B) procuring solid waste management services in a manner that maximizes energy and resource recovery; and (C) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

37. INTELLECTUAL PROPERTY/PATENT RIGHTS & RIGHTS IN DATA

[These requirements apply to contracts for the performance of experimental, developmental, or research work.]

- A. This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions: Except for its own internal use, Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an

academic institution. For purposes of this Contract, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of “subject data” include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

- B. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes”: (1) any subject data developed under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright purchased by Contractor using federal assistance in whole or in part by the FTA. For “Federal Government Purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.
- C. Unless FTA determines otherwise, Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA’s license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.
- D. Unless prohibited by state law, upon request by the Federal Government, Contractor shall indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
- E. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
- F. Data developed by Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by

the Contract is exempt from the requirements herein, provided that Contractor identifies those data in writing at the time of delivery of the Contract work.

G. Contractor shall include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

38. COMPLIANCE WITH NATIONAL ITS ARCHITECTURE POLICY

[These requirements apply only to contracts for National Intelligent Transportation System projects.]

Contractor shall conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless it obtains an exemption from those requirements, and follow FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” 66 Fed. Reg. 1455, January 8, 2001, and all other applicable federal guidance.

39. NTD REPORTING

As a condition of benefitting from federal assistance for public transportation operations, Contractor and its subcontractors must: (A) facilitate compliance with 49 U.S.C. § 5335(a), which authorizes the National Transit Database (NTD); (B) conform to the NTD reporting system and the Uniform System of Accounts and Records; (C) comply with FTA regulations, “Uniform System of Accounts and Records and Reporting System,” 49 CFR Part 630; (D) report when required to the National Transit Database in accordance with FTA regulation 49 CFR Part 630, “National Transit Database,” and applicable FTA instructions: (1) any information relating to a transit asset inventory or condition assessment; (2) any data on assaults on transit workers; (3) any data on fatalities that result from an impact with a bus; and (4) such other information as FTA may require; (E) comply with any other applicable reporting regulations, and requirements; and (F) follow FTA guidance.

40. TRAFFICKING IN PERSONS

Contractor and its subcontractors or their employees shall not: (A) engage in severe forms of trafficking in persons during the Contract Term; (B) procure a commercial sex act during the Contract Term; or (C) use forced labor in the performance of the Contract. Contractor shall inform AGENCY immediately of any information Contractor receives from any source alleging a violation of a prohibition in this section. AGENCY may terminate this Contract for any violation of this section; such right of termination is in addition to all other remedies for noncompliance that are available to the AGENCY.

41. PRIVACY ACT

Contractor agrees to: (A) comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C.

§ 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract; and (B) include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

42. SECTION 508 COMPLIANCE

Any reports or information that will be provided to DOT or any other Federal agency must comply with Section 508 of the Rehabilitation Act of 1973.

43. DBE REQUIREMENTS

The City and its partners strive to advance the economic growth of small businesses through its Disadvantaged Business Enterprise (DBE) Program.

The City of Porterville DBE Program is managed and administered by the City's Transportation Department. Through a coordinated effort among several city departments and partner agencies, the DBE Program provides certification and opportunities in construction, purchasing, management and technical assistance, educational services, and networking.

A. General Requirements

1. **Applicable Federal Regulations.** This Contract is subject to DBE requirements issued by USDOT in 49 CFR Part 26. Despite the lack of a race- and gender-conscious DBE participation goal for this Contract, the Agency must track and report DBE participation that occurs as a result of any procurement, Joint Venture, goods/services, or other arrangement involving a DBE. For this reason, the Successful Submitter shall provide all relevant information to enable the required reporting.
2. **DBE Participation.** For this solicitation, the Agency *has not* established a race- or gender-conscious DBE participation goal. The Agency extends to each individual, firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for business. The Agency uses race- and gender-neutral measures to facilitate participation by DBEs and Small Businesses. The Agency encourages each Submitter to voluntarily subcontract with DBEs and Small Businesses to perform part of the work—a Commercially Useful Function—that Submitter might otherwise perform with its own forces.

3. **Small Business Participation.** The Agency will track the participation of all approved businesses throughout the life of this contract. The Agency will count Small Business participation as authorized by federal regulations. A summary of these regulations can be found at www.ecfr.gov (49 CFR Part 26.39).
4. **DBE Certification.** Only firms (1) certified by the Agency or another CAUCP member, and (2) contracted to perform a Commercially Useful Function on scopes of work for which they are certified, may be considered to determine DBE participation resulting from race- and gender-neutral (RGN) measures on this Contract. This DBE determination affects the Agency's tracking and reporting obligations to USDOT.
5. **Civil Rights Assurances.** As a recipient of USDOT funding, the Agency has agreed to abide by the assurances found in 49 CFR Parts 21 and 26. Each Contract signed by the Agency and the Successful Submitter, and each Subcontract signed by the Successful Submitter and a Subcontractor, must include the following assurance verbatim:

“The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Porterville deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanctions; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible.”

Note: For purposes of the required Contract and Subcontract language above, Successful Submitter is the “contractor” awarded the contract.

6. **Subcontracts.** If subcontracts will be let under this Contract, Contractor shall take the affirmative steps listed in 2 C.F.R. 200.321, which addresses contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

Exhibit A – Required Forms

Form A

ADDENDUM RECEIPT

The Proposer acknowledges it has received and read the following Addenda:

Addendum # _____	Signature _____
Addendum # _____	Signature _____
Addendum # _____	Signature _____
Addendum # _____	Signature _____
Addendum # _____	Signature _____

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form B

DEBARMENT AND SUSPENSION CERTIFICATION

This certification does not apply to contracts and subcontracts under \$25,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

Check one box below (and provide explanation if necessary):

☐ The Proposer certifies that the Proposer and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any federal department or agency;
2. Have not, within the preceding three years, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of federal or state antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any offense described in Paragraph 2 of this certification;
4. Have not, within the preceding three years, had one or more public transactions (federal, state, or local) terminated for cause or default.

- OR -

☐ The Proposer is unable to certify to all of the statements in this certification, and attaches its explanation to this certification. (In the explanation, the Proposer must certify to those statements that can be certified and explain why the other statements cannot be certified.)

The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form C

BUY AMERICA CERTIFICATION

This certification applies to contracts over \$150,000 if they involve the purchase of iron, steel, manufactured goods, or rolling stock. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

If this Offer is valued in excess of \$150,000 and involves the procurement of steel, iron, or manufactured products (as defined in 49 CFR §§ 661.3 and 661.5), the Proposer hereby certifies that it:

☐ Will comply with the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 CFR part 661;

OR

☐ Cannot comply the requirements of 49 U.S.C. § 5323(j) (and 49 CFR part 661) but may qualify for an exception to the requirements pursuant to 49 U.S.C. § 5323(j)(2), as amended, and the applicable regulations in 49 CFR § 661.7.

If this Offer is valued in excess of \$150,000 and involves the procurement of buses or other rolling stock (including associated equipment), the Proposer hereby certifies that it:

☐ Will comply with the requirements of 49 U.S.C. § 5323(j) and the applicable regulations of 49 CFR § 661.11;

OR

☐ Cannot comply with the requirements of 49 § U.S.C. 5323(j) (and 49 CFR § 661.11), but may qualify for an exception to the requirements consistent with 49 U.S.C. § 5323(j)(2)(C), as amended, and the applicable regulations in 49 CFR § 661.7.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form D

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF CALIFORNIA

COUNTY OF _____

_____ declares and says:

1. That he/she is the (owner, partner, representative, or agent) of _____, hereinafter referred to as (CONTRACTOR) or (subcontractor).
2. That he/she is fully informed regarding the preparation and contents of this proposal for certain work in the City of Porterville, State of California.
3. That his/her proposal is genuine and is not collusive or a sham proposal.
4. That any of its officers, owners, agents, representatives, employees, or parties in interest, including this affiliate, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer, firm, or person to submit a collusive or sham proposal in connection with such contract or to refrain to submitting a proposal in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful Contract or connivance with any other proposer, firm, or person to fix the price or prices in said proposal, or to secure through collusion, conspiracy, connivance, or unlawful Contract any advantage against the City of Porterville or any person interested in the proposed contract; and,
5. That the price or prices quoted in the proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful Contract on the part of the proposer or any of its agents, owners, representatives, employees, or parties in interest, including this affiliate.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

This certification does not apply to contracts and subcontracts under \$100,000. Offers that do not include this completed certification, if applicable, will be rejected as nonresponsive.

The Proposer certifies that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Proposer, to any person for influencing or attempting to influence an officer or employee of an 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.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Proposer shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Proposer shall require that the language of this certification be included in the contract documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form F

TAX LIABILITY CERTIFICATION

This certificate applies to all contracts. Offers that do not include this completed certification will be rejected as nonresponsive.

The Proposer certifies that:

1. It has no 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;
2. It has not been convicted of a felony criminal violation under any federal law within the preceding 24 months; and
3. It shall require that the language of this certification be included in the award documents for all subcontractors and material suppliers at all tiers, and that all subcontractors and material suppliers shall certify and disclose accordingly.

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. §§ 3801 et al. are applicable to this certification.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Form G

ACKNOWLEDGEMENT OF “BEST VALUE” SELECTION PROCESS

PROPOSER hereby acknowledges that the selection process under this RFP will evaluate Proposals on a “Best Value” basis, which the Federal Transit Administration’s (FTA) Best Practices Manual defines as follows:

“Best Value” is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.

As a result, PROPOSER further acknowledges that pricing will not be the sole basis upon which Proposals are evaluated.

An individual authorized to bind the PROPOSER to this Agreement must sign below acknowledging and understanding of the foregoing.

Company: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Exhibit B – Sample General Services Agreement

CITY OF PORTERVILLE GENERAL SERVICES AGREEMENT WITH *[insert full name of Contractor and Project Name and/or number]*

This General Services Agreement (Agreement) is entered into between the City of Porterville, a municipal corporation (**City**), and _____ [complete name of legal business entity], a _____ [business status, such as a California corporation] (**Contractor**). City and Contractor are referred to individually as “Party” and collectively as “Parties.”

Recitals

- A. City desires to retain Contractor to complete a XXXXXXXXXX Project (Project); and
- B. On XXXXXXXX, the City issued a Request for Proposals (RFP) for the XXXXXXXXXX (Project). On XXXXXXXX, Contractor submitted its proposal for the Project to the City. City has determined that Contractor possesses the skills, experience and certification required to provide the goods and services.
- C. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.
- D. This Agreement is being executed pursuant to Resolution No. _____-2024 approved by the Porterville City Council on _____, 2024.

Now therefore, the Parties mutually agree as follows:

1. **Scope of Work.** Contractor shall provide the goods and services required to complete the Project, described in Exhibit “A” attached hereto and incorporated herein by reference. The goods and services shall be performed by, or under the direct supervision of, Contractor’s Authorized Representative: _____. Contractor shall not replace its Authorized Representative, nor shall Contractor use or replace any subcontractor or subcontractor, without City’s prior written consent. The City may terminate this Agreement if Contractor makes any such change or replacement, or uses any unapproved subcontractor or subcontractor.
2. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit “A.” Any services for which times for performance are not specified in this Agreement shall be started and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all

requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1. Term. The Term of this Agreement shall begin on _____ and end on _____, unless terminated in accordance with Section 6.

3. Compensation. City shall pay Contractor on a lump sum basis, at the billing rate set forth in Exhibit "C", attached hereto and incorporated herein by this reference for goods and services performed under this Agreement.

3.1. Not to Exceed Amount. Contractor's total compensation under this Agreement shall not exceed \$ _____. Contractor's billing rates shall cover all costs and expenses for Contractor's performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City's prior written approval. Notwithstanding anything contained herein to the contrary, the payment of any funds under this Agreement shall be subject to the City of Porterville's appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

3.2. Invoices. Contractor shall submit monthly invoice(s) to the City that describe the goods and services performed, including times, dates, and names of persons performing the services.

3.2.1. Contractor's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Contractor.

3.3. Payment. Subject to the City acceptance of the Services as discussed in Exhibit A attached hereto and completion of the Project to the City's satisfaction, within 30 days after the City's receipt of invoice(s), City shall make payment to the Contractor based upon the services described on the invoice(s).

3.4. The acceptance by Contractor of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Contractor for anything completed, finished or relating to Contractor's services. Contractor agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Contractor or its employees, subcontractors, agents and subcontractors for the accuracy and competency of the information provided and/or services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Contractor, its employees, subcontractors, agents and subcontractors.

3.5. Contractor agrees to maintain books, accounts, payroll records and other information relating to the performance of Contractor's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Contractor in the

performance of Contractor's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

- 4. Indemnification.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In the event there is a finding and/or determination that Contractor is not an independent contractor and/or is an employee of City, including but not limited to any such finding and/or determination made by the California Public Employees' Retirement System (CalPERS), the Department of Industrial Relations (DIR), or the Internal Revenue Service (IRS), Contractor shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from and against any all claims relating to or in connection with such a finding and/or determination.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Contractor" means the Contractor, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

Contractor and City mutually waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

The provisions of this section survive completion of the services or the termination of this Agreement, and are not limited by the provisions of Section 5 relating to insurance.

- 1. Insurance.** Contractor shall, throughout the duration of this Agreement, maintain insurance to cover Contractor, its agents, representative, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

- 1.1. Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$4,000,000 general aggregate and \$2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

- 1.2. Automobile Liability** (with coverage at least as broad as ISO CA 00 01 07 097, for “any auto”) “claims made” coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 1.3. Workers’ Compensation** coverage shall be maintained as required by the State of California.
- 1.4. Professional Liability** “claims made” coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than \$1,000,000 per claim.
- 1.5. Endorsements.** Contractor shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:
- 1.5.1.** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 1.5.2.** For any claims related to this Agreement, Contractor’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor’s insurance and shall not contribute with it.
- 1.6. Notice of Cancellation.** Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.
- 1.7. Authorized Insurers.** All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 1.8. Insurance Certificate.** Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.
- 1.9. Substitute Certificates.** Contractor shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.
- 1.10. Contractor’s Obligation.** Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Contractor may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

2. **Termination.** The City may terminate this Agreement in its sole and absolute discretion by giving ten (10) days' written notice to Contractor. Within five (5) days of such a termination, Contractor shall give the City all original documents relating to the Services in Contractor's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Contractor pursuant to this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
3. **Dispute Resolution.** If any dispute arises between the City and Contractor that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:
 - 3.1. Each Party shall designate a senior management or executive level representative to negotiate the dispute.
 - 3.2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority,
 - 3.3. If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiations between legal counsel. If the aforementioned process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.
 - 3.4. The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person to serve as the mediator, shall be commenced within thirty (30) days of selection of a mediator, and shall be concluded within fifteen (15) days from the commencement of the mediation.
 - 3.5. The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.
 - 3.6. The dispute resolution process is a material condition of this Agreement and must be exhausted prior to either Party initiating legal action. This dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.
4. **Labor Code Compliance.** Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

5. **Rates.** These prevailing wage rates are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.
6. **Registration with DIR.** Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5
7. **Monitoring.** This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.
8. **Ownership of Work.** All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's Services, upon termination of this Agreement, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.
9. **Independent Contractor Status.** Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.
10. **Conflicts of Interest.** Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.
11. **Rebates, Kickbacks, or Other Unlawful Consideration.** Contractor warrants this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For any breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; to deduct from the contract price the value of the rebate, kickback, or other unlawful consideration; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.
12. **Notices.** All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after

the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

City of Porterville
Transportation Department
291 N. Main Street
Porterville, CA 93257

To Contractor

13. Miscellaneous

13.1. Standard of Care. Unless otherwise specified in this Agreement, the standard of care applicable to Contractor's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

13.2. Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

13.3. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement. No waiver shall be effective unless it is in writing and signed by the waiving party.

13.4. Assignment and Delegation. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's prior written consent. Any attempt to do so will void. City's consent to one assignment, transfer or delegation shall not be deemed to be consent to any subsequent assignment, transfer or delegation.

13.5. Jurisdiction and Venue. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Tulare.

13.6. Compliance with Law. Contractor shall comply with all applicable local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

13.6.1. Hazardous Materials. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.

13.6.2. Non-discrimination. Contractor represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, color, national origin,

handicap, ancestry, sex or age. Contractor shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.)

- 13.7. Business Entity Status.** Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters this Agreement, City may take steps to have this Agreement declared voidable.
- 13.8. Business License.** Before the City signs this Agreement, Contractor shall obtain a City of Porterville Business License. Contractor shall maintain an active City of Porterville Business License during the term of this Agreement.
- 13.9. Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.
- 13.10. Construction of Agreement.** Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.
- 13.11. Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.
- 13.12. Controlling Provisions.** In the case of any conflict between the terms of this Agreement and Exhibits hereto, and Contractor's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's proposal (if any), the Exhibits shall control.
- 13.13. Entire Agreement.** This Agreement and the Attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.
- 13.14. Counterparts.** City and Contractor agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.
- 13.15. Expenses for Enforcement.** Contractor and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

14. Signatures. The individuals executing this Agreement on behalf of Contractor represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Contractor.

The Parties agree to the full performance of these terms set forth here.

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

Contractor

By: Martha A. Flores

By: _____

Title: Mayor

Title: _____

Date: _____

Date: _____

Federal Employer Tax ID No. _____

Signature: _____

Signature: _____

Attest:

Patrice Hildreth, City Clerk

Approved as to form:

Julia M. Lew, City Attorney

Exhibits:

- A. RFP No.XXX XXXXXXXXXXXXX
- B. Contractor Proposal
- C. Compensation



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Consideration of Acquisition of Real Property

SOURCE: Public Works

COMMENT: Pursuant to City Council authorization on August 6, 2024, staff has negotiated the purchase of real property outlined in a Draft Purchase Agreement with the O'Sullivan Family Revocable Trust for the acquisition of approximately 0.23 acres of land and associated shares in the Hubbs & Minor Ditch Company and Pioneer Ditch Company, and leaseback agreement. The total purchase price for the property and shares is \$1,691,388. The land is located within the City of Porterville, and a Locator map has been attached for reference. This proposed acquisition furthers the emphasis on the importance of securing assets for the City's future infrastructure needs and regulatory compliance to meet sustainability goals.

The acquisition of real property would provide sufficient access to a City Storm Drain/ Recharge Basin in advance of future infill development and the shares of Hubbs & Minor Ditch Company stock, along with shares of Pioneer Ditch Company stock supports the Council's direction to secure future surface water to support groundwater sustainability. This acquisition secures valuable water rights for future city development. A Leaseback Agreement provides the seller with an option to lease back the water rights. The purchase is contingent upon clear title, inspections, and document approval. This purchase is a strategic investment that will enhance the City's control over critical water resources and allow for future infrastructure development.

The terms of the purchase are outlined in the Purchase and Lease Agreement, which is provided herein, as is the draft Resolution for Council's consideration. The City Attorney has been involved in the negotiations and drafting of the documentation presented for consideration. The funding source is the Water Replacement Fund.

RECOMMENDATION: That City Council:

1. Authorize and execute the Draft Purchase Agreement with the O'Sullivan Family Revocable Trust for the acquisition of Land and Ditch Company Stock as detailed in the agreement;
2. Authorize and execute the Draft Lease Agreement for Water Rights with the O'Sullivan Family Revocable Trust for the lease of Ditch Company Stock;and
3. Approve the Purchase Agreement for the purchase of land

Item No. 8.

and ditch company shares as outlined in the agreement and authorize the Mayor and City Manager to execute all necessary documents to complete the transaction.

ATTACHMENTS:

1. Draft Purchase and Lease Agreement for Land and Ditch Company Stock
2. Locator Map
3. Draft Resolution

Appropriated/Funded:

Review By:

Department Director:
Michael Knight, Assistant City Manager

Final Approver: Patrice Hildreth, City Manager

PURCHASE AGREEMENT
(Porterville, California)

THIS AGREEMENT is made and entered into as of last date of execution set forth on the signature page (the "Effective Date"), by and between the **CITY OF PORTERVILLE**, a California municipal corporation, ("Buyers"), and **THOMAS J. O'SULLIVAN and DEBORAH L. O'SULLIVAN**, trustees of the **O'SULLIVAN FAMILY REVOCABLE TRUST**, u/t/d September 28, 2012 (the "Seller").

RECITALS

A. Seller is the owner in fee simple of approximately twenty-three one hundredths (0.23) of an acre in the City of Porterville, County of Tulare, and State of California. The legal property description is attached hereto as Exhibit A (the "Land").

B. Buyer desires to purchase such Land and Seller desires to sell such property on the following terms and conditions. Included with the purchase of the Property Buyer will obtain Fifteen and two-thirds shares of Hubbs & Minor Ditch Company ("Hubbs Minor") stock (the "Hubbs Minor Shares") and Twenty-four shares of Pioneer Ditch Company ("Pioneer Ditch") stock (the "Pioneer Ditch Shares". Hubbs Minor and Pioneer Ditch shall each be referred to herein as a "Company"/ The Hubbs Minor Shares and Pioneer Ditch Shares together shall be known as the "Shares". The Land and Shares shall together be known as the "Property".

C. Upon the Closing and in consideration of this Agreement, Seller desires to lease from Buyer and Buyer agrees to lease to Seller, on a year-to-year basis, all rights pertaining to the Hubbs Minor Shares and/or the Pioneer Ditch Shares for a period of twenty five (25) water years after the Closing pursuant to the terms more specifically outlined in that certain Agreement Regarding the Lease of Water Rights ("Lease") attached as Exhibit B hereto.

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

I
PURCHASE AND SALE

1.1 Sale and Purchase. Buyer hereby agrees to acquire and purchase from Seller and Seller hereby agrees to sell and convey to Buyer the Property, together with all rights, privileges, and easements appurtenant thereto and belonging to Seller including all minerals, oil, gas and other hydrocarbon substances thereon including water, water rights, water stock, development, and air rights if any.

1.2 Purchase Price. The purchase price (the "Purchase Price") of the Property shall be the sum of One Million Six Hundred Ninety-one Thousand Three Hundred Eighty-eight and No/100 Dollars (\$1,691,388.00).

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

1.4 Purchase Under Threat or Imminence of Condemnation. The parties acknowledge that the property is being sold under contemplation or imminence of condemnation. That stated, Buyer makes no other representation, and makes no warranty or guarantee whatsoever concerning any tax consequences related to this sale, and to the fullest extent permitted by law, Seller agrees to hold harmless, release and defend Buyer from any claims, liabilities, damages, penalties, legal actions or losses related to any such consequences.

1.5 Water Rights Lease Back Option. In consideration of the mutual promises under this Agreement, upon the Closing, Seller shall have the right to lease back from Buyer the water rights pertaining to the Shares for a period of up to twenty-five (25) Water Years and subject to the terms of the Lease to be entered into by the parties at the Closing. "Water year" means the period from October 1 through the following September 30, during the Term as defined in the Lease. Buyer shall provide Seller with twenty-five (25) individual exclusive options to leaseback the water rights relating to the Shares each and every Water Year from the Closing for a period not to exceed twenty-five (25) Water Years. Seller agrees to pay any and all assessments to the Companies when due in a timely manner. Seller will pay any charges due and payable related to the delivery of water from the Company. In addition, Seller will pay Buyer the sum of \$100 per acre foot of water delivered by the Companies. Buyer or Seller may assign their interests in the Shares and the Lease on an annual basis and subject to this Agreement and the Lease.

II

CONDITIONS TO CLOSING; ACTIONS PENDING CLOSING

2.1 At the Closing (as defined below), Seller shall convey to Buyer marketable fee simple title to the Property, by duly executed and acknowledged grant deed (the "Grant Deed"). Evidence of delivery of marketable fee simple title shall be the issuance of a CLTA Standard Coverage Policy of Title Insurance (1973) (the "Owner's Policy"), at the parties' shared cost and expense, in the full amount of the Purchase Price by Stewart Title Company (the "Title Company"), insuring fee simple title to the Property in Buyer, subject only to the exceptions set forth in the report of title. Buyer, for Buyer's benefit and at Buyer's election and sole expense, may elect to require Title Insurer to provide an ALTA policy of title insurance. Seller shall cause all monetary liens and mortgages recorded against the Property to be removed as a lien against the Property as of the Closing Date. In addition to the condition precedent set forth in Section 2.1, the Closing and Buyer's obligation to perform hereunder are conditioned upon the fulfillment of each and all of the following, any of which Buyer may waive in whole or in part:

2.1.1. Within 5 days of receipt, Buyer's review and approval/disapproval or waiver of a Preliminary Title Report.

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

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

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

2.1.5 Within 15 days from the date of Opening Escrow, Buyer's inspection of the Property that Buyer may reasonably require, and Buyer's review and approval/disapproval or waiver of the results of same.

2.1.6 Buyer shall deposit into Escrow an original counterpart to the Lease signed by Buyer as Lessor.

2.1.7 Seller shall deposit into Escrow an original counterpart to the Lease signed by Seller as Lessee.

2.1.8 Seller shall deposit all certificates for the Shares

2.2 Notwithstanding the above conditions, in the event escrow does not close within sixty (30) days of the last party's execution of this Agreement, Seller may cancel the sale.

III ESCROW INSTRUCTIONS

3.1 Opening of Escrow.

3.1.1 Concurrently with the execution of this Agreement, an escrow (the "Escrow") shall be opened by both parties with Stewart Title Company, Judy Loflin, California, ("Escrow Holder").

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

thereof by Escrow Holder, and escrow shall be deemed opened as of the date of such delivery and acceptance. "Closing", as used herein, shall mean when the conditions of Section 3.5 below are completed as set forth therein.

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

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

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

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

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

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

3.5.2 Deliver to Buyer the certificates from each Company for the Shares.

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

3.5.3 Deliver to Seller the original Lease, fully-executed by Buyer as Lessor and Seller as Lessee.

3.6 Escrow Charges.

3.7 Costs and Expenses. The costs and expenses of Escrow upon Close of Escrow will be shared equally (50% each) by Buyer and Seller, including, without limitation, all recording charges, the premium for the Title Policy, the cost of any documentary or other transfer taxes applicable to the sale, cost and fees related to the transfer of the Shares, current year real estate tax assessments, and all other standard costs and charges of the Escrow.

3.8 Prorations. Escrow Holder shall prorate any other assessments or fees related to the Shares as of the Closing on the basis of the most recent statement approved by Buyer and Seller. Prorations shall be as of 12:01 a.m. on the Closing Date on the basis of a 365-day year.

3.9 Miscellaneous Escrow Instructions.

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

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

To Seller:

The O'Sullivan Family Revocable Trust
Thomas and Deborah O'Sullivan, Trustees
1279 W. Henderson Avenue #340
Porterville, CA 93257

To Buyer:

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

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

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

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

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

IV

REPRESENTATIONS AND WARRANTIES OF SELLER

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

4.1 As of the Closing, to the best knowledge, information and belief of Seller, there shall be no liens, easements, licenses, leases or tenancies of any type on the Property or any portion of the Property.

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

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

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

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

4.6 Subject to the specific representations of Seller being true and correct in all material respects, it is understood and agreed that the Property has been inspected by Buyer, or Buyer's duly authorized agents, that the same is being purchased as a result of such inspection and not in reliance upon any representations, inducements or promises, either oral or written, made by Seller.

V

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby makes the following representations and warranties to and agreements with Seller, which are true as of the date hereof, which shall be true as of the Closing, which are not intended to replace or limit in any manner any express or implied warranty provided under the applicable

law and which, except to the extent they relate to events or circumstances occurring or arising after the Closing, shall survive the Closing. Seller shall be entitled to rely upon said representations and warranties:

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

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

VI MISCELLANEOUS PROVISIONS

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

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

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

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

6.5 Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent to be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

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

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

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

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

6.10 Ambiguities. Each party and its legal counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

(Signatures on following page)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

SELLER:

THE O’SULLIVAN FAMILY REVOCABLE TRUST

Thomas J. O’Sullivan

By: _____

Date: _____

Deborah L. O’Sullivan

By: _____

Date: _____

APPROVED AS TO FORM:

By: _____

BUYER:

CITY OF PORTERVILLE

By: _____
Martha Flores, Mayor

Date: _____

ATTEST:

By: _____
Patrice Hildreth, City Clerk

APPROVED AS TO FORM:

By: _____
Julia M. Lew, City Attorney

EXHIBIT A
LEGAL DESCRIPTION OF THE LAND

The North 20.00 feet of the property described in Grant Deed recorded October 26, 2022 as Document No. 2022-0065226 of Official Records described as follows:

The Southeast quarter of the Southeast quarter of the Northeast quarter of Section Three (3), Township Twenty-Two (22) South, Range Twenty-Seven (27) East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, subject to an easement for road purposes over the East 25 feet of said land, as granted to the County of Tulare by Deed dated June 11th, 1932, recorded in Book 606, Page 486 of Official Records; and an easement for road purposes over the South 20 feet of said land as shown on the road Plat in the Office of the County Surveyor of said County.

Excepting therefrom the North 100 feet of the East 158 feet of the Southeast quarter of the Southeast quarter of the Northeast quarter of said Section 3.

EXHIBIT A

EXHIBIT B

AGREEMENT REGARDING THE LEASE OF WATER RIGHTS

This AGREEMENT REGARDING THE LEASE OF WATER RIGHTS (“Agreement”), is made _____, 2024, by and between **Thomas J. O’Sullivan and Deborah L. O’Sullivan**, Trustees of the O’Sullivan Family Revocable Trust u/t/d September 28, 2012 (“**Lessee**”) and the City of Porterville, a political subdivision of the state of California (“**Lessor**”).

Recitals

WHEREAS, Lessor is the owner of those certain water rights related to Fifteen and Two-thirds shares of Hubbs & Minor Ditch Company (“Hubbs & Minor”) stock (the “Hubbs & Minor Shares”) and Twenty-four shares of Pioneer Ditch Company (“Pioneer Ditch”) stock (the “Pioneer Ditch Shares”. Hubbs & Minor and Pioneer Ditch shall each be referred to herein as a “Company” or together, the “Companies”. The Hubbs Minor Shares and Pioneer Ditch Shares together shall be known as the “Shares”.

WHEREAS, the Shares are appurtenant to that certain real property located in the City of Porterville, County of Tulare and further described as:

The North 20.00 feet of the property described in Grant Deed recorded October 26, 2022 as Document No. 2022-0065226 of Official Records described as follows:

The Southeast quarter of the Southeast quarter of the Northeast quarter of Section Three (3), Township Twenty-Two (22) South, Range Twenty-Seven (27) East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, subject to an easement for road purposes over the East 25 feet of said land, as granted to the County of Tulare by Deed dated June 11th, 1932, recorded in Book 606, Page 486 of Official Records; and an easement for road purposes over the South 20 feet of said land as shown on the road Plat in the Office of the County Surveyor of said County.

Excepting therefrom the North 100 feet of the East 158 feet of the Southeast quarter of the Southeast quarter of the Northeast quarter of said Section 3.

(the “Appurtenant Real Property”).

WHEREAS, Lessee is desirous of obtaining for the next twenty-five Water Years, yearly options to lease from Lessor all water rights related to the Shares, and Lessor is desirous of granting to Lessee such options. As used herein, “Water Year” means the period from October 1 through the following September 30, inclusive for each year of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, and for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee agree as follows:

1. Lease Agreement. Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, all water rights relating to the Shares including without limitation rights to surface water, ground water, storage,

and conveyance rights and capacity (the “Rights”) for each Water Year as Lessee may elect to receive during the Term.

2. Term. The term of this Agreement shall begin October 1, 2024 and shall remain in full force and effect for twenty-five (25) years until September 30, 2049 (the “Term”).

3. Election to Receive Water Rights. Lessee shall receive the Rights for each year during the term unless Lessee provides to Lessor written notice (the “Notice”) of Lessee’s option not to receive such Rights that it does not elect to receive for the immediately following Water Year. Lessee may elect not to receive any or only a portion of the Rights and shall so designate in such notice. Lessee shall also have the right to elect which of the Shares it shall decline to receive the rights to during the Term. The Notice shall be provided to Lessor not later than the first day of September preceding each Water Year of the Term.

4. Rent.

(a) Lessee shall pay to Lessor as rent (1) One Hundred and no/100 Dollars (\$100.00) per acre foot of water allocated to such portion of the Shares for which Lessee receives such allocation per each applicable Water Year (the “Per-acre-foot Portion”) and (2) notwithstanding anything in this Agreement to the contrary, any assessments relating to the Shares for which Lessee receives a water allocation during each applicable Water Year. Lessee’s first payment of rent shall be due within thirty (30) days that both such allocation and assessments for the applicable Water Year are known and billed by Lessor to Lessee with sufficient supportive documentation to prove the same. Any past due payment of rent will bear interest at the rate of five percent (5%) per annum. All payments under this Agreement shall be made to Lessor at City of Porterville, 291 N Main Street, Porterville, CA 93257, or to such other place Lessor may designate by written notice.

(b) Except for Rent Renegotiation Dates as specified at Paragraph 4.(c) below, the Per-acre-foot Portion of Rent shall be adjusted annually during the Term on October 1 of each year of the Agreement Term. Each such anniversary date is hereunder referred to as an “Adjustment Date”. The Per-acre-foot Portion of Rent shall be adjusted as of each Adjustment Date, to the amount calculated by multiplying the rent for October 1, 2024, or the month in which the immediately preceding Adjustment Date occurred, whichever month is later, by a fraction, the numerator of which shall be the United States Department of Labor’s Bureau of Labor Statistics Consumer Price Index, “All Urban Consumers All Items for the San Francisco—Oakland-Hayward-Berkeley, CA Metropolitan Area”, or the successor of such index (the “CPI”), for the month immediately preceding such Adjustment Date, and the denominator of which shall be the CPI for October 1, 2024, or the month in which the immediately preceding Adjustment Date occurred, whichever is later. If the CPI or successor index is changed so that the base year differs from that in effect on the Commencement Date, the CPI or successor index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. In the event that compilation and/or publication of the CPI shall be transferred to any other governmental department or agency or shall be discontinued, then the index most nearly the same as the CPI shall be used to make such calculation.

Lessor shall initially calculate the CPI change after the data becomes available, and advise Lessee who shall have twenty (20) days after receiving Lessor’s notice of the increase in rent to correct the Lessor’s calculations (the “Review Period”). Upon expiration of the Review Period, Lessee shall pay all rent installments that fall due thereafter at the new rate and pay retroactively within 30 days of the above notice the adjustment of all monthly installments that fell due from and after the date Lessor provided notice of the increase in rent to Lessee (the “Prior Months”). Lessee shall not be obligated to retroactively pay rent at the new rate for any monthly installments which became due more than one year prior to receiving

Lessor's notice of the calculation of the CPI change. In the event of a dispute, Lessee shall pay rent as demanded by Lessor, and seek resolution and refund. If the CPI increase for the Prior Months is not paid within 30 days of the Lessor's original notice, there shall be a late charge added thereto of 5% of the unpaid amount.

(c) Lessor and Lessee shall renegotiate the per-acre portion of the Rent by such dates that are five, ten, fifteen, and twenty years after October 1, 2024 (each a "Rent Renegotiation Date"). If an agreement cannot be reached between Lessor and Lessee by a Rent Renegotiation Date, the maximum increase at such Rent Renegotiation Date shall not exceed sixty-six and seven-tenths percent (66.7%) of the average rate that the City of Porterville receives for water as of the applicable Rent Renegotiation Date—such Rent amount being specifically-negotiated consideration related to Lessee's sale of land to Lessor.

5. Personal Property of Lessor. This lease is a "true lease." The Stock is, and shall at all times remain, the sole personal property of Lessor. Lessee shall have no right, title, or interest in the Stock, except as provided in this Agreement. Lessee shall not hold itself out as an owner of the Equipment, or take any action that would be inconsistent with the ownership of the Stock by Lessor or that would otherwise be inconsistent with, or outside the scope of, this Agreement.

6. Use. The parties shall use the Stock and the Rights in a careful and proper manner and shall comply with all laws, ordinances, and regulations relating to the possession, use, or maintenance of the Stock and the Rights.

7. Covenant to Retain Appurtenant Real Property and Stock. Lessor covenants during the Term to always maintain legal title to the Stock and the Appurtenant Real Property and will take no action and suffer any omission that would result in this title to change without Lessee's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. During the Term, this covenant and this Agreement shall be deemed a legend to the Shares and a restriction on transfer of the same.

8. Covenant to Cooperate Regarding Use of Shares. Throughout the term, Lessor covenants to cooperate with Lessee to provide the Companies with such information and documentation sought to effectuate the transfer to and use by Lessee of the Rights. Lessee is hereby authorized to act on Lessor's behalf in relation to the Shares during the Term.

9. Lessor Warranties. Lessor represents and warrants to Lessee that Lessor has been duly authorized to enter this Agreement and is the sole owner of the Stock and has the authority to transfer all water rights relating to the Stock to Lessee.

10. Lessee Warranties. Lessee represents and warrants that it has relied on Lessor's warranties in this Agreement, has made or refused to make a full examination and inspection of the Stock, and Lessee are the trustees of a validly existing trust under the laws of the state of California and the persons executing this Agreement for Lessee have all requisite power and authority to act for themselves as trustees of their trust.

11. Disclaimer of Warranties. LESSEE ACKNOWLEDGES AND AGREES THAT THE RIGHTS RELATING TO OWNERSHIP OF THE STOCK IS DELIVERED "AS IS" AND "WITH ALL FAULTS." LESSOR HAS NOT MADE AND DOES NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES CONCERNING THE STOCK. LESSEE ACCEPTS THE RIGHTS RELATING TO OWNERSHIP OF THE STOCK AS IS, AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, EXPRESSLY WAIVES ALL WARRANTIES.

12. Taxes, Assessments and Fees. Lessee will prepare, execute, and file returns and pay, on a timely basis, at Lessee's expense all assessments, taxes and any other charges, assessments, or levies imposed on

or against the Shares for each Water Year to the extent Lessee receives the Rights during the Term, together with any penalties or interest in connection with these charges. If any tax is, by law, to be assessed or billed to Lessor, Lessee at its expense will do anything required to be done by Lessor in connection with the levy, assessment, billing, or payment of the tax, and is authorized by Lessor to act on Lessor's behalf in these respects; Lessee will cause all billings of these taxes to Lessor to be made to Lessor in care of Lessee and will from time to time, on request of Lessor, submit written evidence of the payment of all of the governmental obligations mentioned in this section. Lessee will, on any property tax returns required to be filed by Lessee, include the Shares covered by this Agreement or any substitutions or additions to this Agreement as property owned by Lessee for purposes of tax assessments.

13. Indemnity. Lessee will indemnify Lessor against, and hold Lessor harmless from, all claims, actions, proceedings, costs, damages, and liabilities, including attorney's fees, arising out of, connected with, or resulting from its use of the Rights. Lessor will indemnify Lessee against, and hold Lessee harmless from, all claims, actions, proceedings, costs, damages, and liabilities, including attorney's fees, arising out of, connected with, or resulting from its ownership of the Stock.

14. Offset. Lessee waives any existing and future claims and offsets against rent or other payments due under this Agreement, and agrees to pay the rent and other amounts regardless of any offset or claim that may be asserted by Lessee or on Lessee's behalf.

15. Assignment or Sublease. Upon five business day's written notice, Lessee may sublease, assign, or transfer any of Lessee's right or obligations under this Agreement, either by Lessee's own act or by operation of law, without the prior written consent of Lessor.

Lessor may not, without the prior written consent of Lessee, which consent may not be unreasonably withheld, conditioned, or delayed, assign or sublet its rights, in whole or in part, in the Shares.

Notwithstanding the foregoing, any attempted sublease or assignment that materially changes the duty of, or materially increases the burden or risk imposed on, the nonassigning party shall be void, without that party's express written consent, which shall be in the nonassigning party's absolute discretion.

16. Notices. All notices and other communications required or permitted under this Agreement shall be validly given, made, or served, if in writing and delivered personally or sent by registered mail, to the parties at the address set forth above or at any other address as any party may, from time to time, designate by giving written notice pursuant to this section.

17. Applicable Law. This Agreement shall be governed by and construed under the laws of the state of California, and jurisdiction for any dispute arising from or relating to this agreement shall be in Tulare County.

18. Attorney's Fees. If either party files any action or brings any proceeding against the other arising out of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they might be entitled.

19. Entire Agreement, Modification, and Waiver. This Agreement represents the entire understanding and agreement between the parties regarding the subject matter of this Agreement, and supersedes and replaces all prior agreements and understandings, whether oral or written. The provisions of this Agreement cannot be amended, supplemented, or changed, nor can any of its provisions be waived, except by a writing signed by the party against whom enforcement is sought. No waiver of a breach of this Agreement shall be deemed to constitute a waiver of a further breach, whether similar or dissimilar.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first written above.

LESSEE:

THE O'SULLIVAN FAMILY REVOCABLE TRUST

By: _____
Thomas J. O'Sullivan, Trustee

By: _____
Deborah L. O'Sullivan, Trustee

APPROVED AS TO FORM:

By: _____
Allan Bailey, Attorney for Lessee

LESSOR:

CITY OF PORTERVILLE

By: _____
Martha Flores, Mayor

ATTEST:

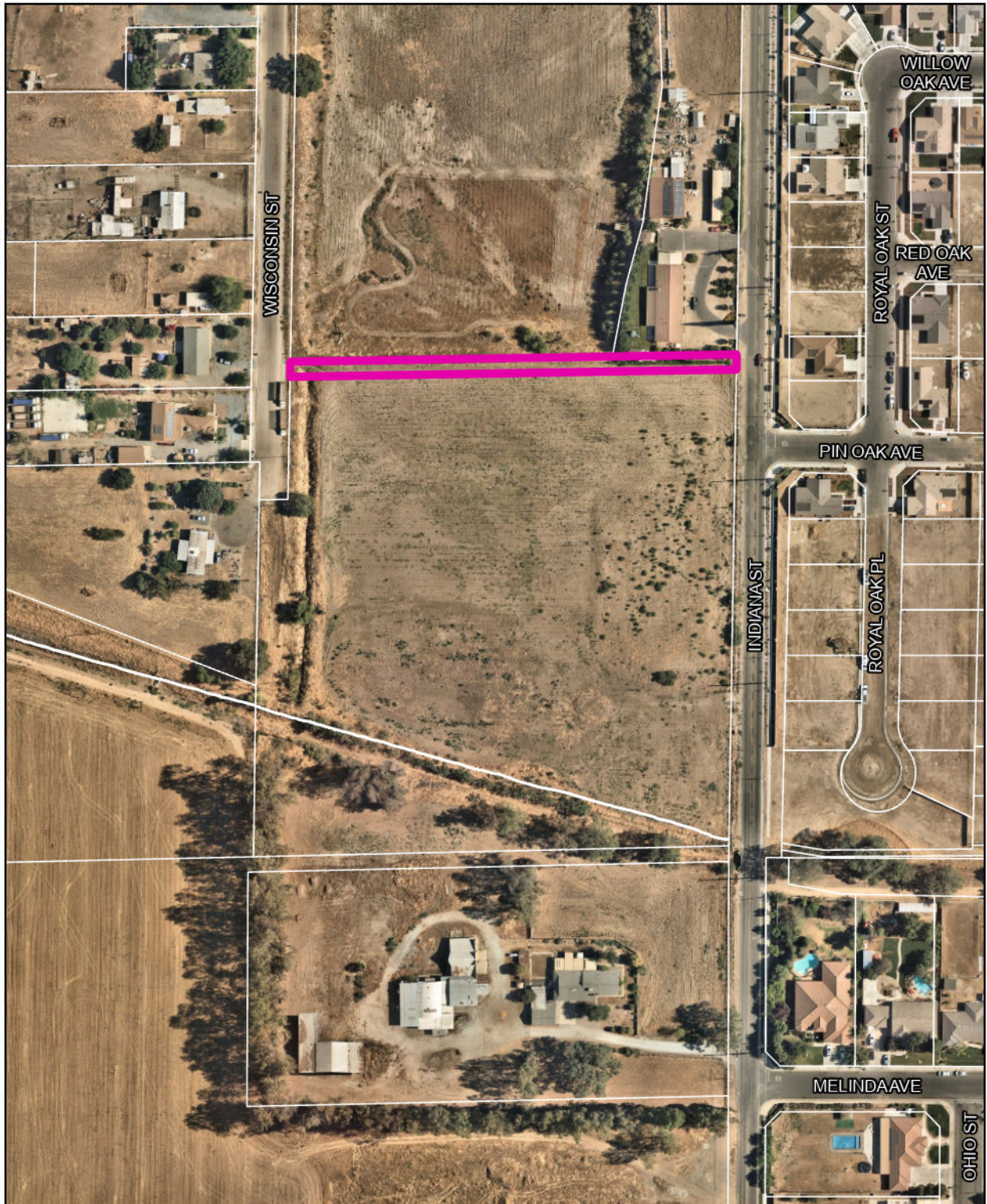
By: _____
Patrice Hildreth, City Clerk

APPROVED AS TO FORM:

By: _____
Julia M. Lew, City Attorney

Locator Map

APN 268-100-005



 Area of Interest

0 200 400 Feet



Date Printed: 8/14/2024 by the Community Development Department

RESOLUTION NO. _____-2024

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING A PURCHASE AGREEMENT FOR LAND AND DITCH COMPANY
STOCK AND AUTHORIZING THE MAYOR TO EXECUTE ALL NECESSARY
DOCUMENTS RELATED TO THE PURCHASE**

WHEREAS, the City of Porterville ("City") recognizes the importance of acquiring land and water rights to secure the future development and sustainable management of its water resources; and

WHEREAS, the City has identified the need to purchase certain property and water rights from the O'Sullivan Family Revocable Trust, consisting of approximately 0.23 acres of land located within the City and shares in the Hubbs & Minor Ditch Company and Pioneer Ditch Company; and

WHEREAS, the acquisition includes 15 2/3 shares of Hubbs & Minor Ditch Company stock and 24 shares of Pioneer Ditch Company stock; and

WHEREAS, the total purchase price for the land and ditch company shares is \$1,691,388; and

WHEREAS, the City has negotiated a Leaseback Agreement with the sellers, under which the sellers will lease back the water rights for a period of 25 years at the rate of \$100 per acre-foot of water delivered, plus payment of all assessments and charges associated with water delivery; and

WHEREAS, an escrow account has been opened with Stewart Title Company to facilitate the transaction, with all costs to be shared equally by both parties; and

WEREAS, the City Council has determined that the acquisition of this property and the associated water rights is in the best interest of the City and its residents as it provides long-term control over vital water resources and contributes to the City's infrastructure development; and

NOW, THEREFORE, BE IT RESOLVED: By the City Council of the City of Porterville as follows:

1. That the City Council of the City of Porterville accept the Purchase Agreement with and the O'Sullivan Family Revocable Trust for the acquisition of approximately 0.23 acres of land and associated ditch company shares, as detailed above, is hereby approved.
2. That the City Council of the City of Porterville accept the Leaseback Agreement, allowing the sellers to lease back the water rights for a period of 25 years at the terms specified in the Lease of Water Rights Agreement, is also approved.

3. That the purchase price of \$1,691,388.00 is hereby approved with the City of Porterville to open escrow account, pay the normal and customary escrow fees, authorize Mayor to sign all necessary documents and agreements required to complete the purchase and to take all other actions necessary to effectuate the terms of the Purchase Agreement and Leaseback Agreement, and record with the office of the Tulare County Recorder.
4. That the City Council of the City of Porterville does hereby approve and authorize the appropriation of \$1,691,388.00 plus the normal and customary escrow fees, from the Capital Construction/Improvement Designated Fund for the acquisition of said real property.

PASSED, APPROVED AND ADOPTED this 20th day of August 2024.

Martha A. Flores, Mayor

ATTEST:

Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel-Moraga
Acting Chief Deputy City Clerk



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Multi-Jurisdictional Local Hazard Mitigation/City of Porterville Hazard Mitigation Plan Annex Resolution

SOURCE: Community Development

BACKGROUND: Natural disasters occur regularly in the State of California and all around the world. Each year in the United States, natural disasters take the lives of hundreds of people and injure thousands more. Nationwide, taxpayers pay billions of dollars annually to help communities, organizations, businesses, and individuals recover from disasters. The time and money needed to recover from these events can strain or deplete local resources. These monies only partially reflect the true cost of disasters because additional expenses to insurance companies and non-governmental organizations are not reimbursed by tax dollars. Many natural disasters are predictable, and much of the damage caused by these events can be alleviated or even eliminated. The purpose of hazard mitigation plans is to help reduce or eliminate long-term risk to people and property from hazards.

The Federal Emergency Management Agency (FEMA) defines hazard mitigation as “any sustained action taken to reduce or eliminate long-term risk to human life and property from a hazardous event.” The results of a three-year, congressionally mandated independent study to assess future savings from mitigation activities provide evidence that mitigation activities are highly cost-effective. On average, each dollar spent on mitigation saves society an average of \$6 in avoided future losses in addition to saving lives and preventing injuries (Natural Hazard Mitigation Save: 2017 Interim Report.)

Hazard mitigation planning is the process through which hazards that threaten communities are identified; likely impacts are determined, prioritized, and implemented. The 2023 Tulare County Multi-Jurisdictional Local Hazard Mitigation Plan (MJ-LHMP) update ([2023 Tulare County Multi-Jurisdictional Local Hazard Mitigation Plan](#)) continues the hazard mitigation planning process for Tulare County, the unincorporated county; the participating cities of Dinuba, Exeter, Farmersville, Lindsay, Porterville, Tulare, Visalia, Woodlake; and the Tule River Tribe, and the Tulare County Office of Education. The plan identifies natural and human-caused hazards and risks within Tulare County and identifies a hazard mitigation strategy to reduce vulnerability and make the communities of Tulare County more disaster-resistant and sustainable. Information in this plan can be used to help guide and coordinate mitigation activities and local

land use decisions. Proactive mitigation planning will help reduce the cost of disaster response and recovery for the community and its property owners by protecting critical community facilities, reducing liability exposure, and minimizing overall community impacts and disruption. The Tulare County planning area has been affected by hazards in the past and is thus committed to reducing future disaster impacts and maintaining eligibility for federal funding.

COMMENT: N/A

ANALYSIS: The 2023 Multi-Jurisdictional Local Hazard Mitigation Plan serves to bring the 2018 FEMA approved Tulare County MJ-LHMP up-to-date. The purpose of hazard mitigation is to reduce or eliminate long-term risk to people and property from hazards. The MJ-LHMP will aid the County and its residents to become less vulnerable to future hazardous events.

The MJ-LHMP demonstrates the community's commitment to reducing risks from hazards and serves as a tool to help decision-makers direct mitigation activities and resources. This update was developed, along with other measures, to ensure Tulare County's and participating jurisdictions' continued eligibility for certain federal disaster assistance: specifically, the FEMA Hazard Mitigation Grant Program (HMGP), Pre-Disaster Mitigation Program (PDM), and the Flood Mitigation Assistance Program (FMA).

The Planning Process, Countywide Risk Assessment, and Mitigation Strategy sections of the Tulare County Multi-Jurisdictional Local Hazard Mitigation Plan, or Base Plan are pertinent to the City of Porterville. In addition, the procedural requirements associated with the plan implementation and maintenance of the Base Plan are also applicable to the City of Porterville. Annex E: City of Porterville (Attachment) summarizes the hazard mitigation elements more specific to the City of Porterville. Annex E: is not a stand-alone plan, rather it is intended to supplement the hazard information provided within the Base Plan document of the Tulare County Multi-Jurisdictional Local Hazard Mitigation Plan. Annex E: Porterville provides additional information specific to the City of Porterville, including details on the City's profile, planning process, risk assessment, and mitigation strategy for the community.

FEMA has determined that there is a critical link between hazard mitigation planning and sustainability. This means that having a plan in place will help reduce the impact of hazards. Therefore, a community will be better able to prevent injury, loss of life, and property damage. Furthermore, a well-developed plan can help recovery occur more quickly following a disaster. By planning, preparing, and adopting the Multi-Jurisdictional Local Hazard Mitigation Plan, the County and the City of Porterville will be taking a proactive approach to reducing or eliminating the impacts of hazards before they occur.

ENVIRONMENTAL The Environmental Coordinator has made a determination that the project is
REVIEW: exempt from CEQA pursuant to CEQA Guidelines Section 15306,
Information Collection.

RECOMMENDATION: That the City Council approve the draft resolution adopting the
City of Porterville Local Hazard Mitigation Plan Annex E.

ATTACHMENTS: 1. Attachment-Porterville LHMP Annex E
2. Draft Resolution

Appropriated/Funded:

Review By:

Department Director:
Claudia Calderon, Community Development Director

Final Approver: Patrice Hildreth, City Manager



Annex E City of Porterville

This Annex summarizes the hazard mitigation elements specific to the City of Porterville. This Annex supplements the Tulare County Multi-Jurisdictional Hazard Mitigation Plan (MJHMP); therefore, the Annex is not a stand-alone plan but intended to supplement the hazard information provided in the Base Plan document. All other sections of the Tulare County MJHMP, or Base Plan, including the sections on the planning process, countywide risk assessment, and procedural requirements related to plan implementation and maintenance apply to the City of Porterville. This Annex provides additional information specific to the City of Porterville, including details on the City's profile, planning process, risk assessment, and mitigation strategy for the community.

The City provides the following services:

- Public safety (police and fire protection, ambulance)
- Streets and street lighting
- Wastewater collection, treatment, and disposal
- Domestic water
- Storm drainage
- Parks and recreation
- Solid waste collection

The City of Porterville has participated in the county wide planning by attending the county wide planning meetings. Within the city, several key staff members have contributed the project including:

Table E-1 City of Porterville Contacts		
Name	Title	Division
Oscar Zepeda	Associate Planner	Community Development
Rocio Mejia	Assistant Planner	Community Development
Yuliana Andrade	Administrative Services Director	Administration
Chris Pisani	Administrative Battalion Chief	Fire Department
Michael Knight	Assistant City Manager/Public Works Director	Public Works
Javier Sanchez	Engineering and Project Management Director	Engineering and Project Management

Point of Contact: Planning Division 559-782-7460

City of Porterville staff, has participated in Tulare County's Stakeholder meetings on the following dates:

- April 19, 2022
- July 19, 2022



E.1 Community Profile

Geography and Climate: The city has a total area of approximately 18.91 square miles. Porterville is located on the Tule River at the base of the western foothills of the Sierra Nevada at an elevation of 455 feet. The city is 165 miles north of Los Angeles and 171 miles east of the Pacific Coast. The City has a strategic central location to major markets and ready access to major transportation routes. Porterville's climate can be described as dry Mediterranean. The summers are hot and dry, and winters are characterized by moderate temperatures and light precipitation. Temperatures and rainfall for Porterville are typical of that of the rest of the valley floor portion of the County. The City consistently suffers from year-round air pollution and air quality that is among the worst in the U.S. because of both geographic conditions, dust from agriculture and vehicle emissions.

History: The City of Porterville, founded in 1849 and incorporated in 1902, is located in the central southern area of Tulare County in the heart of the agriculturally rich San Joaquin Valley. The City became a Charter City in 1926. In the foothills above Porterville is the man-made, Lake Success. Porterville's population has grown as it annexed nearby unincorporated areas.

Government: Porterville is a charter city operating under a council-manager form of municipal government. The City Council comprises five council members serving four-year overlapping terms. The mayor, who serves as president of the Council, is chosen by the members of the Council from among their number every two years.

Population: The City's July 2022 population was estimated at 62,345. The 2020 U.S. Census reported that Porterville had a population of 62,623. The population density was 3,311.6 people per square mile. The racial makeup of Porterville was 40,204 (64.2%) White; 313 (0.5%) African American; 1,065 (1.7%) Native American; 2,943 (4.7%) Asian; 188 (0.3%) Pacific Islander; 1,252 (0.2%) from other races; and 11,836 (18.9%) from two or more races. Hispanic or Latino of any race were 420,494 persons (64.6%). The Census reported 17,227 households (2015-2019) each made up of around 3 members. Family establishments represent 76.75% of these households, while non-family units account for the remaining 23.25%.

There were 18,305 households, out of which 6,718 (36.7%) had children under the age of 18 living in them, and 7,953 (12.7%) had someone living there who was 65 years of age or older. Of the 18,305 families the average family size was 3.27 members. Households with a computer was 90.8% and those with a broadband internet subscription was 86.3%.

Housing: There were 18,654 housing units at an average density of 986.5 per square mile, of which 9,407 (50.4%) were owner-occupied, and 6,678 (49.6%) were occupied by renters. The vacancy rate was 6.1%. 33,252 people (53.1% of the population) lived in owner-occupied housing units and 29,370 people (46.9%) lived in rental housing units. The median monthly owner costs with mortgage were \$1,382 and \$429 for homeowners without a mortgage. The median gross rent was \$994.

Economy: Porterville's economy is primarily driven by agriculture, complemented by a robust manufacturing sector. Additionally, industry plays a crucial role in the city's development. Key employers



in Porterville include the Porterville Unified School District, Walmart Distribution Center, Porterville Developmental Center, and Eagle Mountain Casino. Efforts to further diversify the industrial base are actively encouraged to strengthen the local economy. The top employers in the city are:

1. Porterville Unified School District	1,829	
2. Walmart Distribution Center	1,270	
3. Porterville Developmental Center	1,064	(employees)
4. Eagle Mountain Casino	954	
5. Sierra View District Hospital	797	
6. Burton School District	685	
7. Porterville Community College	548	
8. Young's Commercial Transfer	539	
9. City of Porterville	392	
10. Foster Farms	362	

Populations and Businesses at Risk: Residential population data for the City was obtained from the California Department of Finance E-1 Population Estimates for Cities, Counties, and the State—January 1, 2021/2022. The population is estimated to be 62,345 in an area of 17.7 square miles. The estimate is 18,354 residential units with a 2020 median value of \$208,400. The most common employment sectors for those who live in Porterville are retail trade; agriculture, forestry, fishing, and hunting; and health care and social assistance.

Based upon previously occurring incidents and the risk assessment, the following hazards are most likely to affect Porterville:

- Climate Change
- Dam Inundation
- Drought
- Extreme heat
- Flood

These hazards may impact agriculture, which a major economic driver of the city, and represent critical vulnerabilities. In addition, these are hazards that represent vulnerabilities to infrastructure.

Development Trends: Historically Porterville experienced an average growth rate of 1.22% annually. Between the 2018 population of 59,797 people and the 2022 Census of 62,491 people, the City's population has increased by 4.51%. Historical population data and future projections were obtained from the U.S. Census Bureau, and the California Department of Finance (DOF). For analysis purposes, this data is compared to other source data relating to growth and population including the City's General Plan. Extrapolating the historical 1990-2010 growth rate of 3.0% would give the City a population of 97,828 or 15.5% of the county population in 2030. DOF released finalized population projections at the county level



on January 1, 2021. The City's share of County population between 2018 where it was 12.98%, increased in 2022 to 13.09% of the total County population.

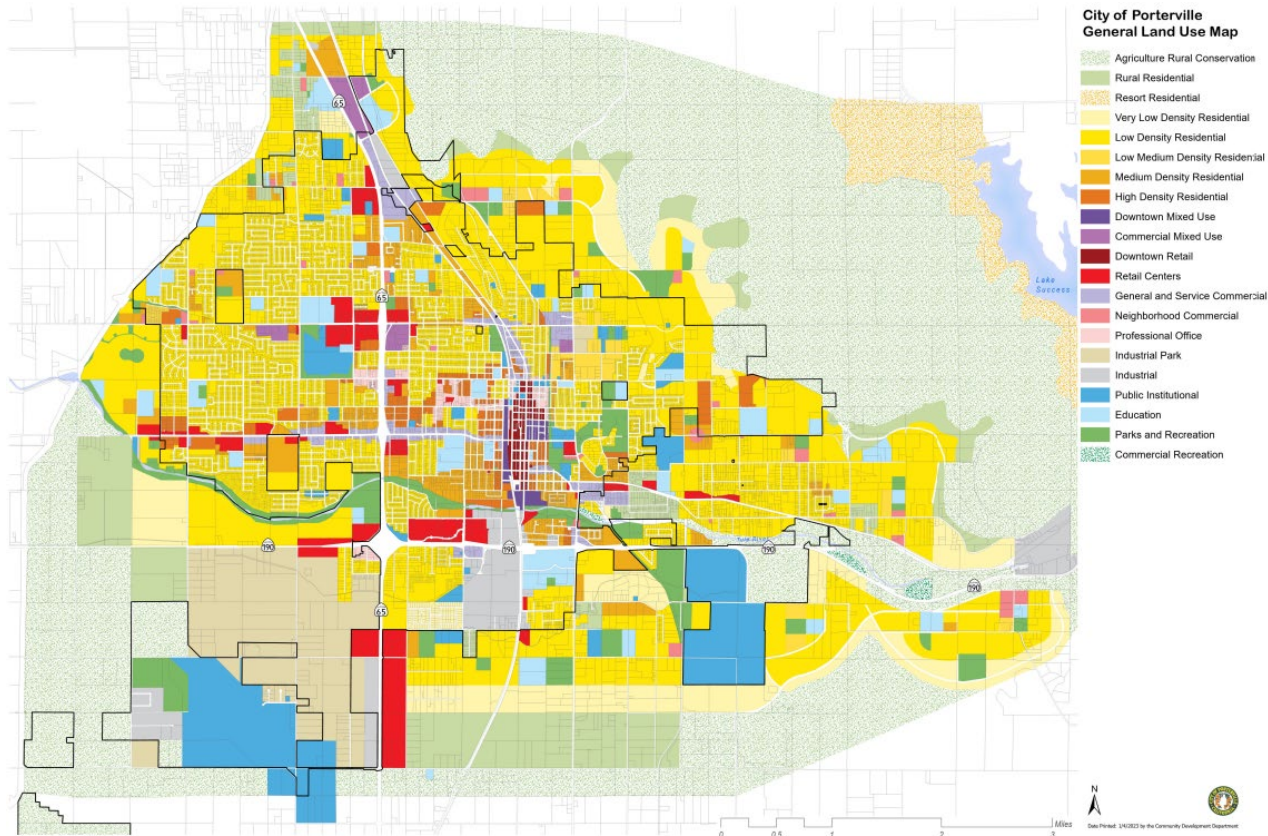
According to the 2008 Porterville General Plan Update, the City's population has grown at an average annual rate of 3.7 percent over a 30-year period. Buildout of the General Plan would accommodate a population of approximately 107,300 in the Planning Area. However, the City's population growth slowed to an average annual rate of 1.43 percent from 2006 to 2022. It is reasonable to assume that the City's population will continue to grow at an average annual rate between 2.5% and 3%.

Future Development: Porterville is primarily a mix of urban and rural areas with a growing population. Approximately 35.9 percent of the land within the total land area was being used for agriculture and other rural uses (generally categorized as Agriculture/Rural/Conservation), 30.1 percent of the planning area is categorized as single-family use, 4.9 percent was identified as vacant land. Other land uses such as commercial, retail, and industrial make up the balance. The City's available residential, industrial and commercial land base is currently building out and may in the future require additional areas for growth. Single-family housing construction in Porterville is likely to continue its growth despite several significant economic hardship cycles. The City population has grown steadily in the last two decades but has seen a decline in the last five years. The housing stock has also increased in the last ten years due to annexations of developed unincorporated areas.

Porterville's commercial development is centered in the downtown and along the Olive Avenue corridor, which traverses the central portion of the city in an east-west direction. Additional commercial development is located along State Route 65, specifically in the vicinity of Henderson Avenue, Morton Avenue, and Olive Avenue. The City's industrial areas are located in the southwest quadrant of the City near the Porterville Municipal Airport, north and south of State Route 190, west of Plano Street, and the northern part of the city along North Main Street. Schools and parks are scattered throughout the community. **Figure E-1** provides a land use map of Porterville.



Figure E-1: Porterville Map



Development in hazard prone areas: Population growth since approval of the 2018 MJLHMP has been less than two percent per year. Development has primarily consisted of urban infill in areas where vulnerabilities are well understood and described. Accordingly, hazard-prone areas have been avoided and there has been minimal effect to the overall vulnerability of the County.

Updated dam inundation maps include a much larger area of the County. While little new development occurred in the expanded inundation zones, vulnerability to dam inundation increased substantially and now includes most of the most populated areas of the County. Updated dam inundation maps for the County and affected cities are included in **Section 4.3.9** of the Tulare County Base Plan.

The new MJLHMP addresses the new hazard of climate change. This hazard impacts the entire City. Development in the City, the State, and globally with increased carbon emissions will result in increasing overall vulnerabilities to its impacts.

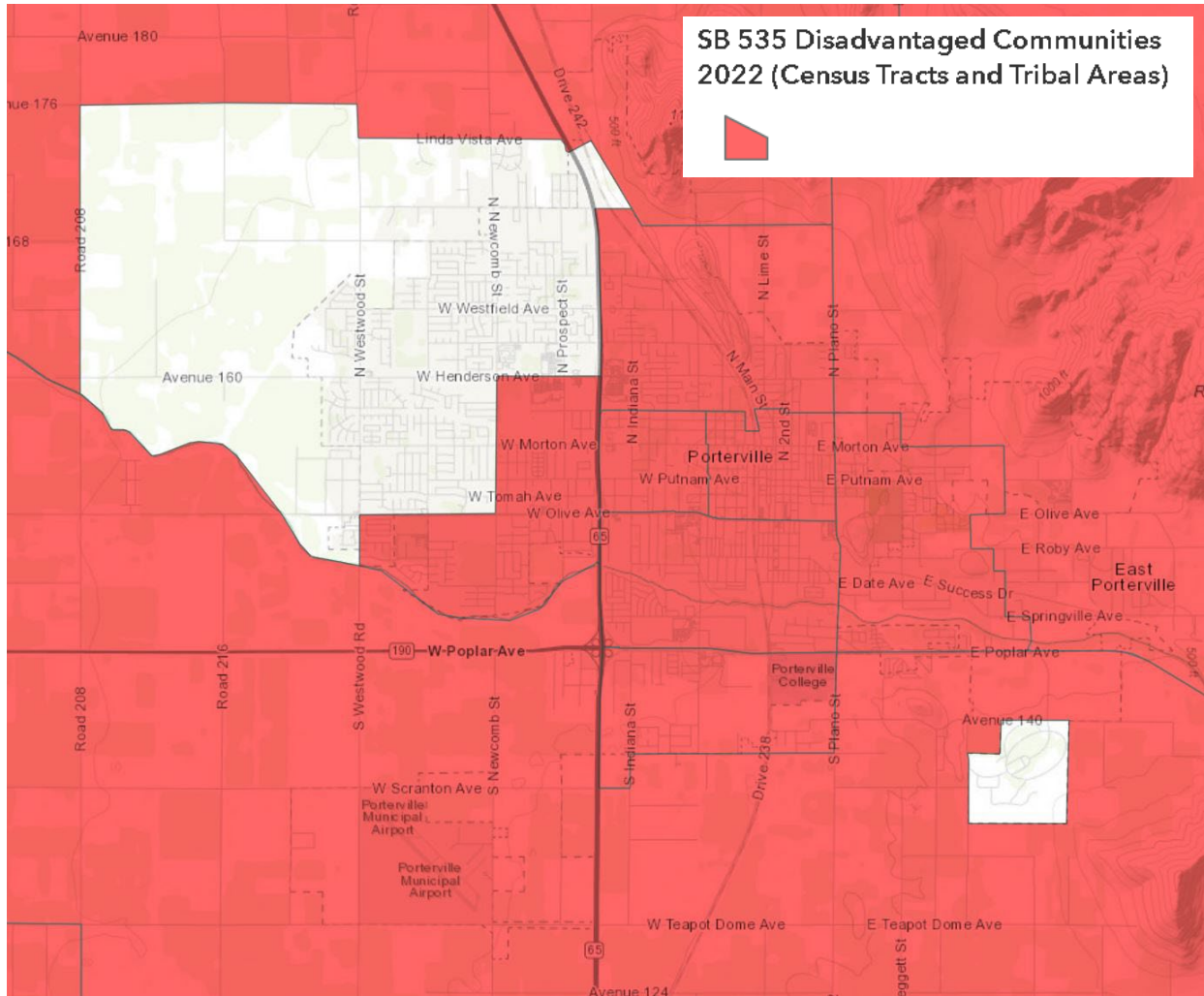
Disadvantaged Communities:

Based on information from the California Office of Environmental Health Hazard Assessment (OEHHA), the City of Porterville is classified as a disadvantaged community. The majority of the City, as seen in **Figure E-2**, is within the red layer indicating disadvantages communities according to "CalEnviroScreen 4.0" 2022. Only the northwest section of the city is shown to be outside of the disadvantaged communities.



Tulare County LAFCo Policy C-5.11(C) defines a disadvantaged community as an area that has a median household income 80% or less of the statewide average pursuant to Public Resources Code section 75005(g) and contains at least 20 dwelling units at a density not less than one unit per acre.

Figure E-2 – Disadvantaged Communities



Source: CalEnviroScreen 4.0, 2022



E.2 Hazard Identification and Summary

Porterville faces many of the hazards that are present in the County. **Table E-2** below provides a summary of hazards. Porterville is one of the few incorporated areas in the County with an urban/wildland interface. Eastern portions of the City are in the High and Medium Fire Hazard Severity Zone. The City is also within two miles of Success Dam. Warning times for a dam failure are less than 10 minutes. Much of the western portions of the City are in the inundation zone with water depths exceeding 20 feet. A rapid failure of Success Dam would result in catastrophic loss of life and injury, and property loss. Hazards in the City with unlikely frequency, limited extent, limited magnitude, and low significance were not included. These include earthquake liquefaction - subsidence, civil unrest, and terrorism/cyber terrorism.

Table E-2: Porterville Summary of Hazards

Hazard	Frequency	Extent	Magnitude	Significance	Location
Climate Change	Highly	Extensive	Catastrophic	High	Entire City
Dam Failure	Unlikely	Extensive	Catastrophic	High	Map E-3 depicts
Drought	Likely	Extensive	Catastrophic	High	Entire City
Earthquake: Shaking	Occasional	Extensive	Limited	Low	Entire City
Energy Emergency	Occasional	Extensive	Critical	Medium	Entire City
Extreme Heat	Highly	Extensive	Critical	High	Entire City
Fire	Unlikely	Limited	Limited	Low	Entire City
Floods	Highly	Extensive	Critical	High	Map B-14 depicts
Fog	Likely	Extensive	Limited	Low	Entire City
Hazardous Materials	Likely	Limited	Limited	Low	Entire City
Landslide/Mudslide/Debris	Unlikely	Limited	Negligible	Low	Entire City
Pandemic and Vector Borne Disease	Likely	Extensive	Critical	Medium	Entire City
Severe Storms and High Winds	Highly Likely	Significant	Limited	Medium	Entire City
Wildfire	Unlikely	Limited	Limited	Low	Map B-13 depicts

Guidelines for Hazard Rankings

Frequency of Occurrence:

Highly Likely	Near 100% probability in next year
Likely	Between 10 and 100% probability in next year or at least one chance in ten years
Occasional	Between 1 and 10% probability in next year or at least one chance in next 100 years
Unlikely	Less than 1% probability in next 100 years

Spatial Extent:

Limited	Less than 10% of planning area
Significant	10-50% of planning area
Extensive	50-100% of planning area

Potential Magnitude:

Catastrophic	More than 50% of area affected
Critical	25 to 50% of area affected
Limited	10 to 25% of area affected
Negligible	Less than 10%

Significance (subjective):

low, medium, high

Source: 2013 FEMA Local Mitigation Planning Handbook



E.3 Risk Assessment

Vulnerability Assessment: A risk assessment determines the vulnerability of assets within the City by evaluating the inventory of City owned existing property and the population exposed to a hazard. A quantitative vulnerability assessment is limited to the exposure buildings, and infrastructures to the identified hazards. This risk assessment includes only those hazards that are natural.

Assets: The intent of this section is to assess Porterville's vulnerability separate from that of the Operational Area as a whole, which has already been assessed in **Chapter 4 Risk Assessment** in the base plan. This risk assessment analyzes the population, property, and other assets vulnerable to the hazards ranked of medium or high significance that may vary from other parts of the planning area. For more information about how hazards affect the County as a whole see **Chapter 4** of the base plan.

Infrastructure and Values at Risk: The following data was provided by the Director of City Services. This data should only be used as a guideline to overall values in the City as the information has some limitations. Generally, the land itself is not a loss. **Table E-3** shows the 2023 inventory for the City.

Table E-3: Porterville 2023 Asset Inventory			
Name	Address	Value	Hazard Vulnerability
Fire Department Station 1	40 W. Cleveland Ave.	\$380,573.00	Earthquake, Dam, Flood, Fog
Fire Department Station 2	500 N. Newcomb	\$2,040,419.00	Earthquake, Dam, Flood, Fog
Police Department	350 N. "D" St.	\$6,013,323.00	Earthquake, Dam, Flood, Fog
Public Safety Facility Police/Fire	980 S. Jaye Street	\$6,691,139.00	Earthquake, Dam, Flood, Fog
Centennial Plaza	25 E. Thurman Ave.	\$2,400,000.00	Earthquake, Dam, Flood, Fog
City Hall	291 N. Main Street	\$12,000,000.00	Earthquake, Dam, Flood, Fog
Corporation Yard/Field Services	555 N. Prospect St.	\$8,484,296.00	Earthquake, Dam, Flood, Fog
Murray Park	E. Putnam Ave	\$1,904,440.00	Earthquake, Dam, Flood, Fog
Hayes Field	945 W. Mulberry Ave.	\$220,818,00.00	Earthquake, Dam, Flood, Fog
Golf Course	72 E. Isham Ave.	\$782,133.00	Earthquake, Dam, Flood, Fog
Zalud House	393 N. Hockett St.	\$1,183,792.00	Earthquake, Dam, Flood, Fog
Veteran's Park	708 N. Newcomb St.	\$424,658.00	Earthquake, Dam, Flood, Fog
Contractor Equipment	291 N. Main St.	\$1,829,818.00	Earthquake, Dam, Flood, Fog
Vehicles	291 N. Main St.	\$25,823,671.00	Earthquake, Dam, Flood, Fog


Table E-3: Porterville 2023 Asset Inventory

Name	Address	Value	Hazard Vulnerability
Fallen Heroes Park	356 E. Chase Ave.	\$599,642.00	Earthquake, Dam, Flood, Fog
Vacant Commercial Building	36-38 E. Cleveland Ave.	\$594,750.00	Earthquake, Dam, Flood, Fog
Wastewater Treatment Facility	555 N. Prospect St.	\$20,000,000.00	Earthquake, Dam, Flood, Fog
Porterville Convalescent Hospital	1100 W. Morton Ave.	Unknown	Earthquake, Dam, Flood, Fog
Porterville Developmental Center	26501 Ave. 140	Unknown	Earthquake, Dam, Flood, Fog
Sierra View Physical Therapy	385 N. Pearson Dr.	Unknown	Earthquake, Dam, Flood, Fog
Sierra Valley Rehab.	301 W. Putnam Ave.	Unknown	Earthquake, Dam, Flood, Fog
Sierra View District Hospital	465 W. Putnam Ave.	Unknown	Earthquake, Dam, Flood, Fog
Sierra View District Hospital Dialysis Center	283 N. Pearson Dr.	Unknown	Earthquake, Dam, Flood, Fog
Sun Villa Rehab & Nursing Center	350 N. Villa St.	Unknown	Earthquake, Dam, Flood, Fog
Valley Care Center	661 W. Poplar Ave.	Unknown	Earthquake, Dam, Flood, Fog
Water Conservation Plant	1333 W. Grand Ave.	\$100,203,157.00	Earthquake, Dam, Flood, Fog
Residence	287 N. Hockett St.	\$335,199.00	Earthquake, Dam, Flood, Fog
Residence	604 E. Putnam Ave.	\$283,253.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 01	930 W. Mulberry	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 02	Porter Rd. across From Porter BBQ	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 03	1131 N. Newcomb	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 04	Newcomb & North West Grand	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 05	Putnam & Mathew	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 06	South Jaye St. on S.E. side of River	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 07	Airport by Sludge Beds	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 08	Park & Success	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 09	Morton & Westwood	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 10	Poplar & "G" St. by Walmart D.C.	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 11	Mulberry & Mathew	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 12	OHV Park by BMX Track	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 13	459 N. Mathew	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 14	Newcomb & Date	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 15	Newcomb & S. River on S. Side of River	\$250,000.00	Earthquake, Dam, Flood, Fog


Table E-3: Porterville 2023 Asset Inventory

Name	Address	Value	Hazard Vulnerability
Sewer Lift Station 16	Mathew & Union	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 17	1850 W. Scranton Ave.	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 18	Westfield & Westwood	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 19	1193 N. Lime	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 20	207 B S. Westwood St.	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 21	487 S. Newcomb	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 22	2200 W. Forest Ave.	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 23	East end of Edison Ct.	\$250,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0424, Porter Slough	"E" Street	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0046, Porter Slough	Main St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0076, Tule River/Poplar Ditch	Road 252 (Plano St.)	\$20,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0098, Tule River	Road 224 (Westwood)	\$12,500,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0099, Tule River	Road 244 (Jaye St.)	\$12,500,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0111, Porter Slough	Porter Rd.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0127, Porter Slough	Road 224 (Westwood)	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0168, Porter Slough	Prospect St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0170, Porter Slough	Villa St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0171, Porter Slough	W. Putnam Ave.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0172, Porter Slough	Plano St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0173, Porter Slough	Leggett Dr.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0298, Porter Slough	Park Ave.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0299, Porter Slough	Conner St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0424, Porter Slough	"E" Street	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0425, Porter Slough	Cottage St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0444, Tule River	Main St.	\$10,000,000.00	Earthquake, Dam, Flood, Fog
Porterville Municipal Airport	1893 S. Newcomb St.	\$2,529,037.00	Earthquake, Dam, Flood, Fog
Transit Center	61 W. Oak	\$500,000.00	Earthquake, Dam, Flood, Fog
Community Center	466 E. Putnam Ave.	\$1,666,497.00	Earthquake, Dam, Flood, Fog
SCE Rector Electrical Substation	95 N. Cottage		Earthquake, Dam, Flood, Fog
Animal Shelter	23611 Rd 196, Lindsay	\$795,718.00	Earthquake, Dam, Flood, Fog


Table E-3: Porterville 2023 Asset Inventory

Name	Address	Value	Hazard Vulnerability
Sports Complex	Scranton Ave.	186,593.00	Earthquake, Dam, Flood, Fog
The Gas Company Substation	West of Newcomb on Olive		Earthquake, Dam, Flood, Fog
Airport 300K Tank	2200 W. Hope	\$628,000.00	Earthquake, Dam, Flood, Fog
East Porterville 3MG Tank	785 N. Jasmine & Henderson alignment	\$3,750,000.00	Earthquake, Dam, Flood, Fog
Scenic 310K Tank	1470 Highland Dr.	\$388,000.00	Earthquake, Dam, Flood, Fog
Scenic 3MG Tank	1054 Highland Dr.	\$3,750,000.00	Earthquake, Dam, Flood, Fog
Highland Drive Tank 310,000 Gal	Highland Dr. & Pioneer	\$290,901.00	Earthquake, Dam, Flood, Fog
Rocky Hill 550K Tank	East of Granite Hills	\$1,140,000.00	Earthquake, Dam, Flood, Fog
Rocky Hill Booster Water Pump Station	1610 E. Putnam Ave.	\$467,732.00	Earthquake, Dam, Flood, Fog
Martin Hill 3MG Tank	Worth & Leggett	\$4,783,00.00	Earthquake, Dam, Flood, Fog
Martin Hill Water Pump Station	543 E. Worth Ave.	\$580,363.00	Earthquake, Dam, Flood, Fog
East Porterville 3MG Tank	785 N. Jasmine & Henderson	\$4,783,00.00	Earthquake, Dam, Flood, Fog
East Porterville Booster Water Pump Station	Henderson & Plano	\$517,880.00	Earthquake, Dam, Flood, Fog
Booster Pump Self Contained/Skid Mount	Park & Corona	\$136,826.00	Earthquake, Dam, Flood, Fog
Airport Reservoir Water Tank	1893 S. Newcomb St.	345,134.00	Earthquake, Dam, Flood, Fog
Well 01A	Putnam east of 4th	\$1,714,169.00	Earthquake, Dam Flood, Fog
Well 2	N 3 rd St. & Harrison	\$116,523.00	Earthquake, Dam, Flood, Fog
Well 03	Willow & "E"	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 04	Orange & "E"	\$1,786,223.00	Earthquake, Dam, Flood, Fog
Well 06	437 W. Kanai	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 07	Orange & Western	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 08	"A" & Walnut	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 10	Mulberry & Hwy 65	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 11	4th & Garden	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 12	892 W. Henderson	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 13	191 W. Poplar	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 15	Morton & "G"	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 16	Veterans Park (Henderson)	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 17	Tomah & Waukesha	\$1,714,169.00	Earthquake, Dam, Flood, Fog

**Table E-3: Porterville 2023 Asset Inventory**

Name	Address	Value	Hazard Vulnerability
Well 18	Henderson & Belmont	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 19	Jaye & Tule River	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 20	Veterans Park (Newcomb)	\$2,526,747.00	Earthquake, Dam, Flood, Fog
Well 21	Harrison & Hockett	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 22	Tomah & Newcomb	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 23	Union & Indiana	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 24	Taylor & Olive	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well 25	Newcomb & Date	\$1,729,905.00	Earthquake, Dam, Flood, Fog
Well 26	Indiana & Hwy 190	\$1,853,179.00	Earthquake, Dam, Flood, Fog
Well 27	Jaye north of Gibbons	\$1,853,179.00	Earthquake, Dam, Flood, Fog
Well 28	"F" & Gibbons	\$1,854,872.00	Earthquake, Dam, Flood, Fog
Well 29	2250 W. Henderson	\$1,853,179.00	Earthquake, Dam, Flood, Fog
Well 31	Mathew & Orange	\$1,853,179.00	Earthquake, Dam, Flood, Fog
Well AP-01	Airport east of 30K Tank	\$1,738,630.00	Earthquake, Dam, Flood, Fog
Well AP-02	West St.	\$3,586,854.00	Earthquake, Dam, Flood, Fog
Well EP-05	Springville Dr. (Headgate)	\$1,171,169.00	Earthquake, Dam, Flood, Fog
Well L01	Tomah & Beverly	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well L05	Tomah & Salisbury	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well L07	Thurman & Cobb	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well L08	2107 White Chapel	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well R05	Newcomb & Forrest	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well R07	2006 W. Olive Ave.	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well R-11	Iris east of Magnolia	\$1,714,169.00	Earthquake, Dam, Flood, Fog
Well R-12	Cedar north of Iris	\$1,714,169.00	Earthquake, Dam, Flood, Fog

Critical Facilities: The City has identified the following infrastructure in **Table E-4** as critical facilities:


Table E-4: Porterville Critical Facilities

Facility	Address	Value	Hazard Vulnerability
Fire Department Station 1	40 W. Cleveland Ave.	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Fire Department Station 2	500 N. Newcomb	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Police Department	350 N. "D" St.	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Public Safety Facility Police/Fire	980 S. Jaye Street	\$5,000,000.00	Earthquake, Dam, Flood, Fog
Centennial Plaza	25 E. Thurman	\$4,475,269.00	Earthquake, Dam, Flood, Fog
City Hall	291 N. Main Street	\$12,000,000.00	Earthquake, Dam, Flood, Fog
Corporation Yard/Field Services	555 N. Prospect St.	\$2,500,000.00	Earthquake, Dam, Flood, Fog
Temporary Porterville Library	50 W. Olive Ave. Ste B	\$2,323,273.06	Earthquake, Dam, Flood, Fog
Office Building	155-185 North D St.	\$902,150.00	Earthquake, Dam, Flood, Fog
Wastewater Treatment Facility	555 N. Prospect St.	\$20,000,000.00	Earthquake, Dam, Flood, Fog
Porterville Convalescent Hospital	1100 W. Morton	Unknown	Earthquake, Dam, Flood, Fog
Porterville Developmental Center	26501 Ave. 140	Unknown	Earthquake, Dam, Flood, Fog
Porterville Hemodialysis Facility	385 N. Pearson	Unknown	Earthquake, Dam, Flood, Fog
Sierra Valley Rehab.	301 W. Putnam	Unknown	Earthquake, Dam, Flood, Fog
Sierra View District Hospital	465 W. Putnam Ave.	Unknown	Earthquake, Dam, Flood, Fog
Sierra View District Hospital Dialysis Center	283 N. Pearson	Unknown	Earthquake, Dam, Flood, Fog
Sun Villa Rehab & Nursing Center	350 N. Villa	Unknown	Earthquake, Dam, Flood, Fog
Valley Care Center	661 W. Poplar	Unknown	Earthquake, Dam, Flood, Fog
Sewer Lift Station 01	930 W. Mulberry	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 02	Porter Rd. across From Porter BBQ	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 03	1131 N. Newcomb	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 04	Newcomb & North West Grand	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 05	Putnam & Mathew	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 06	South Jaye St. on S.E. side of River	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 07	Airport by Sludge Beds	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 08	Park & Success	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 09	Morton & Westwood	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 10	Poplar & "G" St. by Walmart D.C.	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 11	Mulberry & Mathew	\$250,000.00	Earthquake, Dam, Flood, Fog


Table E-4: Porterville Critical Facilities

Facility	Address	Value	Hazard Vulnerability
Sewer Lift Station 12	OHV Park by BMX Track	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 13	459 N. Mathew	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 14	Newcomb & Date	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 15	Newcomb & S. River on S. Side of River	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 16	Mathew & Union	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 17	1850 W. Scranton Ave.	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 18	Westfield & Westwood	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 19	1193 N. Lime	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 20	207 B S. Westwood St.	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 21	487 S. Newcomb	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 22	2200 W. Forest Ave.	\$250,000.00	Earthquake, Dam, Flood, Fog
Sewer Lift Station 23	East end of Edison Ct.	\$250,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0424, Porter Slough	"E" Street	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0046, Porter Slough	Main St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0076, Tule River/Poplar Ditch	Road 252 (Plano St.)	\$20,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0098, Tule River	Road 224 (Westwood)	\$12,500,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0099, Tule River	Road 244 (Jaye St.)	\$12,500,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0111, Porter Slough	Porter Rd.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0127, Porter Slough	Road 224 (Westwood)	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0168, Porter Slough	Prospect St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0170, Porter Slough	Villa St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0171, Porter Slough	W. Putnam Ave.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0172, Porter Slough	Plano St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0173, Porter Slough	Leggett Dr.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0298, Porter Slough	Park Ave.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0299, Porter Slough	Conner St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0424, Porter Slough	"E" Street	\$8,000,000.00	Earthquake, Dam, Flood, Fog
Bridge #46C0425, Porter Slough	Cottage St.	\$8,000,000.00	Earthquake, Dam, Flood, Fog


Table E-4: Porterville Critical Facilities

Facility	Address	Value	Hazard Vulnerability
Bridge #46C0444, Tule River	Main St.	\$10,000,000.00	Earthquake, Dam, Flood, Fog
Porterville Municipal Airport	1893 S. Newcomb St.	\$20,000,000.00	Earthquake, Dam, Flood, Fog
Transit Center	61 W. Oak	\$855,564.00	Earthquake, Dam, Flood, Fog
SCE Rector Electrical Substation	95 N. Cottage	Unknown	Earthquake, Dam, Flood, Fog
The Gas Company Substation	West of Newcomb on Olive	Unknown	Earthquake, Dam, Flood, Fog
Airport 300K Tank	2200 W. Hope	\$375,000.00	Earthquake, Dam, Flood, Fog
East Porterville 3MG Tank	785 N. Jasmine & Henderson alignment	\$3,750,000.00	Earthquake, Dam, Flood, Fog
Scenic 310K Tank	1470 Highland Dr.	\$628,000.00	Earthquake, Dam, Flood, Fog
Scenic 3MG Tank	1054 Highland Dr.	\$4,924,000.00	Earthquake, Dam, Flood, Fog
Well 01A	Putnam east of 4th	\$2,000,000.00	Earthquake, Dam Flood, Fog
Well 03	Willow & "E"	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 04	Orange & "E"	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 06	437 W. Kanai	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 07	Orange & Western	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 08	"A" & Walnut	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 10	Mulberry & Hwy 65	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 11	4th & Garden	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 12	892 W. Henderson	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 13	191 W. Poplar	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 15	Morton & "G"	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 16	Veterans Park (Henderson)	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 17	Tomah & Waukesha	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 18	Henderson & Belmont	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 19	Jaye & Tule River	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 20	Veterans Park (Newcomb)	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 21	Harrison & Hockett	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 22	Tomah & Newcomb	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 23	Union & Indiana	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 24	Taylor & Olive	\$2,000,000.00	Earthquake, Dam, Flood, Fog



Table E-4: Porterville Critical Facilities			
Facility	Address	Value	Hazard Vulnerability
Well 25	Newcomb & Date	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 26	Indiana & Hwy 190	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 27	Jaye north of Gibbons	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 28	"F" & Gibbons	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 29	2250 W. Henderson	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well 31	Mathew & Orange	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well AP-01	Airport east of 30K Tank	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well AP-02	West St.	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well EP-05	Springville Dr. (Headgate)	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well L01	Tomah & Beverly	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well L05	Tomah & Salisbury	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well L07	Thurman & Cobb	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well L08	2107 White Chapel	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well R05	Newcomb & Forrest	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well R07	2006 W. Olive Ave.	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well R-11	Iris east of Magnolia	\$2,000,000.00	Earthquake, Dam, Flood, Fog
Well R-12	Cedar north of Iris	\$2,000,000.00	Earthquake, Dam, Flood, Fog



E.3.1 Hazard Profiles

This section provides the vulnerability assessment, including any quantifiable loss estimates, for those hazards identified in **Table E-2** as high or medium significance hazards. Impacts of past events and vulnerability of the City to specific hazards are further discussed below (see Section 4.1 Hazard Identification in the Base Plan for more detailed information about these hazards and their impacts on the Tulare County Planning Area). Methodologies for evaluating vulnerabilities and calculating loss estimates are the same as those described in Section 4.3 of the Base Plan.

FEMA requires that an estimation of loss be conducted for the identified hazards to include the number of potential structures impacted by the hazards and the total potential costs. The analysis of potential losses calculated in **Sections E.3.2 through E.3.7** used the best data currently available to produce an understanding of potential loss. These estimates may be used to understand relative risk from hazards and potential losses. There are uncertainties in any loss estimation method, resulting from lack of scientific study and the exact result of hazard effects on the built environment, and from the use of approximations that are necessary for a comprehensive analysis.

Based upon previously occurring incidents and the risk assessment, the following hazards are most likely to affect the City of Porterville:

- Climate Change
- Drought
- Dam Inundation
- Extreme heat
- Wildfire
- Flood



E.3.2 Climate Change

Hazard Profile and Problem Description

Climate change adaptation is a key priority of the State of California. The 2018 State of California Multi-Hazard Mitigation Plan stated that climate change is already affecting California. Sea levels have risen by as much as seven inches along the California coast over the last century, increasing erosion and pressure on the state's infrastructure, water supplies, and natural resources. The State has also seen increased average temperatures, more extreme hot days, fewer cold nights, sea level, and precipitation patterns, the intensity of extreme weather events is also changing.

Location and Extent

Climate change is a global phenomenon. It is expected to affect the whole of Tulare County, and the State of California. There is no scale to measure the extent of climate change. Climate change exacerbates other hazards, such as drought, extreme heat, and flooding. The speed of onset of climate change is terribly slow. The duration of climate change is not yet known but is feared to be tens to hundreds of years.

Past Occurrences

Climate change has never been linked to any declared disasters. While the City noted that climate change is of concern, no specific impacts of climate change could be recalled. The City and HMPC members noted that the strength and intensity of storms does seem to be increasing and the temperatures are getting hotter.

Vulnerability to and Impacts from Climate Change

The California Adaptation Planning Guide (APG) prepared by California OES and CNRS was developed to provide guidance and support for local governments and regional collaboratives to address the unavoidable consequences of climate change. California's APG: Understanding Regional Characteristics has divided California into 11 different regions based on political boundaries, projected climate impacts, existing environmental setting, socioeconomic factors and regional designations. Tulare County falls within the Southern Central Valley Region characterized as largely agricultural, with cities inland. The region also stretches into the foothills of the Sierra Nevada and is known as a prominent tourism access point for Yosemite National Park, Kings Canyon National Park, and Sequoia National Park. Several communities in the region rely on tourism. This information can be used to guide climate adaptation planning in the City and Tulare County Planning Area.

The California APG: Understanding Regional Characteristics identified the following impacts specific in which the Tulare County Planning Area is part of:

- Temperature increases
- Decreased precipitation
- Reduced snowpack
- Ecosystem change
- Sensitive species stress
- Flooding
- Decrease in tourism – Sierra Nevada foothills.



- Wildfire risk in the Sierra Nevada foothills

Future Development

The City could see population fluctuations as a result of climate impacts relative to those experienced in other regions, and these fluctuations are expected to impact demand for housing and other development. While there are currently no formal studies of specific migration patterns expected to impact the City and County region, climate-induced migration was recognized within the UNFCCC (United Nations Framework Convention on Climate Change) Conference of Parties Paris Agreement of 2015 and is expected to be the focus of future studies.



E.3.3 Dam Failure

Hazard Profile and Problem Description

Dams are manmade structures built for a variety of uses including flood protection, power generation, agriculture, water supply, and recreation. When dams are constructed for flood protection, they are usually engineered to withstand a flood with a computed risk of occurrence. For example, a dam may be designed to contain a flood at a location on a stream that has a certain probability of occurring in any one year. If prolonged periods of rainfall and flooding occur that exceed the design requirements, that structure may be overtopped or fail. Overtopping is the primary cause of earthen dam failure in the United States.

The Tule River and Porter Slough are natural channels for storm water discharge. Under normal conditions discharge in this River is regulated by Success Dam, located approximately five miles upstream of Porterville. Tule River flood stages at Porterville have been reduced significantly by Success Dam, which is operated for flood control by the U.S. Army Corps of Engineers. The main channel of the Tule River can pass flows of about 10,000 cubic feet per second (cfs) before extensive damage occurs. This capacity has been decreasing due to vegetation growth; the capacity was estimated at 15,000 in 1994. Damage to urban property would occur at flows of approximately 16,000 cfs.

There is an ongoing \$135 million project that will widen the dam's spillway by 150 feet and build a 10-foot-tall ogee weir, a structure that helps to control water flow, and will increase the amount of water Lake Success can hold from 80,000 acre-feet to nearly 110,00 acre-feet. The first phase construction was completed in February of 2022 and the second phase is underway with 2024 being predicted for when construction will be completed — not including the monitoring and oversight that will be needed before the project is officially completed in 2028.

Location and Extent

Nine dams are present in Tulare County. Of the nine dams, seven are under the jurisdiction of the State of California and two are owned and operated by federal agencies. **Table 4-43** in the Base Plan lists the name, owner, year built, capacity, height, type and jurisdiction of each dam.

Success Dam, which has been owned and operated by USACE since 1961, affects the hydrology of the Lower Tule River, Porter Slough, and other small canals in the Tule River distributary network. Success Dam reservoir has a gross storage of 85,400 acre-feet. If Success Dam were to fail, the dam inundation areas will include the city of Porterville and approximately 200,000 acres of land downstream of the dam.

Past Occurrences

There has been no state or federal disaster declaration related to dam failure affecting Tulare County. The County has had no USDA disaster declarations related to dam failure, and there are no recorded dam failure events.



General Property

A rapid failure of Success Dam would result in catastrophic loss of life and injury, and property loss. **Figure 4-30** in the Base Plan depicts the potential footprint for dam inundation. Specifics of the inundation curves are contained in the Success Dam Emergency Action Plan which is a limited distribution document.

People

Persons located underneath or downstream of a dam are at risk of a dam failure, though the level of risk can be tempered by topography (specifically where populations are located whining the inundation path of a dam), amount of water in the reservoir and time of day of the breach. Injuries and fatalities can occur from debris, bodily injury, and drowning. Once a dam has breached, standing water presents all the same hazards to people as floodwater from other sources. People in the inundation area may need to be evacuated, cared for, and possibly permanently relocated. Impacts could include thousands of evacuations and likely hundreds of casualties, depending on the dam involved.

Social Vulnerability

The populations most vulnerable are those that have the least time to evacuate and need assistance. Populations that may need assistance to evacuate include the elderly, disabled, and young. The vulnerable population also includes those who may not have adequate warning to evacuation from emergency notification systems. The loss of life is impacted by the amount of early warning time first responders and the public has prior to the incident. The potential injury and death from a short notice dam failure could be in the 10,000s.

Government Services

Short-term accessibility issues may limit staff's abilities to perform routine duties or report to work locations, and delivery of services may be affected. Damage to facilities/personnel in incident area may require temporary relocation of some operations. Regulatory waivers may be needed locally. Fulfillment of some contracts may be difficult.

Responders in flooded areas at the time of incident or assisting in evacuations could be at risk. Impacts to transportation corridors and communication lines could affect first responders' ability to effectively respond. Public confidence in government may be challenged by the public if planning, response, and recovery are not timely and effective, regardless of the dam owner.

Critical Facilities and Infrastructure

A total dam failure can cause catastrophic impacts to areas downstream of the water body, including critical infrastructure. Any critical asset located under the dam in an inundation area would be susceptible to the impacts of a dam failure. Of particular risk would be roads and bridges that could be vulnerable to washouts, further complicating response and recovery by cutting off impacted areas. Impacts to cities would affect key infrastructure including hospitals, fire stations, clinics, and businesses.



Economy

A major dam incident and loss of water from the associated reservoir could include direct business and specifically impacts to the agricultural industry, resulting damages and indirect disruption of the local economy. Total losses within the Porterville jurisdiction could exceed \$1,000,000,000.

Historic, Cultural and Natural Resources

Dam failure effects on the environment would be similar to those caused by flooding from other causes. Water could erode stream channels and topsoil and cover the environment with debris. For the most part the environment is resilient and would be able to rebound from whatever damages occurred, though this process could take years. However, historic and cultural resources could be affected just as housing or critical infrastructures would, were a dam to fail and cause downstream inundation that could further erode surfaces or cause scouring of structural foundations.

Future Development

In the case of a dam failure, inundation would likely follow some existing FEMA-mapped floodplains, which contain development restrictions for areas in the 1% annual chance floodplain, but it could exceed those floodplains and affect areas that are not regulated for flood hazards. Also, of note is that development below a low or undetermined hazard dam could increase its hazard rating. Finally, added development could compromise dams and reservoir resources if populations depend on them for critical needs such as potable water during or after a dam failure event.



E.3.4 Drought & Water Shortage

Hazard Profile and Problem Description

Drought is a complex issue involving many factors – it occurs when a normal amount of precipitation and snow is not available to satisfy an area’s usual water-consuming activities. Drought can often be defined regionally based on its effects. Drought is different than many of the other natural hazards in that it is not a distinct event and usually has a slow onset. Drought can severely impact a region both physically and economically. Drought affects different sectors in different ways and with varying intensities. Adequate water is the most critical issue and is critical for agriculture, manufacturing, tourism, recreation, and commercial and domestic use. As the population in the area continues to grow, so will the demand for water.

Location and Extent

Drought and water shortage are regional phenomena. The whole of the County, as well as the whole of the City, is at risk. The US Drought Monitor categorizes drought conditions with the following scale:

- None
- D0 – Abnormally dry
- D1 – Moderate Drought
- D2 – Severe Drought
- D3 – Extreme drought
- D4 – Exceptional drought

Drought has a slow speed of onset and a variable duration. Drought can last for a brief period of time, which does not usually affect water shortages and for longer periods. Should a drought last for an extended period of time, water shortage becomes a larger issue. Current drought conditions in the City and the County are shown in **Section 4.3.2** of the Base Plan.

Past Occurrences

There have been three state disaster declarations and zero federal disaster declaration from drought. This can be seen in **Table E-5**.

Table E-5 Tulare County - State and Federal Drought Disaster Declarations 2014 - 2022				
Disaster Type	Count	State Declarations Years	Count	Federal Declarations Years
Drought	1	2014	0	
	1	2021		
	1	2022		
Source: Cal OES, FEMA				

Since drought is a regional phenomenon, past occurrences of drought for the City are the same as those for the County and includes multi-year droughts since 2012, according to drought declaration from USDA for the County. Details on past drought occurrences can be found in Section 4.3.2 of the Base Plan.



In the most recent drought starting in 2014, according to data from Cal OES/FEMA, mandatory conservation measures were followed; grass, trees, and other greenery in parks, medians and other common areas maintained by the City were significantly altered and replaced with drought tolerant and native plants. The City was able to mitigate some of the local impacts associated with drought through an increase in water conservation measures.

Vulnerability to and Impacts from Drought and Water Shortage

Based on historical information, the occurrence of drought in California, including the City, is cyclical, driven by weather patterns. Drought has occurred in the past and will occur in the future. Periods of actual drought with adverse impacts can vary in duration, and the period between droughts can be extended. Although an area may be under an extended dry period, determining when it becomes a drought based on impacts to individual water users.

With more precipitation likely falling as rain instead of snow in the Sierra's and warmer temperatures causing decreased snowfall to melt faster and earlier, water supply is likely to become more unreliable. In addition, drought and water shortage is predicted to become more common. This means less water available for use over the long run, and additional challenges for water supply reliability, especially during periods of extended drought.

Impacts

The vulnerability of the City to drought is City-wide, but impacts may vary and include reduction in water supply and an increase in dry fuels. The potential for a reduction in water supply during drought conditions generally leads to both mandated and voluntary conservation measures during extended droughts. During these times, the costs of water can also increase. The increased dry fuels and fuel loads associated with drought conditions can also result in an increased fire danger. In areas of extremely dry fuels, the intensity and speed of fires can be significant. Water supply and flows for fire suppression can also be an issue during extended droughts.

People

The historical and potential impacts of drought on populations include agricultural sector job loss, secondary economic losses to local businesses and public recreational resources, increased cost to local and state government for large-scale water acquisition and delivery, and water rationing and water wells running dry for individuals and families. As drought is often accompanied by prolonged periods of extreme heat, negative healthy impacts such as dehydration can also occur, where children and elderly are most susceptible. Air quality often declines in times of drought which can affect those with respiratory ailments.

Social Vulnerability

The populations within disadvantaged communities in the City would be impacted by a severe drought or water shortage. Further, the economically impaired elderly population could be most vulnerable in a drought and water shortage condition do the need of delivered and purchasing of water from outside sources. Having the ability to purchase water from an outside source and being able to pick up large amounts of water could be most challenging for the elderly. The cost of outsourced water could also be an



effect for those families in the City who do not have the income flexibility for an unforeseen expense or rise in water cost.

Government Services

Government services can be impacted from a major drought or water shortage by affecting the City's ability to provide the same level of services via its water system, and other responsibilities. If a drought impacts well production, the City may not be able to provide the adequate amount of water services to its users.

A drought or water shortage would also pull city staff away from other duties, while the city staff works under a disaster declaration to prioritize and alleviate the drought and water shortage as urgently as possible. If the drought causes subsidence and impacts infrastructure, the city will need to focus on water infrastructure repairs, and possible water quality issues.

Critical Facilities

The majority of critical facilities which would be impacted are water system distribution facilities. If a drought of severity occurred, the city wells would likely be negatively affected by requiring the need to lower the pumping levels of the well. When water levels are changing due to drought, the water system could be impacted by changes in potable water quality.

Services that require ample water supply and pressure, such as firefighting services, would be impacted if a water shortage or drought impacted water psi in the distribution system, or reduced the amount of water available for such services.

Economy

The extent of impact to the economy is difficult to quantify, as it would depend on the duration of a the drought or water shortage, and ability for businesses to adapt by procuring water from sources outside of the city's capabilities.

Historic, Cultural and Natural Resources

Natural resources would be at risk of negative impacts from a drought due to the adverse effect it could have on local streams, wetlands, and an irrigation lake, which host a variety of wildlife.

The impact to wildlife would be a cause of droughts effect on natural resources in the area. Vegetation would also be impacted, as drought would dehydrate plant life, while a shortage of water would require aggressive irrigation measures which would further cause dehydration of habitats.

Future Development

As the population in the area continues to grow, so will the demand for water. Water shortages in the future may be worsened by drought, as the City relies on ground water for its water source. Increased planning will be needed to account for population growth and increased water demands. The City is actively pursuing upgrades to the water distribution system, with plans to add more wells, storage tanks, and pumps to the infrastructure. The city's water supply capabilities is currently adequate for the maximum daily demand, however a water shortage in the form of drought could reduce the cities capacity to provide the required 2.82 million gallons per day.



E.3.5 Severe Weather: Extreme Heat

Hazard Profile and Problem Description

According to FEMA, extreme heat is defined as temperatures that hover 10 degrees or more above the average high temperature for the region and lasts for several weeks.

Location and Extent

Heat is a regional phenomenon and affects the whole of the City. Heat emergencies are often slower to develop, taking several days of continuous, oppressive heat before a significant or quantifiable impact is seen. Heat waves do not strike victims immediately, but rather their cumulative effects slowly affect vulnerable populations and communities. Heat waves do not generally cause damage or elicit the immediate response of floods, fires, earthquakes, or other more “typical” disaster scenarios.

The NWS has in place a system to initiate alert procedures (advisories or warnings) when extreme heat is expected to have a significant impact on public safety. The expected severity of the heat determines whether advisories or warnings are issued. The NWS HeatRisk forecast provides a quick view of heat risk potential over the upcoming seven days. The heat risk is portrayed in a numeric (0-4) and color (green/yellow/orange/red/magenta) scale which is similar in approach to the Air Quality Index (AQI) or the UV Index. This can be seen in Section 4.3.2 of the Base Plan.

Past Occurrences

The City Planning Team noted that since extreme heat is a regional phenomenon, events that affected the County also affected the City. Those past occurrences were shown in the Base Plan in **Section 4.3.2**

Vulnerability to and Impacts from Extreme Heat

The City experiences temperatures in excess of 100°F during the summer and fall months. The temperature moves to 105-115°F in rather extreme situations. During these times, drought conditions may worsen, and the City may see an increase in dry fuels. Also, power outages events may occur during these times as well. Health issues are the primary concern with this hazard, although economic impacts can also be an issue, especially if severe heat events result in power outages.

General Property

The impact to general property caused by extreme heat is mainly due to its impact on vegetation in the City. With extreme heat, there is more susceptibility to very dry vegetation, which can create hazards for property due to the increased potential for fires. Extreme heat can be an indicator of drought like conditions, therefore with extreme heat water system property could be impacted due to strains on the system requiring potable water wells to require additional upgrades.

Extreme heat can put a strain on HVAC systems and the electrical supply in the City, due to households having prolonged air conditioning.



People

Heat kills by taxing the human body beyond its abilities. In extreme heat and high humidity, evaporation is slowed, and the body must work extra hard to maintain a normal temperature. Most heat disorders occur because the victim has been overexposed to heat or has over-exercised for his or her age and physical condition. Older adults, young children, and those who are sick or overweight are more likely to succumb to extreme heat.

Extreme heat is more likely to affect vulnerable populations. Vulnerability to extreme heat will increase as the average age of the population in each City shifts. It is encouraged that nursing homes and elder care facilities have emergency plans or backup power to address power failure during times of extreme heat. Low-income residents and homeless populations are also vulnerable. Cooling centers for these populations should be utilized when necessary.

Social Vulnerability

The most vulnerable groups to extreme heat are infants, children up to four years old, people 65 years and older, and people who are overweight. Athletes and outdoor workers are identified as higher risk groups for extreme heat conditions, since they are mostly active outdoors and have limited options for staying cool, and more likely to become dehydrated ([cdc.gov](https://www.cdc.gov)).

Social groups who are low-income are considered at a higher risk from extreme heat since their access to air conditioning may not be available or limited.

Government Services

Extreme heat may impact electrical supply, and cause power outages. In these instances, government services can be hindered. If extreme heat exacerbates drought conditions, then it can also be an ancillary cause to municipal water supplies.

Critical Facilities

Extreme heat can have many impacts across different critical infrastructures. Power lines become less efficient from overheating during extreme heat events. Roadways, concrete structures, and sidewalks can develop cracks caused by extreme heat ([cisa.gov](https://www.cisa.gov)). If extreme heat contributes to subsidence in the City, there can be further damage to infrastructure such as underground utilities and water systems.

Economy

Economical impacts from extreme heat can occur as a secondary effect from other vulnerability impacts previously discussed. For example, strains on households from higher electric bills, or break downs in municipal infrastructure can both be caused from extreme heat, which in turn impact the economical health of residents and the City budget.

There is a large agricultural industry within the City which can be strained due to extreme heat. When extreme heat occurs agriculture can be impacted by interrupting work schedules for outdoor laborers, and by impacting crop production.



Historic, Cultural and Natural Resources

Natural resources in the City such as water ways and vegetation are at risk of negative impacts from long durations of extreme heat. An increase in dehydration of vegetation and evaporation from water ways can be detrimental to natural resources, causing drought conditions and higher risk for wildfires to develop.

Future Development

Future development of new buildings in the City will likely not be affected by extreme heat. Extreme heat is more likely to affect vulnerable populations. Vulnerability to extreme heat will increase as the average age of the population in the City shifts. It is encouraged that nursing homes and elder care facilities have emergency plans or backup power to address power failure during times of extreme heat and in the event of a PSPS. Low-income residents and homeless populations are also vulnerable. Cooling centers for these populations should be utilized when necessary.



E.3.6 Wildfire

Hazard Profile and Problem Description

California is recognized as one of the most fire-prone and consequently fire-adapted landscapes in the world. The combination of complex terrain, Mediterranean climate, and productive natural plant communities, along with ample natural and aboriginal ignition sources, has created conditions for extensive wildfires. Wildland fire is an ongoing concern for the Tulare County Planning Area. Generally, the fire season extends from June through October of each year during the hot, dry months; however, recently the fire season has been nearly year around. Fire conditions arise from a combination of high temperatures, an accumulation of vegetation, low humidity, and high winds. Wildland fires that burn in natural settings with little or no development are part of a natural ecological cycle and may actually be beneficial to the landscape. Century old policies of fire exclusion and aggressive suppression have given way to better understanding of the importance fire plays in the natural cycle of certain forest types.

Location and Extent

Wildfire risk in Tulare County varies by location. According to the HMPC, within the County, the middle and upper elevations of the County are the primary concern when considering the wildland fire hazard, with their limited access, steep terrain, and remote location. Factors contributing to the wildfire risk in Tulare County include:

- Overstocked forests, severely overgrown vegetation, and lack of defensible space around structures;
- Excessive vegetation along roadsides and hanging over roads, fire engine access, and evacuation routes;
- Drought and overstocked forests with increased beetle infestation or kill in weakened and stressed trees;
- Narrow and often one-lane and/or dead-end roads complicating evacuation and emergency response as well as the many subdivisions that have only one means of ingress/egress;
- Inadequate or missing street signs on private roads and house address signs;
- Nature and frequency of lightning ignitions; and
- Increasing population density leading to more ignitions.

Table 4-66 in the Base Plan lists all wildfires in Tulare County between the years of 2007 and 2022 by acres burned. **Figure 4-100** displays a map of fire hazard areas within the Porterville area.

Past Occurrences

Tulare County has received four (4) Federal Disaster Declarations for Fire in the years 2016, 2017, and 2020 (twice). NDC has also tracked 82 wildfire events that occurred in Tulare County from 1997 to 2022 which had a combined estimated property damage cost of \$66,333,000.



General Property

Structures near the urban/wildland interface are susceptible to wildland fire. Impacts on low density communities are limited. The potential impacts of wildfire on property include crop loss, injury and death of livestock and pets, and damage to infrastructure, homes and other buildings located throughout the wildfire risk area

People

Wildland fires result in a high risk for personal injury, loss of life to inhabitants of the fire area and firefighters, and losses of structures and personal property. Wildfires in or near the foothills frequently require emergency evacuation and sheltering, often for many days.

Social Vulnerability

Indirect impacts from wildfires on people are related to dense smoke from fires within the region. Wildfires in the past three years have decreased the air quality throughout Tulare County, and many of the wildfires located over 150 miles from the County have resulted in poor air quality in the Central Valley (e.g. Dixie Fire in 2021 resulted in poor air quality across portions of Northern California). Dense smoke poses a risk to both people with compromised health as well as those considered healthy

Government Services

Tulare County is exposed to a variety of wildfire hazard conditions that vary based on fuels, topography, weather, and human behavior. Cal FIRE, as required by Government Code Section 51181, has undertaken a statewide program to map areas of potential wildfire severity, and to describe the potential for wildfires to occur in a given area; the resulting Fire Hazard Severity Zones (FHSZs) adopted in November 2007 for the State Responsibility Areas (SRA) and adopted in September 2007 for the Local Responsibility Area (LRA) are shown in **Figures 4-97 and 4-98** in the Base Plan.

Critical Facilities and Infrastructure

Critical facilities are those community components that are most needed to withstand the impacts of disaster, as previously described in the Assets section. Wildfire impacts to critical facilities can include structural damage or destruction, risk to persons located within facilities, disruption of transportation, shipping, and evacuation operations, and interruption of facility operations and critical functions.

Critical facilities and infrastructure also create an increased risk for the occurrence of wildfires. Overhead electric transmission lines have been known to spark wildfires. According to data from the California Public Utilities Commission, the State's three largest utility companies collectively reported 2,009 ignitions statewide between 2014-2017. Most of these instances were small, less than one acre in size, however these fires can grow rapidly under the right fire conditions. Identifying critical facilities and infrastructure and mitigating their potential risks is important both for maintaining the County's resilience and for reducing the potential impacts of wildfire.

Economy

The economic impacts of wildfire include loss of property, direct agricultural sector job loss, secondary economic losses to businesses in or near wildland resources like parks and national forests, and loss of



public access to recreational resources. Fire suppression may also require increased cost to local and state government for water acquisition and delivery, especially during periods of drought when water resources are scarce. In addition to the obvious impacts on crops and animals, wildland fire can have damaging effects on soil and water that will impact agriculture for an extended period of time. Costs to the City of Porterville will include emergency response and damage to private property. Total costs are likely to be less than \$10,000,000.

Historic, Cultural and Natural Resources

Historic sites and structures are sensitive in nature, and may not have been built according to the latest building codes due to their age, and it is expected that they may be at risk of wildfires because of their potential inability to withstand significant heat.

Future Development

Any population increases in the Planning Area will continue to make wildfire vulnerability a growing issue, especially as future development expands into higher fire risk areas. These risks can however be managed with strong land use regulations and building code requirements, and with policies established in the Safety Element of the General Plan. For example, policies requiring fire-resistant vegetation, clustered development, and vegetation clear zones in areas with high and extreme fire hazard.



E.3.7 Flood

Hazard Profile and Problem Description

Flooding is the rising and overflowing of a body of water onto normally dry land. Floods are among the costliest natural disasters in terms of human hardship and economic loss nationwide.

Porter Slough has a designated capacity of 450 cfs and is an officially designated floodway of Tule River as determined by the Central Valley Flood Protection Board. However, in practice the policy has been to prevent Tule River flood flows from entering Porter Slough in order to avoid potential flooding problems in central Porterville. Controlled flows have been released into Porter Slough for groundwater recharge. In addition to delivering water for irrigation, the private irrigation ditches also provide extra capacity to carry peak flood flows and urban stormwater runoff.

The City owns approximately 25 stormwater basins, which are currently sized only to accept flood waters. These basins provide temporary storage of excess water and allow some of the runoff to evaporate or percolate into the aquifer. The City will consider developing additional detention basins that may serve groundwater recharge purposes as well as stormwater detention.

Location and Extent

Flooding occurs in the city during periods of heavy rain due to inadequate drainage. The flat geography also contributes to ponding. The City of Porterville contains property indicated as within a Special Flood Hazard Area on FEMA's Digital Flood Insurance Rate Map (DFIRM), as seen in **Figure 4-58** in the Base Plan.

Past Occurrences

Tulare County has received multiple historical floods resulting in both State and Federal Disaster Declarations, although The City of Porterville has not directly received flooding of that extent.

General Property

There are no accurate costs values associated with past flood events. Future flood incidents will likely result in structural damage and lost economic activity. Flood cost could be in excess of \$100,000,000.

The City of Porterville participates in the National Flood Insurance Program. **Table E-6** shows the reported policies as of September 30, 2022 (the latest NFIP data provided).

Table E-6 National Flood Insurance Program Participation						
Community Name	Community Number	Total Premium + FPF	Total Policy Count	Total Coverage	Total Losses	Total Net Dollars Paid
Porterville, City Of	060407	\$158,105	183	\$37,175,600	22	\$50,678



People

Those in disadvantaged communities, are unhoused, or elderly or disabled may have difficulty navigating themselves to safety due to flooding or closed roadways. Lack of access to shelters or emergency services would impact many people in a community and would possibly put lives at risk. Floods kill more people trapped in vehicles than anywhere else. During a flood, people can also suffer heart attacks or electrocution due to electrical equipment short outs.

Social Vulnerability

Those in disadvantaged communities, are unhoused, or elderly or disabled may have difficulty navigating themselves to safety due to flooding or closed roadways. Lack of access to shelters or emergency services would impact many people in a community and would possibly put lives at risk. It is also important to note that many people in The City may not be able to understand or speak English to a fluent enough level that emergency services could assist them even if they are able to be contacted in an emergency.

Government Services

Publicly owned facilities are a key component of daily life for all citizens of the County. Public buildings are of particular importance during flood events because they house critical assets for government response and recovery activities. Damage to public water and sewer systems, transportation networks, flood control facilities, emergency facilities, and offices can hinder the ability of the government to deliver services. Loss of power and communications can be expected. Drinking water and wastewater treatment facilities may be temporarily out of operation. Flooding can have various impacts to responders in terms of response time and the personal safety of first responders. Flooded roadways are a common occurrence throughout the Planning Area and can block emergency vehicles from crossing certain areas, delaying response times. Flood events can often result in motorists needing to be rescued from stalled vehicles in flooded roadways. These types of challenges can often be dangerous for the first responders due to potentially polluted waters as well as swift currents.

Critical Facilities and Infrastructure

Key support facilities and structures most necessary to withstand the impacts of, and respond to, natural disasters are referred to as critical facilities. Examples of these critical facility types include utilities, transportation infrastructure, and emergency response and services facilities, given failures of components along major lifelines or even closures or inaccessibility to key emergency facilities could limit if not completely cut off transmission of commodities, essential services, and other potentially catastrophic repercussions. Floods and levee failure have the ability to disrupt, damage, or destroy these critical facilities, which in turn can impede the ability of The City to respond to and recover from a major flood event.

Floods can occur in both 0.2% and 0.5% flood zones, but they are only implemented and monitored flood mitigations in relation to properties and buildings within the 1% or 100 year flood plain. This means that those properties may be more vulnerable to large storms since there are no direct mitigation measures in place to protect those properties.



Economy

Effects on the agriculture economy can be devastating, and a large amount of area at risk to flooding in the County is agricultural. Flooding can damage crops and livestock. In addition to the obvious impacts on crops and animals, flooding can have deleterious effects on soil and the ability to reinvigorate the agricultural activities impacted once the flood waters recede. Damage to water resources such as underground irrigation systems, water storage reservoirs, springs and other natural water bodies could have a serious effect upon agriculture operations.

Historic, Cultural and Natural Resources

Natural resources in the City such as water ways and vegetation are at risk of negative impacts from long durations of extreme heat. An increase in dehydration of vegetation and evaporation from water ways can be detrimental to natural resources, causing drought conditions and higher risk for wildfires to develop.

Future Development

Communities that participate in the NFIP adopt regulations and codes that govern development in special flood hazard areas (SFHAs) and enforce those requirements through their local floodplain management ordinances through the issuance of permits. Tulare County's floodplain management ordinance provides standards for development, subdivision of land, construction of buildings, and improvements and repairs to buildings that meet the minimum requirements of the NFIP.



E.4 Capability Assessment

A capability assessment is intended to identify Porterville's capacity to successfully implement mitigation activities. Understanding internal and external processes, resources, and skills forms the basis of implementing a successful HMP. Understanding strengths and weaknesses also helps ensure that goals and objectives are realistic and attainable.

FEMA REGULATION CHECKLIST: CAPABILITY ASSESSMENT

Capability Assessment

44 CFR § 201.6(c)(3): – The plan must include mitigation strategies based on the jurisdiction's "existing authorities, policies, programs and resources, and its ability to expand on and improve these existing tools."

Elements

C1. Does the plan document the jurisdiction's existing authorities, policies, programs and resources, and its ability to expand on and improve these existing policies and programs? 44 CFR § 201.6(c)(3)

C2. Does the Plan address the jurisdiction's participation in the NFIP and continued compliance with NFIP requirements, as appropriate? 44 CFR § 201.6(c)(3)(ii)

Source: FEMA, *Local Mitigation Plan Review Tool*, March 2013.

Note: For coverage of Elements C3 – C5, see Section 8, *Mitigation Strategies*. For coverage of Element C6, see Section 9, *Plan Maintenance*.

The City of Porterville conducted an assessment of capabilities that contribute to the reduction of long-term vulnerabilities to hazards. The capabilities include authorities and policies, such as legal and regulatory resources, staff, and fiscal resources. Staff resources include technical personnel such as planners/engineers with knowledge of development and land management and an understanding of natural or human-caused hazards. The planning team also considered ways to expand on and improve existing policies and programs with the goal of integrating hazard mitigation into the day-to-day activities and programs of the City. In carrying out the capability assessment, several areas were examined:

- Planning and regulatory capabilities
- Administrative and technical resources
- Fiscal resources including grants, mutual aid agreements, operating funds, and access to funds
- Technical and staff resources to assist in implementing/overseeing mitigation activities
- Education and Outreach
- Previous and Ongoing Mitigation Activities

Tables E-7 through E-10 provide a list of the City's capabilities.



Incorporation into other plans: FEMA requires the HMP to be consistent with and incorporated into other planning documents and processes. In Porterville, these other planning documents and processes include the General Plan Update, the City Code zoning ordinances and various infrastructure master plans. The term incorporated in planning terms means that the HMP and the other plans have similar community goals and policies, that they advocate similar land use patterns, and they are consistent in their guidance of direction and rate of growth. As other plans are updated or created, the HMP should be used as guidance.

Planning and Regulatory Capabilities: These include local ordinances, policies, and laws to manage growth and development. Examples include land use plans, capital improvement plans, transportation plans, emergency preparedness and response plans, building codes, and zoning ordinances.

Table E-7: Porterville Planning and Regulatory Capabilities

Name	Description (Effect on Hazard Mitigation)	Hazards Addressed	Updated since 2018?	Capability Type
General Plan 2030	The City's General Plan provides a policy base to guide future growth within the City. It was created by planners, engineers, and technical staff with knowledge of land development, land management practices, as well as human-caused and natural hazards. The City: • Develops and maintains the General Plan, including the Safety Element. • Develops area plans based on the General Plan, to provide more specific guidance for the development of more specific areas. • Reviews private development projects and proposed capital improvements projects and other physical projects involving property for consistency and conformity with the General Plan. • Anticipates and acts on the need for new plans, policies, and Code changes. • Applies the approved plans, policies, code provisions, and other regulations to proposed land uses. Expansion and Improvement: The MJLHMP may be adopted as part of the Safety Element by the City Council. As the Safety Element is updated, revised hazard analysis from the MHLHMP will be incorporated. Safety Element actions will be aligned with MJLHMP mitigation measures.	All	General Plan update is in process and is to commence 2024, updates include the Health & Safety Element and Environmental Justice Element	Planning


Table E-7: Porterville Planning and Regulatory Capabilities

Name	Description (Effect on Hazard Mitigation)	Hazards Addressed	Updated since 2018?	Capability Type
California Building Code Enforcement	The California Building Standards Code, Title 24 serves as the basis for the design and construction of buildings in California including housing, public buildings and maintenance facilities. Improved safety, sustainability, maintaining consistency, new technology and construction methods, and reliability are paramount to the development of building codes during each Triennial and Intervening Code Adoption Cycle. California's building codes are published in their entirety every three (3) years. Amendments to California's building standards are subject to a lengthy and transparent public participation process throughout each code adoption cycle. The California Seismic Safety Commission provides access to an array of regulatory and advisory information at: http://www.seismic.ca.gov/cog.html	Earthquake, Fire, Floods, Severe winter storm/high winds	Updated 2023. New 2022 Code Cycle adopted; latest standards related to building safety & sustainability to mitigate against identified hazards.	Regulatory
Capital Improvement Program (CIP)	The City's CIP provides a foundation and planning tool to assist in the orderly acquisition of municipal facilities and to assure that service needs for the future are met. The CIP provides direct or contract civil, structural, and mechanical engineering services, including contract, project, and construction management. Expansion and Improvement: The MJLHMP will be used to select potential projects for the CIP. As the CIP is updated, additional mitigation measures will be analyzed and included in the Porterville section of the MJLHMP. Funding for CIP projects identified in the MJLHMP will be reviewed for mitigation grant program eligibility.	Dam Failure, Earthquake, Fire, Floods, Landslides, Levee failure, Severe winter storm/high winds	Yes, last updated 2023. CIP includes programmed funding for disaster recovery and infrastructure rehab project for handling stormwater flows that could occur due to severe storms, levee failure, flooding, or dam failure.	Planning
Tulare County Local Agency Formation Commission (LAFCo) Municipal	MSRs are intended to provide a comprehensive analysis of the City's ability to provide services within its sphere of influence (SOI). LAFCo must make determinations in each area of evaluation. The MSR considers and makes recommendations based on the following information: Growth and population projections for the affected area.	All	Last updated 2013. Will be updated with next comprehensive Sphere of Influence review or General Plan update, anticipated to occur in 2025.	Planning


Table E-7: Porterville Planning and Regulatory Capabilities

Name	Description (Effect on Hazard Mitigation)	Hazards Addressed	Updated since 2018?	Capability Type
Service Review (MSR)	- Location and characteristics of any disadvantaged unincorporated communities in the affected area. - Present and planned capacity of public facilities, adequacy of public facilities, and infrastructure needs or deficiencies. - Financial ability to provide services. - Status of and opportunities for shared facilities. - Accountability - Any other matter as required by LAFCo policy.			
City Code of Ordinances	The purpose of this code is to establish the minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, access to persons with disabilities, sanitation, adequate lighting and ventilation and energy conservation, and safety to life and property from fire and other hazards attributed to the built environment; to regulate and control the demolition of all buildings and structures, and for related purposes. Expansion and Improvement: The MJLHMP will provide both hazard descriptions and mitigation actions that may address energy conservation, fire protection, and development in hazard prone areas. The maps of Porterville related hazards will be used to augment other mapping products to protect public health and safety when updating City Code.	Earthquake, Fire, Flooding,	The City of Porterville is currently doing a comprehensive update of the Zoning Ordinance. Updates are regularly made to the other sections of the City Code of Ordinances, including Title 3 addressing Fire Regulations and Title 4 addressing Building Regulations.	Regulatory
Emergency Operations Plan (2015)	Describes what the local jurisdiction's actions will be during a response to an emergency. Includes annexes that describe in more detail the actions required of the local jurisdiction's departments/agencies. Further, this plan describes the role of the Emergency Operation Center (EOC) and the coordination that occurs between the EOC and the local jurisdiction's departments and other response agencies. Finally, this plan describes how the EOC serves as the focal point among local, state, and federal governments in times of disaster.	All	Yes: Mitigation and preparedness sections. Hazard descriptions.	Planning


Table E-7: Porterville Planning and Regulatory Capabilities

Name	Description (Effect on Hazard Mitigation)	Hazards Addressed	Updated since 2018?	Capability Type
	Expansion and Improvement: The MJLHMP will be used as an essential tool to update the City EOP. Cal OES requires that EOPs describe applicable hazards as part of the Plan. The latest MJLHMP hazards descriptions will be included. Mitigation actions that are preparedness and response in nature will be analyzed for applicability to include in the description of EOP processes and procedures.			
Stormwater Quality Management Program (SWQMP) - Storm Water Management Plan (2009)	Describes measures that the local jurisdiction will take to minimize stormwater pollution. The SWQMP is required by the National Pollutant Discharge Elimination System Phase II regulations, which became effective in March 2003. Expansion and Improvement The City's Engineering Department will implement the City's stormwater quality management program. Expansion and improvement of best management practices through overseeing grading permit issuance and in-field inspections.	Flooding	The City's Engineering Department requires pollution control measures such as best management practices, a SWPPP, and NPDES permits, in addition to adherence to the City's MS4 Permit to control and minimize stormwater pollution during ground-disturbing activities as part of construction projects.	Planning

With additional resources the City could accelerate updates to several planning and regulatory documents, such as the Health & Safety Element and the Environmental Justice Element of the General Plan, Capital Improvement Program, and Emergency Operations Plan. With additional resources the City could also begin the creation and implementation of other planning and regulatory documents, such as a Stormwater Quality Management Plan.

Administrative and Technical: These capabilities include community (including public and private) staff and their skills and tools used for mitigation planning and implementation. They include engineers, planners, emergency managers, GIS analysts, building inspectors, grant writers, and floodplain managers.


Table E-8: Porterville Administrative and Technical Capabilities

Name	Description (Effect on Hazard Mitigation)	Hazards Addressed	Updated since 2018?	Capability Type
Engineers, project managers, technical staff, equipment operators, and construction staff within the Public Works Department.	Maintain and operate a wide range of local equipment and facilities as well as for providing assistance and services to members of the public. These include providing potable water, reliable sewer services, street maintenance, storm drainage systems, street cleaning, streetlights, and traffic signals. Expansion and Improvement: Further coordination with these staff as part of the rollout of the City's Emergency Operations Plan will take place.	All	The City's Public Works Department continues to provide clean fresh water, reliable sewer services, street maintenance, storm drainage systems, street cleaning, street lights, and traffic signals	Technical
Procurement Department	Provides a full range of municipal financial services, administers several licensing measures, and functions as the plan participant's Procurement Services Manager. Expansion and Improvement: The City's Finance Department and procurement functions are being integrated as part of the City's Emergency Operations Center and Plan	All	The City's Finance Department oversees the City's financial services administration and management for internal finances as well as services provided by contractors through City procurement policy.	Technical
Engineers, Inspectors, Code enforcement officers, and other technical staff within the Porterville Fire Department Building Inspections and Planning Division	Provide for building inspection and code certifications. Expansion and Improvement: In order to improve on administrative and technical capabilities, the City needs to enhance data collection and extraction technology. The City of Porterville Fire Department's goals to utilize cloud-based reporting software that will optimize GIS data collection.	Fire, Earthquake	The City's Building Division, Code Enforcement Division, and Fire Prevention/Inspection personnel regularly conduct inspections related to fire, life safety, and structural stability. They also inspect, along with the City's Engineering Division, buildings and infrastructure for damage after earthquakes or fires	Technical
Floodplain Administrator	Reviews and ensures that new development proposals do not increase flood risk, and that new developments are not located below the 100-year flood level. In addition, the Floodplain Administrator is	Flood	City planning & engineering staff routinely review development proposals to	Technical

**Table E-8: Porterville Administrative and Technical Capabilities**

Name	Description (Effect on Hazard Mitigation)	Hazards Addressed	Updated since 2018?	Capability Type
	responsible for planning and managing flood risk reduction projects throughout the local jurisdiction or tribal area. Expansion and Improvement: Mapping and knowledge of the flood zone will be integrated into the Emergency Operations Center and Plan.		ensure they are not being proposed within the floodplain.	
Emergency Manager	Maintains and updates the Emergency Operations Plan for the local jurisdiction. In addition, coordinates local response and relief activities within the Emergency Operation Center, and works closely with county, State, and federal partners to support planning and training and to provide information and coordinate assistance. Expansion and Improvement: The City's Emergency Manager will continue to work on leading the preparations and updates for the Emergency Operations Plan and preparations for the City's Emergency Operations Center.	All	The City's Fire Chief serves as the emergency manager and lead for the City's Emergency Operation Plan & Center. The Fire Chief works closely with the County, state, and federal partners, and is actively working with these partners on training City members of the EOC, as well as preparing for the EOP update.	Technical

Additional resources could assist in finishing to equip and staff the City's Emergency Operations Center and aid in supporting the update to the City's Emergency Operations Plan.

Fiscal: These capabilities include general funds, property sales, bonds, development impact fees, or other fees.

Table E-9: Porterville Fiscal Capabilities

Name	Description (Effect on Hazard Mitigation)	Hazards Addressed	Updated since 2018?	Capability Type
General Fund	Program operations and specific projects. Expansion and Improvement: The City of Porterville plans to update its Community Risk and Vulnerability Assessment. Based on the results of this assessment, the City will evaluate the feasibility of applying for a FEMA	All	The City's Finance Department manages the allocation of General Fund resources, including those used to fund hazard mitigation and disaster response operations and projects.	Financial



	Hazard Mitigation Assistance grant for drought mitigations			
General Obligation Bonds	GO Bonds are appropriately used for the construction and/or acquisition of improvements to real property broadly available to residents and visitors. Such facilities include, but are not limited to, libraries, hospitals, parks, public safety facilities, and cultural and educational facilities. <u>Expansion and Improvement:</u> GO Bonds will be one of the fiscal resources to account for in preparation of emergency response and mitigation planning.	All	The City's Finance Department manages and ensures that GO Bonds are appropriately used.	Financial
Lease Revenue Bonds Funding	Lease revenue bonds are used to finance capital projects that (1) have an identified budgetary stream for repayment (e.g., specified fees, tax receipts, etc.); (2) generate project revenue but rely on a broader pledge of general fund revenues to reduce borrowing costs; or (3) finance the acquisition and installation of equipment for the local jurisdiction's general governmental purposes. <u>Expansion and Improvement:</u> Lease Revenue bonds are a fiscal tool that will also be accounted for in terms of emergency response and preparedness planning, albeit with appropriate controls on allowable use.	All	The City's Finance Department monitors and regularly reports on Lease Revenue Bonds.	Financial
Public-Private Partnerships for Economic and Redevelopment	Includes the use of local professionals, business owners, residents, and civic groups and trade associations, generally for the study of issues and the development of guidance and recommendations. <u>Expansion and Improvement:</u> The City will encourage public-private partnerships, some of which can become agreements to include in emergency response planning.	All	The City regularly explores opportunities for public-private partnerships. One recent example is partnering with the Chamber of Commerce on a Business Incubator to help local businesses recover from the effects of the Covid-19 pandemic.	Financial

With additional resources that may become available, there could be an opportunity to create a dedicated account fund for emergency response and mitigation, or at least provide more flexibility from a fiscal perspective, but providing additional resources available to the City for emergency planning, response, and mitigation.



Education and Outreach: Programs in place such as fire safety programs, hazard awareness campaigns, public information or communications offices.

Table E-10: Porterville Education and Outreach Capabilities

Name	Description (Effect on Hazard Mitigation)	Hazards Addressed	Updated since 2018?	Capability Type
Tulare County Association of Governments (TCAG)	TCAG is committed to improving the quality of life for residents and visitors throughout the County. TCAG is responsible for addressing traffic congestion, coordinating regional transit programs to make getting around easy and convenient, and working to improve air quality to continue to meet national standards. TCAG addresses current and future rail needs and possibilities and gathers data used by the census and the public to forecast housing and transit needs. <u>Expansion and Improvement:</u> The City of Porterville will collaborate with TCAG on building hazard resiliency, readiness, and response.	All	The City regularly partners with TCAG on transportation and infrastructure projects, including those to increase local and regional resiliency against hazards.	Education and Outreach
Porterville Website http://www.ci.porterville.ca.us/ and other social media	Provides easily accessible conduit to information about planning and zoning, permits and applications, and programs that address hazard mitigation such as clean energy efforts. <u>Expansion and Improvement:</u> The updated MJLHMP will be posted to City media sites. As the planned is reviewed annually and new updates made, information on the planning process will be included on web sites and announced on social media.	All	The City will continue to utilize the City website and social media channels to make information available to the public related to hazard mitigation plans and programs, including the MJLHMP.	Education and Outreach

With additional resources, the City of Porterville would be able to fund an extensive education and outreach campaign locally and regionally in collaboration with TCAG that can focus on hazard readiness, resiliency, and response.



E. 5 Mitigation Strategy

The City of Porterville adopted the hazard mitigation goals and objectives developed by the HMPC and described in Chapter 5 “Mitigation Strategy” of the Base Plan. Like the Mitigation Strategy in the Base Plan, this section outlines the City's roadmap for future hazard mitigation administration and implementation. The purpose of the strategy is to reduce vulnerabilities from key priority hazards outlined in the risk assessment through regulatory tools and projects.

Prioritization Criteria

- A local jurisdiction department or agency champion currently exists or can be identified
- The action can be implemented during the 5-year lifespan of the HMP
- The action may reduce expected future damages and losses (cost-benefit)
- The action mitigates a high-risk hazard
- The action mitigates multiple hazards

Two of the City's mitigation strategies from the 2018 HMP are still relevant to this update. **Table E-11** contains the status of the previous mitigation actions. Mitigation actions were derived from numerous sources including the General Plan, City Code, Capital Improvement Plan, and input from the public and stakeholders.

CC – Climate Change
EQ – Earthquake
FL – Flood

DF – Dam Failure
EH – Extreme Heat

DR – Drought
FR – Fire



Table E-11 lists the City specific mitigation actions from the 2018 Plan and provides their status.

Table E-11: Porterville-Specific Mitigation Actions, 2018

No.	Selected (Y/N)	Description	Prioritization Criteria	Applicable Hazards	Facility to be Mitigated	Department or Agency	2023 Status
1	Y	Work with FEMA Region IX to address any floodplain management issues that may have arisen/arise from the countywide DFIRM, Community Assessment Visits, and/or DWR.	A, B, C, D	FL	Unknown	Public Works	Ongoing: Mitigation Action 9 in 2023 Plan.
2	Y	Increase participation in the NFIP by entering the Community Rating System program which through enhanced floodplain management activities would allow property owners to receive a discount on their flood insurance.	A, B, C, D, E	FL	Unknown	Public Works	Ongoing: Mitigation Action 10 in 2023 Plan.

Table E-12 provides the mitigation 2023 MJLHMP actions for the city. New priorities for mitigation actions are listed in the table. Designations of High, Medium, and Low priorities have been assigned to each action item using the following criteria:

- High Priority – An action that meets multiple objectives, has benefits that exceed costs, and has a secured source of funding. Action can be completed in the short term (1 to 5 years).
- Medium Priority – An action that meets multiple objectives, has benefits that exceed costs, and is eligible for funding though no funding has yet been secured for it. Action can be completed in the short term (1 to 5 years), once funding is secured. Medium-priority actions become high-priority actions once funding is secured.
- Low Priority – An action that will mitigate the risk of a hazard, has benefits that do not exceed the costs or are difficult to quantify, has no secure source of funding, and is not eligible for any known grant funding. Action can be completed in the long term (1 to 10 years). Low-priority actions may be eligible for grant funding from programs that have not yet been identified.

The timeframe indicated in the table is defined as follows:

- Short Term = to be completed in 1 to 5 years
- Long term = to be completed in greater than 5 years



- Ongoing – currently being funded and implemented under existing programs.

Mitigation actions were assigned designations of High, Medium, or Low based on qualitative consideration of the following factors:

- Area of benefit – Citywide or localized
- Immediate impact

Table E-12 Porterville - Mitigation Actions, 2023

Action Number	Mitigation Strategy	Department	Applicable	Funding Source	Priority	Timeframe	2023 Status
1	Ensure that development in very high or high fire hazard areas is designed and constructed in a manner that minimizes the risk from fire hazards and meets all applicable State and County fire standards.	Planning	FR	Local/General Funds	Medium	Long Term	Ongoing
2	Identify and map existing housing structures that do not conform to contemporary fire standards in terms of building materials, perimeter access, and vegetative hazards in very high fire hazard severity zones or State responsibility area by fire hazard zone designation. Identify plans and actions to improve substandard housing structures and neighborhoods.	Development	FR	Local/General Funds	Medium	Short Term	No Change
3	Regulate development in the 100-year floodplain zones, as designated on maps prepared by FEMA in accordance with the following: • Critical facilities (those facilities which should be open and accessible during emergencies) shall not be permitted. • Passive recreational activities (those requiring non-intensive development, such as hiking, horseback riding, picnicking) are permissible. New development and divisions of land, especially residential subdivisions, shall be developed to minimize flood risk to structures, infrastructure, and ensure safe access and evacuation during flood conditions.	Planning	FL	Local/General Funds	Medium	Short Term	Ongoing



4	Within the City limits, where storm and flood prevention improvements have not been installed, initiate a program to upgrade in accordance with the Master Drainage Control Plan for the area. Priorities should be conditioned upon locations where flood and sheet flow hazards are greatest.	Public Works	FL	Local/General Funds	Medium	Short Term	Ongoing
5	Ensure that new City flood control projects will not adversely impact downstream properties or contribute to flooding hazards.	Public Works	FL	Local/General Funds	Medium	Long Term	ongoing
6	Maintain emergency evacuation plans for areas identified as subject to potential flooding.	Fire Department	FL	Local/General Funds	High	Short Term	No Change
7	Maintain measures in clearing of storm drain problem areas for mitigation/prevention of localized flooding	Public Works	FL	Local/General Funds	Medium	Short Term	Ongoing
8	Work with weather forecasting and public safety agencies to provide warning and protective information to residents, travelers, and visitors about dam inundation, severe valley fog and extreme heat conditions.	Fire Department	EH, DF	Local/General Funds	High	Short-Term	Ongoing
9	Work with FEMA Region IX to address any floodplain management issues that may have arisen/arise from the countywide DFIRM, Community Assessment Visits, and/or DWR.	Planning	FL	Local/General Funds	Medium	Short Term	Ongoing
10	Increase participation in the NFIP by entering the Community Rating System program which through enhanced floodplain management activities would allow property owners to receive a discount on their flood insurance.	Planning	FL	Local/General Funds	Medium	Short Term	No Change
12	Encouraging installation of green roofs, which provide shade and remove heat from the roof surface and surrounding air.	Public Works	EH, CC	Local/General Funds	Low	Long Term	Ongoing
16	Developing new or upgrading existing water delivery systems to eliminate breaks and leaks.	Public Works	DR	Local/General Funds	Medium	Short Term	Ongoing



E. 6 Implementation and Maintenance

Moving forward, the City of Porterville will use the mitigation action table in the previous section to track the progress on the implementation of each project. Implementation of the plan overall is discussed in Chapter 7 in the Base Plan.

Incorporation of the Previous Plan

The 2018 MJLHMP was not specifically or fully incorporated into other planning documents and mechanisms. During this time, staffing at the city was severely reduced and the city was lacking the staff and financial resources to fully implement the plan. There was a significant amount of turnover, and current staff is unable to verify if the 2018 plan was able to be incorporated into any other plans. Covid-19 was also a factor in the City's inability to incorporate the plan, as the attention to incorporate was unable to be provided at the time.

Incorporation into Existing Planning Mechanisms

The information contained within this plan, including results from the Vulnerability Assessment, and the Mitigation Strategy will be used by the City to help inform updates and the development of local plans, programs, and policies. The City's Public Works Department may use the hazard information when implementing street and solid waste division projects. The Utilities Department may utilize the hazard information when implementing water, wastewater reclamation, and environmental projects that are part of the City's Capital Improvement Program.

Similarly, the City's Community Development Department, including the Building Safety, Community Division, Economic Development, Land Development and Engineering, Planning Division, and Transportation Engineering and Design Division may utilize the hazard information when completing the comprehensive update to the City.

When completing the comprehensive update to the City Area General Plan. The natural hazard information can directly inform the City's vulnerability Assessment.

The city will also incorporate this MJ-LHMP into the Safety Element of their General Plan, as recommended by AB 2140 and as part of the current and comprehensive Urban Area General Plan Update.

As noted in Section 6 of the Base Plan, the City will report on efforts to integrate the hazard mitigation plan into local plans, programs and policies and will report on these efforts at the annual MJ LHMP Stakeholders plan review meeting.



E.7 Monitoring, Evaluation and Updating the Plan

The City will follow the procedures to monitor, review, and update this plan in accordance with Tulare County as outlined in Chapter 7 of the Base Plan. The city will continue to involve the public in mitigation, as described in Chapter 5.4 of the Base Plan. The Associate Planners, Administrative Services Director, Administrative Battalion Chief, Assistant City Manager, Public Works Director, and Engineering and Project Management Director will be responsible for representing the city in the County MJ-LHMP, and for coordination with City staff and departments during plan updates. The City realizes it is important to review the plan regularly and update it every five years in accordance with the Disaster Mitigation Act Requirements as well as other State of California requirements.

RESOLUTION NO. ____-2024

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADOPTING THE LOCAL HAZARD MITIGATION PLAN FOR THE CITY OF
PORTERVILLE**

WHEREAS: The City of Porterville recognized the threat that natural hazards pose to people and property within our community; and

WHEREAS: Undertaking hazard mitigation actions will reduce the potential for harm to people and property from future hazard occurrences; and

WHEREAS: The U.S. Congress passed the Disaster Mitigation Act of 2000 (“Disaster Mitigation Act”) emphasizing the need for pre-disaster mitigation of potential hazards; and

WHEREAS: The Disaster Mitigation Act made available hazard mitigation grants to state and local governments; and

WHEREAS: An adopted Local Hazard Mitigation Plan is required as a condition of future funding for mitigation projects under multiple FEMA pre- and post-disaster mitigation grant programs; and

WHEREAS: the City of Porterville fully participated in the FEMA-prescribed mitigation planning process to prepare this local hazard mitigation plan with the City of Porterville and Special districts along with other stakeholders; and

WHEREAS: the California Office of Emergency Services and Federal Emergency Management Agency, Region IX officials have reviewed the Local Multi-Jurisdiction Hazard Mitigation Plan and approve it contingent upon this official adoption of the participating governing body; and

WHEREAS: the City of Porterville desires to comply with the requirements of the Disaster Mitigation Act and to augment its emergency planning efforts by formally adopting the Tulare County Local Hazard Mitigation Plan; and

WHEREAS: adoption by the governing body for the City of Porterville demonstrates the jurisdiction’s commitment to fulfilling the mitigation goals and objectives outlined in this Local Hazard Mitigation Plan; and

WHEREAS: adoption by the Porterville City Council demonstrates the jurisdiction’s commitment of fulfilling the mitigation goals and objectives outlined in this Local Hazard Mitigation Plan; and

WHEREAS: adoption of this legitimizes the plan and authorizes responsible agencies to carry out their responsibilities under the plan; and

NOW, THEREFORE BE IT RESOLVED that the City Council adopts the Porterville Local Hazard Mitigation Plan as an official plan; and

BE IT FURTHER RESOLVED that the City Council adopts the Porterville Local Hazard Mitigation Plan by reference into the safety element of their general plan in accordance with requirements of AB 2140; and

BE IT FURTHER RESOLVED the City Council will submit this adoption resolution to the California Office of Emergency Services and FEMA Region IX officials to enable the plan's final approval in accordance with the requirements of the Disaster Mitigation Act of 2000 and to establish conformance with the requirement of AB 2140.

PASSED, APPROVED, AND ADOPTED this 20TH day of August, 2024.

Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Approval of Community Civic Event - Central California Blood Center - Culture Blood Drive - September 1, 2024

SOURCE: Finance

COMMENT: The Central California Blood Center is requesting approval to hold the "Culture Blood Drive" event on Sunday, September 1, 2024, from 11:00 AM to 3:00 PM. The applicant is requesting the use of four (4) parking spaces in front of the Culture Cannabis Club, located at 230 North Main Street, to park a blood drive bus that measures 30 ft. long, 9 ft. wide. This event is a community blood drive.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the Ordinance regulations and reviewed by all City Departments involved. All requirements and restrictions are listed on the attached copy of the Application and Agreement, Exhibit A, and Exhibit B.4

RECOMMENDATION: That the City Council approve the Community Civic Event application submitted by the Central California Blood Center to hold the "Culture Blood Drive" event in the Culture Cannabis Club parking lot at 230 North Main Street, on September 1, 2024, subject to the restrictions and requirements contained in the Application and Agreement, Exhibit A, and Exhibit B.

ATTACHMENTS: 1. CCE Application and Agreement, Map, Exhibit A, Exhibit B, and Certificate of Liability Insurance

Appropriated/Funded:

Review By:

Department Director:
Janie Rodriguez, Finance Director

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE

291 N. Main Street, Porterville, CA 93257
559-782-7451 Fax: 784-4569 www.ci.porterville.ca.us



(Incomplete applications can delay permit process)

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

DO YOU HAVE? Event Flyer? E-mail address? Website?

Application date: 8/31/24 Event date: 9/1/24

Event time: 11:00am - 3:00pm

Name of Event: Culture Blood Drive

Sponsoring organization: Central California Blood Center Phone # 559-389-5447
Address:

Authorized representative: Terry Sanianikone Phone # 559-840-9871
Address:

Event chairperson: Jennifer Schurtzenberger Phone # 559-306-9303

Location of event: parking spots on main in front of Culture Cannabis Club (Location map must be attached) 230 N main st

Description of event: Blood Drive

Purpose of event: Blood Drive

Non-profit organization status: _____

(IRS Determination)

City services requested (fees associated with these services will be billed separately):

Barricades (quantity): NO Street sweeping Yes _____ No X

Police protection Yes _____ No X Refuse pickup Yes _____ No X

Other: _____

Parks facility application required: Yes _____ No X Attached _____

Assembly permit required: Yes _____ No X Attached _____

STAFF COMMENTS (list special requirements or conditions for event):

Appr. Deny

_____	_____	Bus. Lic. Spvr.	_____
_____	_____	Pub. Works Dir	_____
_____	_____	Comm. Dev. Dir.	_____
_____	_____	Field Svcs. Mgr.	_____
_____	_____	Fire Chief	_____
_____	_____	Parks Dir.	_____
_____	_____	Police Chief	_____
_____	_____	Risk Manager	_____

CITY OF PORTERVILLE

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

What constitutes a Community Civic Event?

A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures. This application must be submitted **NO LESS THAN 30 DAYS PRIOR** to the date of the event in order to obtain City Council approval.

All City Code requirements are described in ordinance 15-20 (e) 1-23 and as amended in ordinance 1613. For a full description please visit our City of Porterville website at www.ci.porterville.ca.us/govt/CityClerk/, Porterville Municipal Codes. For questions or concerns please call 559-782-7451 or 559-782-7457. Any person who violates the provisions in this code, shall be deemed guilty of either a misdemeanor or an infraction, with penalties of one hundred (\$100) for the first violation.

Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. The sponsoring organization/applicant's insurance coverage shall apply as primary to, and on a non-contributory basis with, any other available coverage of the City. The City of Porterville and Successor Agency to the Porterville Redevelopment Agency shall be named as additional insured. A Certificate of Liability Insurance and Additional Insured Endorsement sample forms are enclosed for your convenience. This original certificate and endorsement shall be submitted to the Finance Department with the application. *The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than two million dollars (\$2,000,000.00) per occurrence of bodily injury and property damage, combined single limit. (Ordinance 15-20(e) 18)*

 Authorized Representative Initial

Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include full liquor liability in an amount not less than one million dollars (\$1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permitted, his/her agents or representatives pursuant the permit. **Claims-made policies are not acceptable.**

 Authorized Representative Initials

Health permit: Organization/Applicant will obtain or ensure that all participants obtain a 'Temporary Food Facilities' permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental Health Department located at 5957 S. Mooney Blvd., Visalia, CA, 93277, call 559-733-6441, or fax information to 559-733-6932; or visit their website: www.tularehhsa.org.

 Authorized Representative Initials

First aid station: Organization/Applicant will establish a first aid station, with clearly posted signs, to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

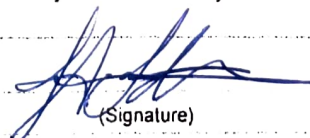
 Authorized Representative Initials

Toilet rental service: Applicant shall have care, custody and control of the equipment and shall bear responsibility and liability for all loss and damage to the equipment and for its contents while at the City's location. Applicant shall not overload, move or alter the equipment and shall use the equipment for its intended purpose. Applicant shall be responsible for any damages to City's property resulting from company's provision of services hereunder. Applicant shall confirm with the service company the number of portable toilets, standard and handicap, and wash sinks needed for the number of expected attendees.

 Authorized Representative Initials

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 15-20(e), as amended, and the terms and conditions set forth by City Council and stated in Exhibit 'A.' The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind or character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of any kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees. Approval of the Community Civic Events Permit by the Porterville City Council pertains only to authorized activities conducted at designated locations within the incorporated area of the City of Porterville, and such approval shall not be construed or interpreted to authorize sponsor utilization of public right-of-ways outside of the jurisdiction of the City of Porterville.

Central California Blood Center
(Name of Organization)


(Signature)

7/31/24
(Date)

CITY OF PORTERVILLE

VENDOR/PARTICIPANT LIST IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Culture Blood Drive

Sponsoring organization: Central California Blood Center

Location: 230 N Main st Porterville Event date: 9/1/24 Event time: 4 hours

All vendors are required to complete the business license permit form. List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. **NO PERMIT WILL BE ISSUED WITHOUT THIS INFORMATION.** Vendors with no valid City of Porterville business license are required to pay \$1 per day to the City, with the exceptions of non-profit organizations per *City of Porterville Municipal Code 15-20(E) Community Civic Events (16). This form should be completed at the time of application, but must be submitted **NO LESS THAN TWO WEEKS PRIOR TO THE EVENT.**

[illegible]

***Municipal Code 15-20(E) Community Civic Events (16):** *Business License Fees: Any individual, company, firm, concessionaire, fair operator, carnival operator, etc., who engages in, conducts, organizes, or promotes business for profit shall pay a business license fee of one dollar (\$1.00) per day per amusement, entertainment, exhibit, ride or per booth, space, stall, stand or other enclosed location used for the purpose of advertising, promoting, or sale of, or taking orders for, goods or services; except that no individual, company, firm, concessionaire, fair operator, carnival operator, etc., who possesses a valid city business license shall be subject to separate licensing pursuant to this subsection E16. The nonprofit sponsor shall collect said fee and remit the fee to the city within five (5) working days following the CCE. Said remittance shall be accompanied by a complete list of participants and consecutively numbered receipts written in triplicate, containing the name, address and telephone number of the licensee, and the licensee's California seller's permit number. Said receipts shall be furnished by the city. One copy of the receipt shall be furnished to the licensee, one copy filed with the finance department of the city, and one copy retained by the CCE sponsor for a period of three (3) years for audit purposes.*

CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY
TO BE HELD ON PUBLIC PROPERTY

Name of event: Culture Blood Drive

Sponsoring organization: Central California Blood Center

Event date: 9/1/24 Hours: 11:00am - 3:00pm

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

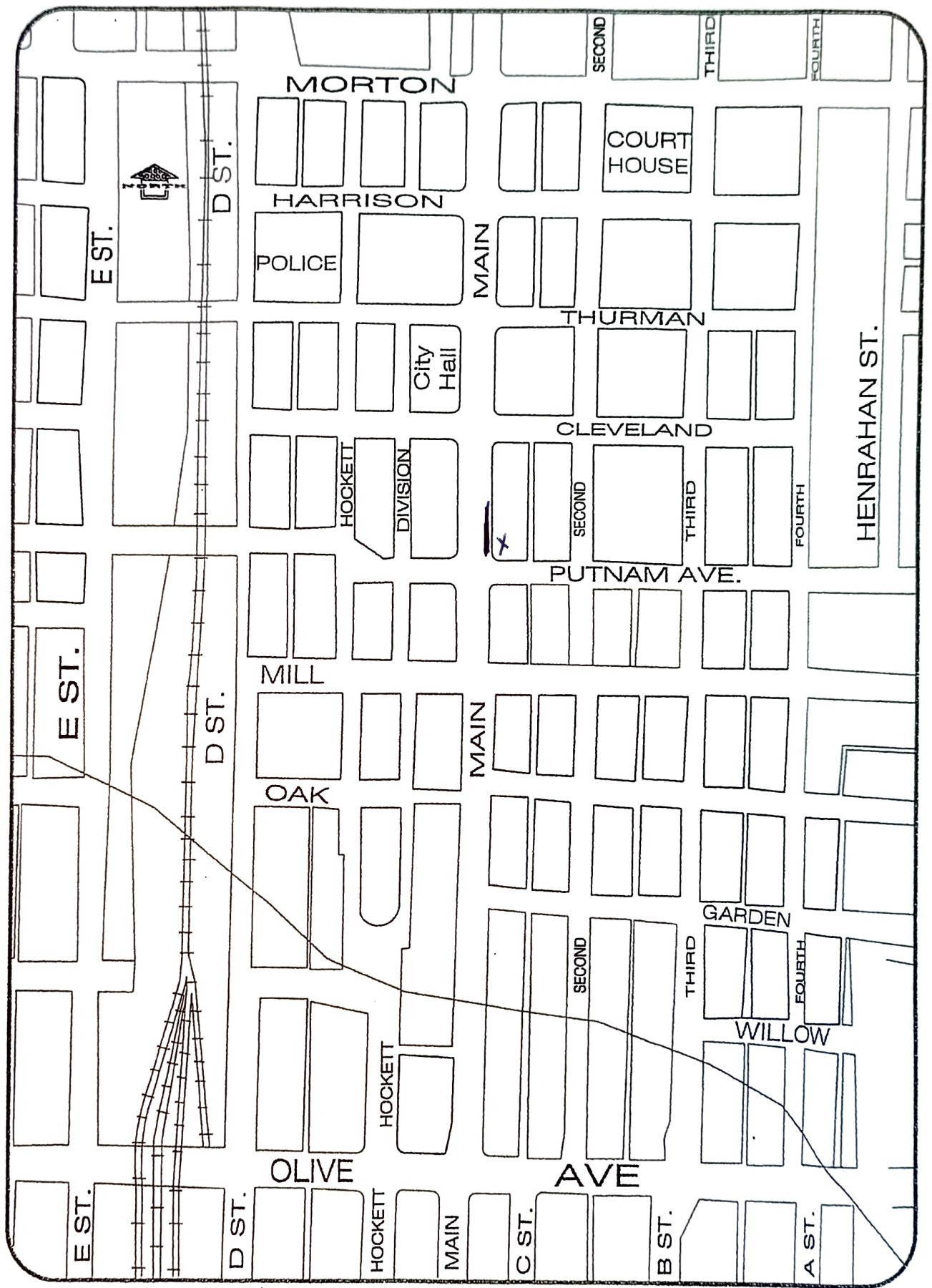
Closed

<u>Street Name</u>	<u>From which Street</u>	<u>To which Street</u>	<u>Activity</u>
--------------------	--------------------------	------------------------	-----------------

<u>Sidewalks</u>	<u>From which sidewalk</u>	<u>To which sidewalk</u>	<u>Activity</u>
------------------	----------------------------	--------------------------	-----------------

<u>Parking lots and spaces</u>	<u>Location</u>	<u>Activity</u>
--------------------------------	-----------------	-----------------

Parking Spaces	in front of 230 N main st parking Blood Drive bus	Blood Drive
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Requirements for Community Civic Event
Central California Blood Center
Culture Blood Drive
September 1, 2024

City Engineer: <i>D. Cervantez</i>	No comments.
Community Development Director: <i>C. Calderon</i>	No comments.
Public Works Director: <i>M. Knight</i>	No comments.
Fire Marshal: <i>C. Dignam</i>	No comments.
Parks and Leisure Services Director: <i>D. Moore</i>	No comments.
Police Lieutenant: <i>M. Acevedo</i>	Please see Exhibit B.
Administrative Service Director: <i>Y. Andrade</i>	Risk Management requires \$2M in general commercial liability coverage, evidenced by a certificate of insurance naming the City of Porterville as an additional insured. The Certificate of Insurance must also include the endorsement page.
Field Services Superintendent: <i>B. Spry</i>	No comments.
Field Services Superintendent – Streets: <i>J. Baeza</i>	No comments.

Requirements for Community Civic Event

Sponsor: Central California Blood Center
Event: Culture Blood Drive
Event Chairman: Jennifer Schwartzenberger
Location: 230 N. Main St., Porterville CA
Date of Event: September 1, 2024 (11:00 a.m. – 3:00 p.m.)

RISK MANAGEMENT: Conditions of Approval

That the Central California Blood Center provide a Certificate of Commercial General Liability Insurance Coverage of \$ 2,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as 'Additional Insured' against all claims arising from, or in connection with, the Permitted operation and sponsorship of the aforementioned Community Civic Event.

- A. The Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than \$1,000.
- B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A: VII, and the insurance company must be an 'admitted' insurer in the State of California.

**CITY OF PORTERVILLE/POLICE DEPARTMENT
Community Civic Event Application**

**Culture Blood Drive
September 1, 2024 / 11:00 AM—3:00 PM
Four Parking Spaces in Front of 230 North Main Street**

Proposed Conditions/Requirements for Downtown Event:

- City Council approval is required for all street, alley and/or sidewalk closures.
- On all streets/alleys approved for closure, ensure adequate barricades/barriers are used to warn motorists of non-access and prevent vehicle access to those designated areas. Alternate walking paths should be made available for any portion of a sidewalk that is closed.
- If event organizers anticipate the need for removal of parked vehicles from public roadways or alleys related to the event, the affected public roadway/alley must be posted by the organizer with appropriate signage no less than 24 hours in advance of the event. Said signs and associated posting must meet minimum requirements as established by the California Vehicle Code. Event organizers shall contact Corporal Maria Aguillon of the Porterville Police Department/Traffic Unit at least 10 days prior to the event in order to ensure that signs meet the requirements as established by law.
- Event organizers will ensure compliance with all applicable laws and regulations.
- The Event Chairperson is requesting the use of 4 parking spots in front of the business. I recommend the use of the 4 parking spaces be authorized.
- At the conclusion of the event, event organizers shall ensure all streets, sidewalks, barricades, booths, or anything that could present a hazard to pedestrians or vehicles traveling through this area, is promptly removed and/or cleaned.

Mark Azevedo, Lieutenant
Porterville Police Department



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
08/13/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Insurance Services West, Inc. Sacramento CA Office 2277 Fair Oaks Blvd. Suite 250 Sacramento CA 95825 USA	CONTACT NAME: PHONE (A/C. No. Ext): (916) 369-4800 FAX (A/C. No.): 847-953-2283 E-MAIL ADDRESS:														
INSURED Central California Blood Center 4343 West Herndon Avenue Fresno CA 93722 USA	<table><tr><th>INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr><tr><td>INSURER A: Columbia Casualty Company</td><td>31127</td></tr><tr><td>INSURER B: Cypress Insurance Co (CA)</td><td>10855</td></tr><tr><td>INSURER C: American Casualty Co. of Reading PA</td><td>20427</td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Columbia Casualty Company	31127	INSURER B: Cypress Insurance Co (CA)	10855	INSURER C: American Casualty Co. of Reading PA	20427	INSURER D:		INSURER E:		INSURER F:	
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INSURER D:															
INSURER E:															
INSURER F:															

Holder Identifier :

COVERAGES**CERTIFICATE NUMBER:** 570107687524**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:			HMA6050353913	10/01/2023	10/01/2024	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$50,000 MED EXP (Any one person) PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$5,000,000 PRODUCTS - COMP/OP AGG \$5,000,000
C	AUTOMOBILE LIABILITY ☒ ANY AUTO ☒ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY			6049715798	10/01/2023	10/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
A	☒ UMBRELLA LIAB ☐ EXCESS LIAB ☒ RETENTION \$10,000 ☐ OCCUR ☒ CLAIMS-MADE			HMC4031911487	10/01/2023	10/01/2024	EACH OCCURRENCE \$5,000,000 AGGREGATE \$5,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ Y	N/A	CEWC459233	10/01/2023	10/01/2024	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000
A	Miscellaneous Medical Professional Liab			HMA6050353913	10/01/2023	10/01/2024	Occurrence \$2,000,000 Aggregate \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Porterville is named as Additional Insured per written contract. Waiver of Subrogation applies.

CERTIFICATE HOLDER**CANCELLATION**

City of Porterville 291 North Main Street Porterville CA 93257 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
--	---

Certificate No : 570107687524



ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY

It is understood and agreed that this endorsement amends the **BUSINESS AUTO COVERAGE FORM** as follows:

SCHEDULE

Name of Additional Insured Persons Or Organizations
City of Porterville 291 North Main Street Porterville CA 93257

1. In conformance with paragraph **A.1.c.** of **Who Is An Insured** of Section **II – LIABILITY COVERAGE**, the person or organization scheduled above is an insured under this policy.
2. The insurance afforded to the additional insured under this policy will apply on a primary and non-contributory basis if you have committed it to be so in a written contract or written agreement executed prior to the date of the "accident" for which the additional insured seeks coverage under this policy.

All other terms and conditions of the Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Central California Blood Center

Endorsement Effective Date: 10/01/2023

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

City of Porterville
291 North Main Street
Porterville CA 93257

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.



Non-Contractor's Additional Insured Endorsement

It is understood and agreed that this endorsement amends the **COMMERCIAL GENERAL LIABILITY COVERAGE PART** as follows.

1. ADDITIONAL INSUREDS

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **H.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:
- (1) is currently in effect or becomes effective during the term of this **Coverage Part**; and
 - (2) was executed prior to:
 - (a) the **bodily injury** or **property damage**; or
 - (b) the offense that caused the **personal and advertising injury**,
for which such additional insured seeks coverage.
- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
- (1) a higher limit of insurance than required by such contract or agreement; or
 - (2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **H.** below.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

- 1. such person or organization's financial control of a **Named Insured**; or
- 2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

C. Grantor of Franchise

Any person or organization that has granted a franchise to a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** as grantor of a franchise to the **Named Insured**.

D. Lessor of Equipment

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

E. Lessor of Land



Non-Contractor's Additional Insured Endorsement

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Lessor of Premises

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises as are leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury, property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

H. State or Governmental Agency or Subdivision or Political Subdivisions – Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
 - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - b. the construction, erection, or removal of elevators; or
 - c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

The coverage granted by this paragraph does not apply to:

- a. **bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

CNA74857XX (1-15)

Page 2 of 3

Policy No: HMA605035913

Endorsement No:

Effective Date:10/1/2023

Insured Name:

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Non-Contractor's Additional Insured Endorsement

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

	Waiver of Transfer of Rights of Recovery Against Others to the Insurer Endorsement
--	---

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE
Name Of Person Or Organization:
City of Porterville 291 North Main Street Porterville CA 93257

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, it is understood and agreed that the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended by the addition of the following:

With respect to the person or organization shown in the Schedule above, the Insurer waives any right of recovery the Insurer may have against such person or organization because of payments the Insurer makes for injury or damage arising out of the **Named Insured's** ongoing operations or **your work** included in the **products-completed operations hazard**.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.
--

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT-CALIFORNIA

BLANKET BASIS

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

The additional premium for this endorsement shall be 2.00 % of the total policy premium otherwise due on such remuneration.

The minimum premium for this endorsement is \$ 350.00

Schedule	
Person or Organization	Job Description
ALL ORGANIZATIONS FOR WHOM THE WAIVER OF SUBROGATION IS ISSUED	ALL CALIFORNIA OPERATIONS

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective10/01/2023Policy No. CEWC459233Endorsement No.1

InsuredCENTRAL CALIFORNIA BLOOD CENTER, INC.Premium \$

Insurance CompanyCountersigned by

Redwood Fire and Casualty Insurance Company



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Approval of Community Civic Event - Porterville Kiwanis - End of Summer Vendor Market - September 15, 2024

SOURCE: Finance

COMMENT: The Porterville Kiwanis Club is requesting approval to hold the Porterville Kiwanis Club Vendor Market on Sunday, September 15, 2024, at the Sports Complex, from 10:00 AM to 6:00 PM. This is a fundraising event for the Porterville Kiwanis Club and will feature several merchant vendor booths and also some informational booths.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the Ordinance regulations and reviewed by all City Departments involved. All requirements and restrictions are listed on the attached copy of the Application and Agreement, Exhibit A, Exhibit B and Exhibit C.

RECOMMENDATION: That the City Council approve the Community Civic Event application from Porterville Kiwanis Club to hold the Vendor Market on September 15, 2024, subject to the requirements and restrictions contained in the Application and Agreement, Exhibit A, Exhibit B, and Exhibit C.

ATTACHMENTS:

1. CCE Application and Agreement, Map, Exhibit A, Exhibit B, Exhibit C, Outside Amplifier Permit, and Certificate of Liability Insurance

Appropriated/Funded:

Review By:

Department Director:
Janie Rodriguez, Finance Director

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE

291 N. Main Street, Porterville, CA 93257
559-782-7451 Fax: 784-4569 www.ci.porterville.ca.us



(Incomplete applications can delay permit process)

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

DO YOU HAVE? *Event Flyer?* *E-mail address?* *Website?*
Application date: 7/31/24 Event date: 9/15/24
Event time: 10am-6pm
Name of Event: END OF SUMMER VENDOR MARKET

Sponsoring organization: PORTERVILLE KIWANIS CLUB Phone # 559-359-7870
Address: P.O. BOX 1704
Authorized representative: BERT MARTINEZ YARBROUGH Phone # 559-359-7870
Address: 1445 N OHIO ST, PORTERVILLE, CA 93257
Event chairperson: JAIME GOMEZ Phone # 559-789-1943

Location of event COP SPORTS COMPLEX, 2701 W SCRANTON, PORTERVILLE, CA
(Location map must be attached)

Description of event: CLUB FUNDRAISER/COMMUNITY EVENT

Purpose of event: CLUB FUNDRAISER/COMMUNITY EVENT

Non-profit organization status: ACTIVE
(IRS Determination)

City services requested (fees associated with these services will be billed separately):
Barricades (quantity): _____ Street sweeping Yes _____ No _____
Police protection Yes _____ No _____ Refuse pickup Yes X No _____
Other: REQUESTING ADDITIONAL TRASH CANS

Parks facility application required: Yes _____ No _____ Attached _____
Assembly permit required: Yes _____ No _____ Attached _____

STAFF COMMENTS (list special requirements or conditions for event):

<u>Appr.</u>	<u>Deny</u>		
_____	_____	Bus. Lic. Spvr.	_____
_____	_____	Pub. Works Dir	_____
_____	_____	Comm. Dev. Dir.	_____
_____	_____	Field Svcs. Mgr.	_____
_____	_____	Fire Chief	_____
_____	_____	Parks Dir.	_____
_____	_____	Police Chief	_____
_____	_____	Risk Manager	_____

CITY OF PORTERVILLE

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

What constitutes a Community Civic Event?

A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures. This application must be submitted NO LESS THAN 30 DAYS PRIOR to the date of the event in order to obtain City Council approval.

All City Code requirements are described in ordinance 15-20 (e) 1-23 and as amended in ordinance 1613. For a full description please visit our City of Porterville website at www.ci.porterville.ca.us/govt/CityClerk/, Porterville Municipal Codes. For questions or concerns please call 559-782-7451 or 559-782-7457. Any person who violates the provisions in this code, shall be deemed guilty of either a misdemeanor or an infraction, with penalties of one hundred (\$100) for the first violation.

Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. The sponsoring organization/applicant's insurance coverage shall apply as primary to, and on a non-contributory basis with, any other available coverage of the City. The City of Porterville and Successor Agency to the Porterville Redevelopment Agency shall be named as additional insured. A Certificate of Liability Insurance and Additional Insured Endorsement sample forms are enclosed for your convenience. This original certificate and endorsement shall be submitted to the Finance Department with the application. The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than two million dollars (\$2,000,000.00) per occurrence of bodily injury and property damage, combined single limit. (Ordinance 15-20(e) 18)

Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include full liquor liability in an amount not less than one million dollars (\$1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permitted, his/her agents or representatives pursuant the permit. Claims-made policies are not acceptable.

Health permit: Organization/Applicant will obtain or ensure that all participants obtain a 'Temporary Food Facilities' permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental Health Department located at 5957 S. Mooney Blvd., Visalia, CA, 93277, call 559-733-6441, or fax information to 559-733-6932; or visit their website: www.tularehhsa.org.

First aid station: Organization/Applicant will establish a first aid station, with clearly posted signs, to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

Toilet rental service: Applicant shall have care, custody and control of the equipment and shall bear responsibility and liability for all loss and damage to the equipment and for its contents while at the City's location. Applicant shall not overload, move or alter the equipment and shall use the equipment for its intended purpose. Applicant shall be responsible for any damages to City's property resulting from company's provision of services hereunder. Applicant shall confirm with the service company the number of portable toilets, standard and handicap, and wash sinks needed for the number of expected attendees.

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 15-20(e), as amended, and the terms and conditions set forth by City Council and stated in Exhibit 'A.' The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind or character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of any kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees. Approval of the Community Civic Events Permit by the Porterville City Council pertains only to authorized activities conducted at designated locations within the incorporated area of the City of Porterville, and such approval shall not be construed or interpreted to authorize sponsor utilization of public right-of-ways outside of the jurisdiction of the City of Porterville.

BERT MARTINEZ YARBROUGH

7/31/24

(Name of Organization)

(Signature)

(Date)

Porterville Rinkball Club

CITY OF PORTERVILLE

VENDOR/PARTICIPANT LIST IN CONNECTION WITH THE APPLICATION AND
AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY
TO BE HELD ON PUBLIC PROPERTY
END OF SUMMER FESTIVAL

Name of event: END OF SUMMER VENDOR MARKET
Sponsoring organization: PORTERVILLE KIWANIS CLUB

Sponsoring organization: PORTERVILLE KIWANIS CLUB
 Location: COP SPORTS COMPLEX Event date: 9/15/24 Event time: 10AM-6PM
 All vendors are requested to arrive at least 1 hour before the start of the event.

All vendors are required to complete the business license permit form. List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. **NO PERMIT WILL BE ISSUED WITHOUT THIS INFORMATION.** Vendors with no valid City of Porterville business license are required to pay \$1 per day to the City, with the exceptions of non-profit organizations per *City of Porterville Municipal Code 15-20(E) Community Civic Events (16). This form should be completed at the time of application, but must be submitted **NO LESS THAN TWO WEEKS PRIOR TO THE EVENT.**

[illegible]

***Municipal Code 15-20(E) Community Civic Events (16): Business License Fees:** Any individual, company, firm, concessionaire, fair operator, carnival operator, etc., who engages in, conducts, organizes, or promotes business for profit shall pay a business license fee of one dollar (\$1.00) per day per amusement, entertainment, exhibit, ride or per booth, space, stall, stand or other unenclosed location used for the purpose of advertising, promoting, or sale of, or taking orders for, goods or services; except that no individual, company, firm, concessionaire, fair operator, carnival operator, etc., who possesses a valid city business license shall be subject to separate licensing pursuant to this subsection E16. The nonprofit sponsor shall collect said fee and remit the fee to the city within five (5) working days following the CCE. Said remittance shall be accompanied by a complete list of participants and consecutively numbered receipts written in triplicate, containing the name, address and telephone number of the licensee, and the licensee's California seller's permit number. Said receipts shall be furnished by the city. One copy of the receipt shall be furnished to the licensee, one copy filed with the finance department of the city, and one copy retained by the CCE sponsor for a period of three (3) years for audit purposes.

	VENDOR LIST	NON-	BUS LIC.	
	15-Sep-24	PROFIT		
1	POR KIWANIS CLUB	36-1327510	3008	
2	PORTERVILLE CRISIS	94-2632960		
3	AB CROCHET			
4	ALEJANDRA DÉCOR			
5	DESERT SUN CREATION			
6	MOOMO SCENTS			
7	BADBADTZ_MARU			
8	EMINENCE			
9	L.J. KREATIONS			
10	TULARE KINGS HISPANIC			
11	ASIA KITCHEN			
12	ESPINOZA TACOS			
13	THE HUNGRY HOG			
14	G. BURGERS			
15	ADELICIOUS			
16	IANDTOJOLITOS			
17	SNACKOLOGY-N-MORE			
18	BOBA-FIXX			
19	MARIAS HOTDOGS			
20	CHIMBOZ BBQ			
21	DOGGIE DELICIOUS			
22	MOM OF TWO HEATHENS			
23	ECO VALLEY 559			
24	INSURED BY ROSIE			
25	LAVIDA YELLOW			
26	REYES NURSERY			
27	POR FAMILY HEALTH CARE			
28	GRID ALTERNATIVES	32-0499262		
29	TULE RIVER PARKWAY	77-0317019	3830	
30	NATIONAL COUNCIL OF ALCHOL	94-232474		
31	PORTERVILLE LIBRARY			
32	JUMLAND			

END OF SUMMER VENDOR MARKET

Name of Booth	FA#	PE	Type	COST (\$)	notes
adelicious	FA1355850				
Asias Kitchen	FA1355105				
Bigge bbq	FA1356955				
Birria El Patron	FA1357136				
Boba Fixx	FA1356098				
California Squeezed	FA1356692				
Chicking Treats					
Churerria Poblana					
Danas Drip	FA1355144				
Dante's Kitchen	FA1356739				
I and J Antojitos	FA1355737				
La Colombiana Street Food	FA1357101				
Papaloqueros	FA1355128				
Rub N Smoke BBQ	FA1356976				
Stardust Fluff	FA1355273				
Sweet Bocaditos Mini Pancakes	FA1356928				
Tacos Chewi					
Tacos Espinoza	FA1354391				
The Little Bakery	FA1356148				
Warung Mei	FA1356101				

CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY
TO BE HELD ON PUBLIC PROPERTY

Name of event: END OF SUMMER VENDOR MARKET

Sponsoring organization: PORTERVILLE KIWANIS CLUB

Event date: 09-15-24

Hours: 10AM-6PM

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

<u>Street Name</u>	<u>Closed</u>		<u>Activity</u>
	<u>From which Street</u>	<u>To which Street</u>	

TO BE HELD ON PARK FACILITY

<u>Sidewalks</u>	<u>Closed</u>		<u>Activity</u>
	<u>From which sidewalk</u>	<u>To which sidewalk</u>	

<u>Parking lots and spaces</u>	<u>Location</u>	<u>Activity</u>
--------------------------------	-----------------	-----------------

Requirements for Community Civic Event
Porterville Kiwanis Club
End of Summer Vendor Market
September 15, 2024

City Engineer: <i>D. Cervantez</i>	No comments.
Community Development Director: <i>C. Calderon</i>	No comments.
Public Works Director: <i>M. Knight</i>	No comments.
Fire Marshal: <i>C. Dignam</i>	Please see Exhibit C.
Parks and Leisure Services Director: <i>D. Moore</i>	Vehicles not involved in the event to park in permitted parking areas.
Police Lieutenant: <i>A. Acevedo</i>	Please see Exhibit B.
Administrative Service Director: <i>Y. Andrade</i>	Based on the information provided, the liability certificate and endorsement page for the event organizer and inflatable vendor are sufficient. Further, all bounce house participants or legal guardians (if participant is a minor) must sign a liability waiver.
Field Services Superintendent: <i>B. Spry</i>	Please have the responsible party reach out to the Field Services Office to Coordinate container drop off.
Field Services Superintendent – Streets: <i>J. Baeza</i>	No comments.

Requirements for Community Civic Event

Sponsor: Porterville Kiwanis Club
Event: End of Summer Vendor Market
Event Chairman: Jamie Gomez
Location: Sports Complex, Porterville Ca
Date of Event: September 15, 2024 (10:00 a.m-6:00 p.m.)

RISK MANAGEMENT: Conditions of Approval

That the Porterville Kiwanis Club provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than \$2,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as 'Additional Insured' against all claims arising from, or in connection with, the Permitted operation and sponsorship of the aforementioned Community Civic Event.

- A. The Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than \$1,000.
- B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A: VII, and the insurance company must be an 'admitted' insurer in the State of California.

**CITY OF PORTERVILLE/POLICE DEPARTMENT
Community Civic Event Application**

**End of Summer Vendor Market
09/15/2024
Sports Complex, 2701 West Scranton**

Proposed Conditions/Requirements for Event:

- At conclusion of event, event organizers shall ensure the park is promptly cleared of any equipment, booths, or waste.
- Event organizers should contact the Patrol Watch Commander (Lieutenant Gurule, Lieutenant Hatch, or Lieutenant Ortiz) to discuss any potential policing needs. They can be reached at (559) 782-7400.

Mark Azevedo, Lieutenant
Porterville Police Department

**City of Porterville/Fire Department
Community Civic Event Application**

**End of Summer Vendor Market
September 15, 2024 10:00 AM – 6:00 PM
Sports Complex, Porterville**

Proper spacing between canopies, tents and tarps. All tents, canopies, tarps shall all be fire resistance rated with an affixed and legible tag. see attached document. Fire extinguishers available and within 75' travel distance to generators and booths. Food trailers shall be disconnected from the towing vehicle and level with towing vehicle disconnected and moved to a parking area. Food vans or trucks should be parked and keys removed from the ignition. All food trucks and trailers with an installed fire extinguisher system shall have a current inspection tag on the fixed extinguishing system (within the last 6 months) and have both a K extinguisher, and a 2A:10BC fire extinguisher (tagged within the last year). There shall be no cooking or frying producing grease laden vapors inside, or under, any tent, tarp, or canopy.

Clayton Dignam
Fire Marshal



PORTERVILLE FIRE DEPARTMENT

FIRE PREVENTION DIVISION

OUTDOOR FOOD BOOTH REQUIREMENTS

Authority cited: 2019 California Fire Code (CFC)

These standards apply to individual tents, temporary structures, or membrane structures less than 200 square feet in area, and canopies less than 400 square feet in area used as outdoor carnival and fair booths.

A permit is required before any tent or membrane structure larger than 400 square feet can be erected. (California Fire Code 3103.2)

Tents and membrane structures having an area in excess of 400 square feet shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the building official and fire code official.

Exceptions:

1. Tents used exclusively for recreational camping purposes.
2. Tents open on all sides which comply with all the following:
 - a. Individual tents having a maximum size of 700 square feet.
 - b. Aggregate area of multiple tents placed side by side without 12 feet clearance, not exceeding 700 square feet total.
 - c. A minimum clearance of 12 feet to all structures and other tents.

Definitions

Cooking Booth – Booth where food is prepared by a heating or cooking process such as, but not limited to, grilling, frying, barbecuing, flambe', deep fat frying, baking, warming, or boiling. **Deep fat frying** – Any cooking operation or process whereby the product floats or is submerged in hot oil during the cooking process.

Vendor Booth – Any booth other than a cooking booth.

Cooking Booth Construction and Location

- All fabrics or membranes covering cooking booths shall be California State Fire Marshal certified flame retardant and be labeled as such.
- Decorative materials shall be inherently fire resistive or shall be treated with a fire-retardant spray.
- Flooring materials used within cooking booths and cooking equipment shall be non-combustible or California State Fire Marshal certified fire-retardant. (*Exception 3/8" plywood or similar material.*)
- Each cooking booth shall have at least one exit-way, a minimum **3'** wide and **6'8"** high. Booth frames shall not obstruct exit paths.
- Cooking booths shall have a minimum clearance of **10'** on at least two sides with clearance of at least **10'** from any vendor booth.
- Minimum **12'** separation required between cooking booths with an aggregate size of 400 sq.ft. with sides, or 700 sq.ft. without sides.

Cooking Equipment

- All interior cooking equipment shall be of an approved type, and open-flame cooking shall be located a minimum of **18"** from booth back/side drop materials.
- Compressed gas (butane, propane, or natural) equipment shall conform to the following:
 - Shut off valves shall be provided at each fuel source;
 - Cooking appliances shall have an ON-OFF valve located far enough away from the appliance to be safely shut off in case of fire;
 - Manufactured cooking appliances shall be equipped with a Thermocouple Valve to shut off fuel if flame is extinguished;
 - The booth operator shall test all connections for leaks with soap and water solution;
 - Fuel tanks shall be protected from damage and secured in an upright position;
 - Hoses shall be of a type approved for use with the equipment and fuel type;
 - Tanks not in use shall be turned off;
 - Extra fuel tanks shall not be stored in booths;
 - Unused fuel cylinders shall be stored in a secured position.



PORTERVILLE FIRE DEPARTMENT

FIRE PREVENTION DIVISION

Wood, Charcoal (Solid Fuels) Cooking

- Use only an electric starter or commercially sold lighter fluid.
- Charcoal cooking and storage of lighter fluid is prohibited inside booths.
- Charcoal cooking shall be located a minimum of ten **10'** away from booths and in areas away from public access.
- Charcoal cooking shall be located at least ten **10'** away from combustible structures and parked vehicles.
- Coals shall be disposed of in metal containers with lids approved by the Fire Marshal.

Deep Fat Frying, Flambé, and Wok

- Deep fat frying, flambé, and wok shall be located **no closer than 18"** from any combustible material.
- Cooking areas shall not be accessible to the public.
- Deep fat frying equipment shall be equipped with a temperature regulating device or other method of regulating temperatures approved by the Fire Marshal.
- Separation shall be maintained with a minimum of **3'** clearance between deep fat frying and flambé or open flame cooking.

Vendor Booth Construction and Location

- Each vendor booth shall have at least one exit-way, a minimum of **3'** wide by **6'8"** high. Booth frames shall not obstruct exit paths.
- Vendor booths shall have a minimum clearance of **20'** on at least one side, with clearance of at least **10'** from any cooking booth.

Electrical Power

- Generators shall be placed only in locations approved for festival use.
- Generators shall not be refueled during event hours. Extra fuel shall not be stored during event hours.
- Smoking and open flames shall be prohibited within **25'** of refueling operations.
- Extension cords shall be of a grounded type and approved for exterior use.

Fire Extinguishers

- Each cooking booth shall be equipped with a fire extinguisher with a minimum rating of **2A: 10BC**. Booths with deep fat frying or flambé cooking shall be equipped with an extinguisher rated for **class "K" fires**.
- Cooking booths shall be equipped with visible and accessible fire extinguishers mounted adjacent to the exit.
- For vendor booths, the maximum travel distance to a fire extinguisher with a minimum rating of **2A: 10BC** shall not exceed **75'**.
- Each generator shall be provided with a fire extinguisher with a minimum **40BC** rating. The extinguisher shall be located near the generator and accessible at all times.
- All fire extinguishers shall be serviced and tagged annually by a State-licensed contractor.

Miscellaneous

- The Porterville Fire Department shall be provided with a site plan showing emergency access.
- All booths are subject to inspection by the Fire Department and any discrepancies will require immediate action.
- All cooking areas shall be cleaned regularly to prevent the build-up of grease.
- There shall be a competent adult in cooking booths at all times to ensure safety.
- Seating shall be a minimum of **15'** from booths with open flame devices or cooking appliances.
- The Fire Department shall be provided with a telephone number of the responsible party to contact in case of emergency on a 24 hour basis.

Fire Safety Tips

- Know where fire extinguishers are and how to use them.
- Do not leave cooking unattended.
- Do not wear loose-fitting clothing while cooking.
- Remove trash accumulation regularly.
- Keep combustible materials away from heat sources.
- **In case of an emergency dial 9-1-1.**

The attached "Food Booth Vendor Agreement" must be on site at all times and presented upon request of any Porterville Fire Department Personnel.



Cooking Booth Vendor Agreement

Booth/Space # _____ Business Name _____
On Site Contact Name _____ Contact Phone # _____

Cooking Booth Construction and Location

1. Tents, canopies, and decorative material shall be inherently flame-resistive and proof of certification shall be on site at all times.
2. Cooking booth floors may be concrete, asphalt, or plywood over grass and dirt.
3. An emergency access of 36" shall be maintained between the back of each cooking booth and any fencing at all times. **NO EXCEPTIONS.**

Cooking Equipment

1. Cooking with charcoal, wood, or other solid fuel shall be located a **minimum of 10'** away from booths, canopies, combustible material or any public access.
2. Deep fat frying shall be located a **minimum of 3'** away from booths, canopies, open flame cooking, combustible material or any public access.
3. Any open flame cooking shall be located a **minimum of 18"** away from any vertical surface, combustible material or any public access.
4. Extra fuel tanks shall **NOT** be stored in booths or within 5' of cooking equipment.
5. All cooking, gas powered, or electrically energized equipment shall meet manufacturer specifications and shall be free of excess cooking oils or any other combustible materials.

Miscellaneous

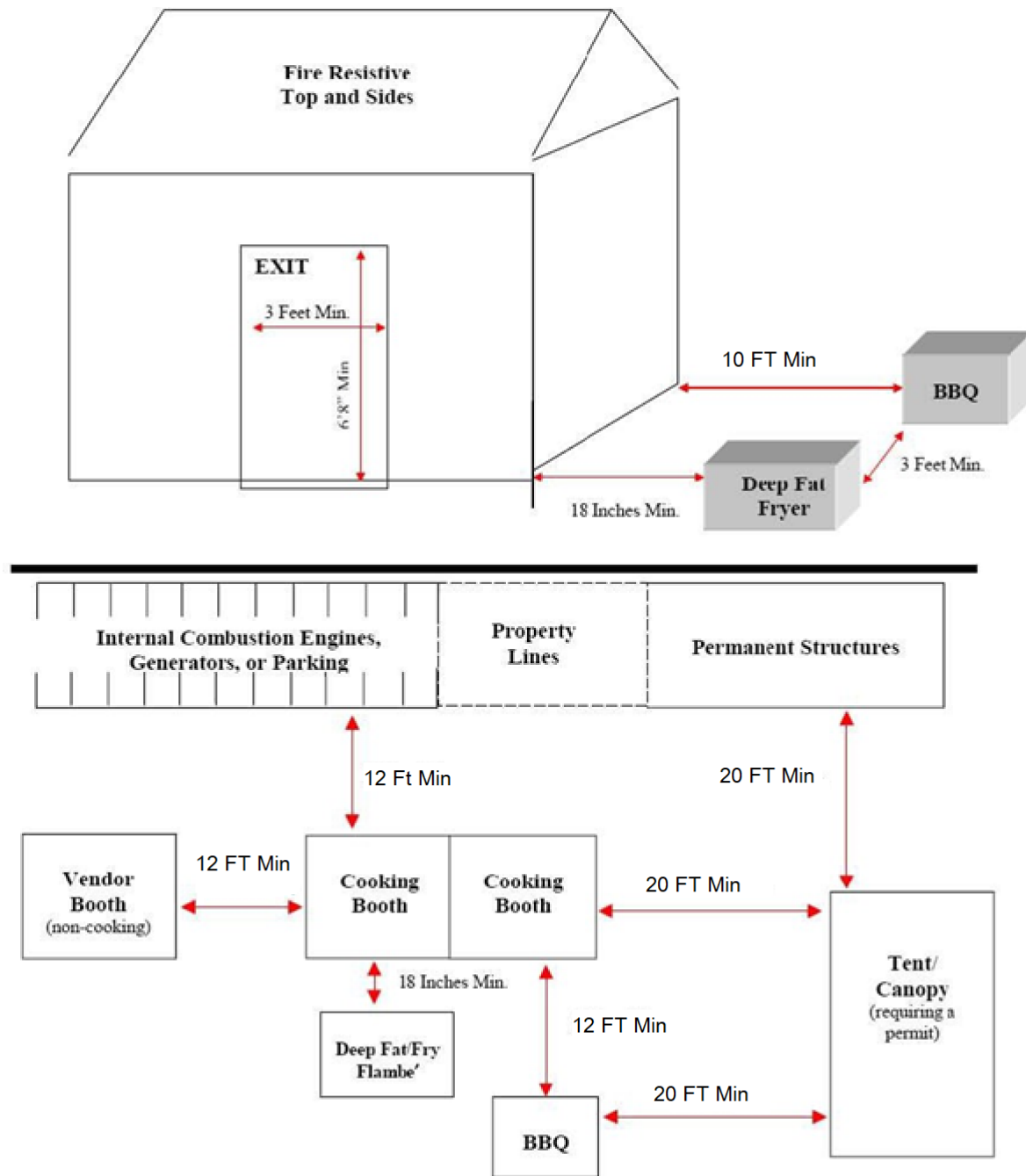
1. A visible and accessible, 2A:10BC fire extinguisher with a current (within the last 12 months) State Fire Marshall tag must be provided within 20' of travel in all cooking areas.
2. A visible and accessible Class K portable fire extinguisher with a current (within the last 12 months) State Fire Marshall tag must be provided in all cooking areas with deep fat frying.
3. All cooking areas shall be cleaned regularly to prevent build-up of combustible substances.
4. Extension cords shall be of a grounded type, approved for exterior use, and in good working order.
5. Smoking is not allowed at any time within food booths or within 25' of any fuel source.
6. Specialized cooking equipment is subject to approval by the Fire Marshal.

Additional Requirements:

The Porterville Fire Department has established these requirements in accordance with the California Fire Code. Your cooperation is required to maintain a high level of fire safety throughout the event. All booths are subject to fire department inspection prior to and at any time during the event. Any discrepancies to the above requirements or any conditions considered a threat to fire and life safety by the Fire Inspector may result in the immediate cessation of cooking.

By signing below, I acknowledge that I have read and agree to comply with all requirements of this contract.

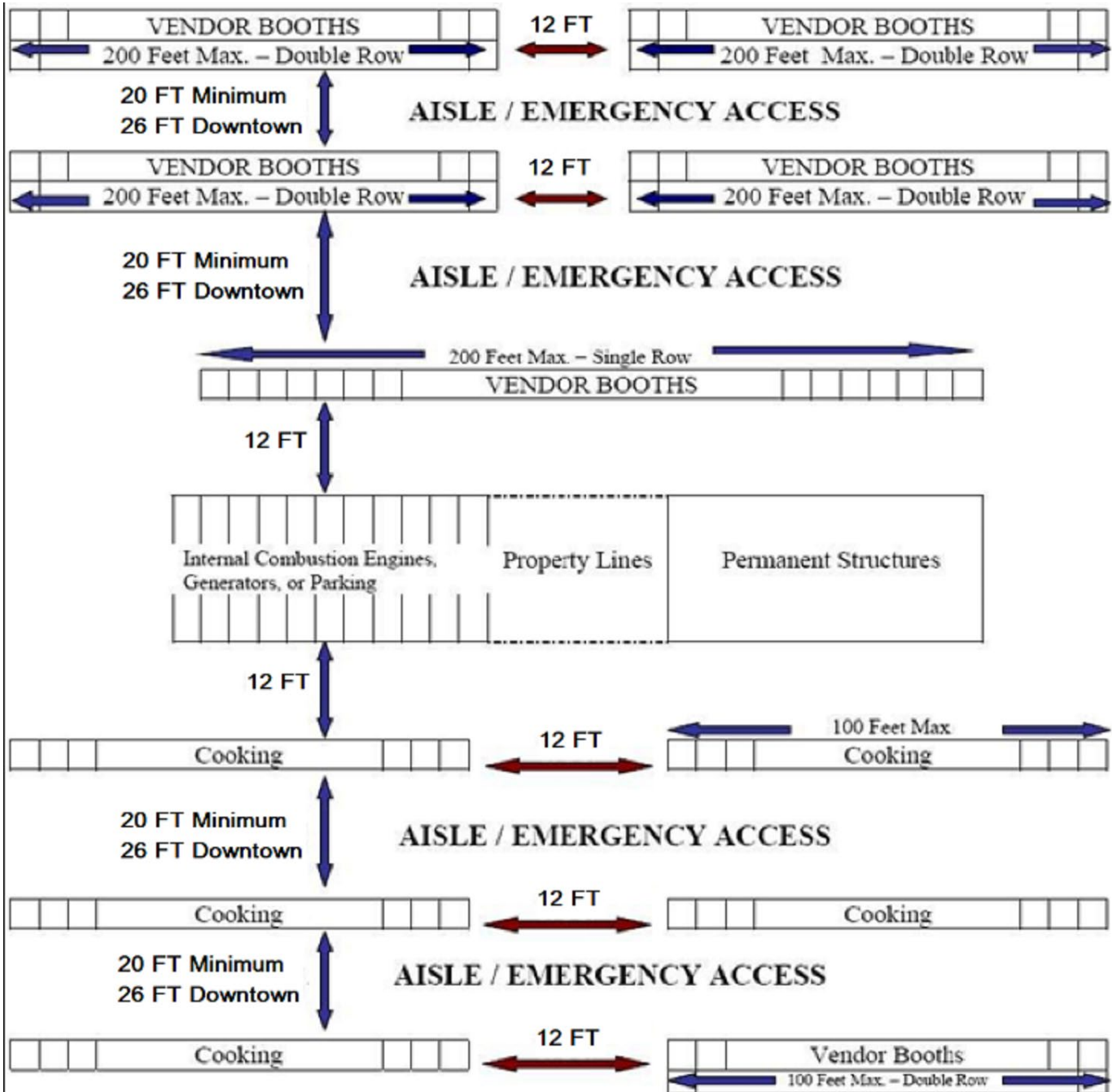
Signature _____ Date _____





PORTERVILLE FIRE DEPARTMENT

FIRE PREVENTION DIVISION



**Note: Cooking booths are limited to single rows only. Back-to-back rows are not permitted. Maximum overall length of individual rows is 100 feet with aggregate spacing throughout.*

***Note: Aggregate area of multiple tents placed side by side without 12 feet clearance shall not exceed 400 square feet with sides, or 700 square feet without sides. A minimum clearance of 12 feet to all structures and other tents is required.*

****Note: Maximum overall row length distances listed, or shown above, shall meet spacing requirements for aggregate size restrictions*

CITY OF PORTERVILLE
OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-9 & 18-14)



This application must be submitted ten (10) days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

- 1 Name and home address of the applicant: BERT MARTINEZ YARBROUGH, PORTERVILLE KIWANIS
P.O. BOX 1704, PORTERVILLE, CA 93257
- 2 Address where amplification equipment is to be used: COP SPORTS COMPLEX, 2701 W SCRANTON, POR
- 3 Names and addresses of all persons who will use or operate the amplification equipment: JAIME GOMEZ, 25433 AVE TERRA BELLA, CA 93270
- 4 Type of event for which amplification equipment will be used: SPEAKER/MIC
- 5 Dates and hours of operation of amplification equipment: 09/15/24 1000-1800 hours
- 6 A general description of the sound amplifying equipment to be used: MUSIC/ANNOUNCEMENTS

Section 18-9

It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, jukebox, record player, loudspeaker, musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort of the occupants of nearby residences.

The operation of any such instrument, phonograph, jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100') from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code § 6311)

Section 18-14

It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 6312)

Penal Code Section 415 (2) Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

I hereby certify that I have read and answered all statements on this registration form and that they are true and correct.

B. Yarbrough
Signature of Applicant

BERT MARTINEZ YARBROUGH, PORTERVILLE KIWANIS CLUB REPRESENTATIVE

8-9-24
Date

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

Mark Azevedo, Lieutenant
City of Porterville, Chief of Police/Designee

08/14/24
Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

8/2/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hylant - Indianapolis 10401 North Meridian St, Ste 200 Indianapolis IN 46290	CONTACT NAME: Lisa Christenson PHONE (A/C, No, Ext): 317-817-5172 E-MAIL ADDRESS: kiwaniscert@hylant.com FAX (A/C, No): 317-817-5151
INSURED Kiwanis International, All Clubs and Their Members 3636 Woodview Trace Indianapolis IN 46268	INSURER(S) AFFORDING COVERAGE INSURER A : Lexington Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F : NAIC # 19437

COVERAGES

CERTIFICATE NUMBER: 1387182736

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y		013136005	11/1/2023	11/1/2024	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 Liquor Liability \$ 1,000,000
A	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY			013136005	11/1/2023	11/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	☐ UMBRELLA LIAB ☐ EXCESS LIAB DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Self-Insured Retention			013136005	11/1/2023	11/1/2024	All Claims \$150,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Certificate Holder and others as defined in the written agreement are additional insured subject to the terms, conditions, and exclusions on the policy with respect to the General Liability only regarding the following Kiwanis event (setup, take down & rain date(s) during the policy term are included).

September 15th, 2024, or any future date(s) during the policy term.
End of summer vendor market
Located @ 2701 W Scranton Ave, Porterville
Kiwanis Club of Porterville

CERTIFICATE HOLDER**CANCELLATION**

City of Porterville
291 N. Main Street
Porterville CA 93257

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Judy K. Wilson

ENDORSEMENT

This endorsement, effective 12:01 AM 11/01/2023

Forms a part of policy no.: 013136005

Issued to: KIWANIS INTERNATIONAL, INC.

By: LEXINGTON INSURANCE COMPANY

ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

(Based on CG2026 04/13)

This endorsement modifies insurance provided by the following:

COMMERCIAL GENERAL LIABILITY POLICY

SCHEDULE

Name of Additional Insured Person(s) or Organization(s)

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

Information required to complete this Schedule, if not shown above, will be shown in the Declarations

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

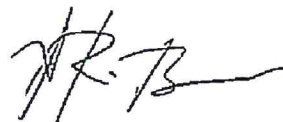
If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations;
whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations

All other terms and conditions of the policy remain the same.



Authorized Representative



City of Porterville Parks & Leisure Services

15 E Thurman Suite A
291 North Main Street
Porterville, CA 93257

559-791-7695
parks_leisure@ci.porterville.ca.us
<http://www.ci.porterville.ca.us/>

Registration/Payment Receipt 76179747

08/09/2024 08:47 AM

Account Information

Porterville Kiwanis
Bertha Yarbrough
552 E Date Ave
P.O. Box 1704
Porterville, CA 93257
155-935-9787

Payment

Cash \$75.00

Received By

Tonya Childree at Centennial Plaza

Item	Amount Paid
Sports Complex Field 5 Sep 15, 2024 7:00 AM-7:00 PM - Rental Fee: \$15 - Flat Fee	\$15.00
Fields Facilitator Fee	\$15.00
Sports Complex Field 6 Sep 15, 2024 7:00 AM-7:00 PM - Rental Fee: \$15 - Flat Fee	\$15.00
Sports Complex Field 7 Sep 15, 2024 7:00 AM-7:00 PM - Rental Fee: \$15 - Flat Fee	\$15.00
Sports Complex Field 8 Sep 15, 2024 7:00 AM-7:00 PM - Rental Fee: \$15 - Flat Fee	\$15.00
Subtotal	\$75.00
Total Payment	\$75.00

Prompt(s)

Please indicate an estimated number of people you are expecting to attend this function.
Community Event

Select type of event Community Event (Requires City Council Approval)

Facility Notes

Sports Complex Field 5

FIELDS, BALL DIAMONDS, AND COURTS

Rental time includes set-up, take-down and clean-up.

Flammable decorations including scenery shall be fire resistant or flame proofed in accordance with the requirements of the City Fire Department.

No device which produces flames, sparks, smoke or explosions shall be used in any facility without the approval of the City Fire Department.

Vehicles are to be parked in designated parking areas only. Vehicles must remain off the grass at all times. Vehicles parking outside of the designated parking areas may be cited. No person shall operate a motor vehicle in a city park without a permit per Municipal Code 17-10.13. A permit may be requested as stated in the code 5 days in advance for loading/unloading purposes only.

*Thank you for submitting a facility request. Every effort will be made to reserve the



End Of

SUMMER

VENDOR MARKET

MUSIC . FOOD . DRINK

VENDORS.CRAFTERS .NON PROFITS



SEPTEMBER 15, 2024

10AM-6PM

SPORTS COMPLEX

2701 W SCRANTON AVE, PORTERVILLE





CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Approval of Community Civic Event - American Conservatory - Parking Lot Party/Cornhole Tournament - September 28, 2024

SOURCE: Finance

COMMENT: The American Conservatory is requesting approval to hold the "Parking Lot Party - Cornhole Tournament" event on Saturday, September 28, 2024, from 4:00 PM to 12:00 AM. The applicant is requesting the closure and use of the alley and the public parking lot behind the Mecca and the adjacent buildings to the south of the Mecca off of Second Street on Saturday, September 28, 2024, from 8:00 AM until 6:00 AM, Sunday, September 29, 2024, to account for set up and cleanup of the event.

The event will feature a Cornhole Tournament with live music, food vendors, games, and a beer garden in the parking lot behind the Mecca. An outside amplifier permit has been approved from 4:00 PM to 10:00 PM. A 6-foot chain link fence will be required to enclose the entire outside event area to allow for the consumption of alcohol.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the Ordinance regulations and reviewed by all City Departments involved. All requirements and restrictions are listed on the attached copy of the Application and Agreement, Exhibit A, Exhibit B, and Exhibit C.

RECOMMENDATION: That the City Council approve the Community Civic Event application from the American Conservatory to hold the "Parking Lot Party - Cornhole Tournament" event on September 28, 2024, subject to the requirements and restrictions contained in the Application and Agreement, Exhibit A, Exhibit B, and Exhibit C.

ATTACHMENTS:

1. CCE Application and Agreement, Map, Exhibit A, Exhibit B, Exhibit C, Outside Amplifier Permit, and Certificate of Liability Insurance

Appropriated/Funded:

Review By:

Department Director:
Janie Rodriguez, Finance Director

Final Approver: Patrice Hildreth, City Manager

CITY OF PORTERVILLE

291 N. Main Street, Porterville, CA 93257
559-782-7451 Fax: 784-4569 www.ci.porterville.ca.us



(Incomplete applications can delay permit process)

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

DO YOU HAVE? Event Flyer? E-mail address? Website?
Application date: 7/9/24 Event date: 9/28/24 (set up)
Event time: 4pm - 12am 8am - 6am
Name of Event: Parking lot Party - cornhole tournament

Sponsoring organization: American Conservatory Phone #
Address: 33167 Hwy 190 E Springville Ca 93265
Authorized representative: Korey Wells Phone # (614) 747-1739
Address: 1283 S. Plano St. Porterville Ca. 93257
Event chairperson: Massey Missakian Phone # (559) 781-3033
- 83 W. Main St., Porterville Ca. 93257
Location of event Parking lot directly behind the Mecca

(Location map must be attached)

Description of event: "Parking lot Party" Cornhole tournament,
food, music (DJs), beer garden

Purpose of event: to unite the community. Bring people downtown
Non-profit organization status: 501 (C)(3) EIN # 92-3826372

(IRS Determination)

City services requested (fees associated with these services will be billed separately):
Barricades (quantity): 4 areas Street sweeping Yes ☐ No ☒
Police protection Yes ☐ No ☒ Refuse pickup Yes ☐ No ☒
Other: _____

Parks facility application required: Yes ☐ No ☒ Attached ☐
Assembly permit required: Yes ☐ No ☒ Attached ☐

STAFF COMMENTS (list special requirements or conditions for event):

Appr.	Deny		
_____	_____	Bus. Lic. Spvr.	_____
_____	_____	Pub. Works Dir	_____
_____	_____	Comm. Dev. Dir.	_____
_____	_____	Field Svcs. Mgr.	_____
_____	_____	Fire Chief	_____
_____	_____	Parks Dir.	_____
_____	_____	Police Chief	_____
_____	_____	Risk Manager	_____

CITY OF PORTERVILLE

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

What constitutes a Community Civic Event?

A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures. This application must be submitted NO LESS THAN 30 DAYS PRIOR to the date of the event in order to obtain City Council approval.

All City Code requirements are described in ordinance 15-20 (e) 1-23 and as amended in ordinance 1613. For a full description please visit our City of Porterville website at www.ci.porterville.ca.us/govt/CityClerk/, Porterville Municipal Codes. For questions or concerns please call 559-782-7451 or 559-782-7457. Any person who violates the provisions in this code, shall be deemed guilty of either a misdemeanor or an infraction, with penalties of one hundred (\$100) for the first violation.

Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. The sponsoring organization/applicant's insurance coverage shall apply as primary to, and on a non-contributory basis with, any other available coverage of the City. The City of Porterville and Successor Agency to the Porterville Redevelopment Agency shall be named as additional insured. A Certificate of Liability Insurance and Additional Insured Endorsement sample forms are enclosed for your convenience. This original certificate and endorsement shall be submitted to the Finance Department with the application. *The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than two million dollars (\$2,000,000.00) per occurrence of bodily injury and property damage, combined single limit. (Ordinance 15-20(e) 18)*

Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include full liquor liability in an amount not less than one million dollars (\$1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permitted, his/her agents or representatives pursuant the permit. Claims-made policies are not acceptable.

Health permit: Organization/Applicant will obtain or ensure that all participants obtain a 'Temporary Food Facilities' permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental Health Department located at 5957 S. Mooney Blvd., Visalia, CA, 93277, call 559-733-6441, or fax information to 559-733-6932; or visit their website: www.tularehhsa.org.

First aid station: Organization/Applicant will establish a first aid station, with clearly posted signs, to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

Toilet rental service: Applicant shall have care, custody and control of the equipment and shall bear responsibility and liability for all loss and damage to the equipment and for its contents while at the City's location. Applicant shall not overload, move or alter the equipment and shall use the equipment for its intended purpose. Applicant shall be responsible for any damages to City's property resulting from company's provision of services hereunder. Applicant shall confirm with the service company the number of portable toilets, standard and handicap, and wash sinks needed for the number of expected attendees.

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 15-20(e), as amended, and the terms and conditions set forth by City Council and stated in Exhibit 'A.' The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind or character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of any kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees. Approval of the Community Civic Events Permit by the Porterville City Council pertains only to authorized activities conducted at designated locations within the incorporated area of the City of Porterville, and such approval shall not be construed or interpreted to authorize sponsor utilization of public right-of-ways outside of the jurisdiction of the City of Porterville.

The Mecca
(Name of Organization)

Harvey Hester
(Signature)

7/9/24
(Date)

CITY OF PORTERVILLE

VENDOR/PARTICIPANT LIST IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Mecca & Second Parking lot Party

Sponsoring organization: American Conservatory

Location: Parking lot behind the Mecca Event date: 9/29/24 Event time: 4pm-12am

All vendors are required to complete the business license permit form. List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. **NO PERMIT WILL BE ISSUED WITHOUT THIS INFORMATION.** Vendors with no valid City of Porterville business license are required to pay \$1 per day to the City, with the exceptions of non-profit organizations per *City of Porterville Municipal Code 15-20(E) Community Civic Events (16). This form should be completed at the time of application, but must be submitted **NO LESS THAN TWO WEEKS PRIOR TO THE EVENT.**

[illegible]

*Municipal Code 15-20(E) Community Civic Events (16): Business License Fees: Any individual, company, firm, concessionaire, fair operator, carnival operator, etc., who engages in, conducts, organizes, or promotes business for profit shall pay a business license fee of one dollar (\$1.00) per day per amusement, entertainment, exhibit, ride or per booth, space, stall, stand or other unenclosed location used for the purpose of advertising, promoting, or sale of, or taking orders for, goods or services; except that no individual, company, firm, concessionaire, fair operator, carnival operator, etc., who possesses a valid city business license shall be subject to separate licensing pursuant to this subsection E16. The nonprofit sponsor shall collect said fee and remit the fee to the city within five (5) working days following the CCE. Said remittance shall be accompanied by a complete list of participants and consecutively numbered receipts written in triplicate, containing the name, address and telephone number of the licensee, and the licensee's California seller's permit number. Said receipts shall be furnished by the city. One copy of the receipt shall be furnished to the licensee, one copy filed with the finance department of the city, and one copy retained by the CCE sponsor for a period of three (3) years for audit purposes.

CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY
TO BE HELD ON PUBLIC PROPERTY

Name of event: Mecca & Second "Parking lot Party"

Sponsoring organization: American Conservatory

Event date: 9/28/24 Hours: 8am - 6am

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

Closed

<u>Street Name</u>	<u>From which Street</u>	<u>To which Street</u>	<u>Activity</u>
--------------------	--------------------------	------------------------	-----------------

<u>Sidewalks</u>	<u>From which sidewalk</u>	<u>To which sidewalk</u>	<u>Activity</u>
------------------	----------------------------	--------------------------	-----------------

<u>Parking lots and spaces</u>	<u>Location</u>	<u>Activity</u>
--------------------------------	-----------------	-----------------

alley parking lot

behind the Mecca
Second St. - behind
the Mecca

conhde
tournament



Requirements for Community Civic Event
American Conservatory
Parking Lot Party – Cornhole Tournament
September 28, 2024

City Engineer: <i>D. Cervantez</i>	No comments.
Community Development Director: <i>C. Calderon</i>	No comments.
Public Works Director: <i>M. Knight</i>	No comments.
Fire Marshal: <i>C. Dignam</i>	Please see Exhibit C.
Parks and Leisure Services Director: <i>D. Moore</i>	No comments.
Police Lieutenant: <i>M. Acevedo</i>	Please see Exhibit B.
Administrative Service Director: <i>Y. Andrade</i>	Risk Management requires \$2M in general commercial liability coverage, evidenced by a certificate of insurance naming the City of Porterville as an additional insured. The Certificate of Insurance must also include the endorsement page.
Field Services Superintendent: <i>B. Spry</i>	No comments.
Field Services Superintendent – Streets: <i>J. Baeza</i>	No comments.

Requirements for Community Civic Event

Sponsor: American Conservatory
Event: Parking Lot Party – Cornhole Tournament
Event Chairman: Massey Missakian
Location: Parking lot behind The Mecca on Second St., Porterville CA
Date of Event: September 28, 2024 (6:00 a.m. – 2:00 a.m.)

RISK MANAGEMENT: Conditions of Approval

That the American Conservatory provide a Certificate of Commercial General Liability Insurance Coverage of \$ 2,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as 'Additional Insured' against all claims arising from, or in connection with, the Permitted operation and sponsorship of the aforementioned Community Civic Event.

- A. The Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than \$1,000.
- B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A: VII, and the insurance company must be an 'admitted' insurer in the State of California.

**CITY OF PORTERVILLE/POLICE DEPARTMENT
Community Civic Event Application**

**Parking Lot Party Cornhole Tournament
September 28, 2024 8:00 AM—6:00 AM
170 N. Main Street (and Parking Lot to the Rear of the Business)**

Proposed Conditions/Requirements for Downtown Event:

- City Council approval is required for all street and/or alley closures.
- On all streets/alleys approved for closure, ensure adequate barricades/barriers are used to warn motorists of non-access and prevent vehicle access to those designated areas.
- 6' chain link fencing or other suitable barrier will be needed to restrict access from the parking lot so as to monitor ingress / egress from the event. All ingress / egress points to the event must be monitored by event organizers and / or security to ensure nobody under the age of 21 is allowed into the beer garden.
- Event organizers shall ensure only patrons wearing clearly displayed and authorized wristbands, as provided by event organizers, can purchase and consume alcoholic beverages.
- At no time shall alcoholic beverages be possessed or consumed outside the designated area for the event.
- Food vendors should provide inspection certificates from the Tulare County Health Department to members of the organizing committee, to ensure food product safety.
- If event organizers anticipate the need for removal of parked vehicles from public roadways or alleys related to the event, the affected public roadway/alley must be posted by organizer with appropriate signage no less than 24 hours in advance of the event. Said signs and associated posting must meet minimum requirements as established by the California Vehicle Code. (Recommend event organizers contact Sergeant Jay Starling of the Porterville Police Department/Traffic Unit in order to ensure that signs meet the requirements as established by law).
- An Outside Amplifier Permit has been approved and granted. However, event organizers shall not allow music to be played so loud as to unreasonably disturb the peace and good order of any residents or business establishments in the surrounding area.
- At conclusion of event, event organizers shall ensure parking lot is promptly cleared of any equipment, booths, or anything that could present a hazard to pedestrians or vehicles traveling through this area.

Mark Azevedo, Lieutenant
Porterville Police Department

Exhibit B

**City of Porterville/Fire Department
Community Civic Event Application**

**Parking lot Party – Cornhole Tournament
September 28, 2024 6:00 AM – 2:00 AM
170 N. Main Street (and Parking Lot to Rear of the Business)**

To allow for the consumption of alcohol in the outdoor event area, the entire area shall be closed off with temporary chain link fence panels, no less than six feet (6') in height. Barricades and signage will be required at the alley and parking lot entrances to prevent vehicular access. Barricades can be requested from the Public Works, Field Services Division.

There shall be a minimum of 4 exit points with at least a four foot (4') opening to the public way, no less than thirty feet between exits. Exit signs shall be affixed to the fencing at these locations. Exits do not have to be an entry point, but must remain open in the event of an emergency, this may require additional staff to restrict entry at these points.

All tents, tarps, or canopies used for any reason, shall have an affixed and legible label showing the fire resistance rating meets the California Code of Regulations and currently adopted edition of the Fire Code.

Generators shall be a minimum of 25 feet from any structure, tent, canopy, tarp, or stage.

There shall be a minimum 2A:10BC rated fire extinguisher within 75' travel distance from any point inside the fenced area.

If event is all ages and alcohol will be on site, site plan must show beer garden location with security guard stations. If event is ages 21+ and alcohol will be on site, site plan must show where security guards will be stationed.

Security guards shall be required for each exit, and at a rate of 1 per 75 persons as calculated by the occupant load, whichever is greater.

All members of security shall be clearly identified to prevent any confusion with patrons.

Clayton Dignam
Porterville Fire Department



PORTERVILLE FIRE DEPARTMENT

FIRE PREVENTION DIVISION

OUTDOOR FOOD BOOTH REQUIREMENTS

Authority cited: 2019 California Fire Code (CFC)

These standards apply to individual tents, temporary structures, or membrane structures less than 200 square feet in area, and canopies less than 400 square feet in area used as outdoor carnival and fair booths.

A permit is required before any tent or membrane structure larger than 400 square feet can be erected. (California Fire Code 3103.2)

Tents and membrane structures having an area in excess of 400 square feet shall not be erected, operated or maintained for any purpose without first obtaining a permit and approval from the building official and fire code official.

Exceptions:

1. Tents used exclusively for recreational camping purposes.
2. Tents open on all sides which comply with all the following:
 - a. Individual tents having a maximum size of 700 square feet.
 - b. Aggregate area of multiple tents placed side by side without 12 feet clearance, not exceeding 700 square feet total.
 - c. A minimum clearance of 12 feet to all structures and other tents.

Definitions

Cooking Booth – Booth where food is prepared by a heating or cooking process such as, but not limited to, grilling, frying, barbecuing, flambe', deep fat frying, baking, warming, or boiling. **Deep fat frying** – Any cooking operation or process whereby the product floats or is submerged in hot oil during the cooking process.

Vendor Booth – Any booth other than a cooking booth.

Cooking Booth Construction and Location

- All fabrics or membranes covering cooking booths shall be California State Fire Marshal certified flame retardant and be labeled as such.
- Decorative materials shall be inherently fire resistive or shall be treated with a fire-retardant spray.
- Flooring materials used within cooking booths and cooking equipment shall be non-combustible or California State Fire Marshal certified fire-retardant. (*Exception 3/8" plywood or similar material.*)
- Each cooking booth shall have at least one exit-way, a minimum **3'** wide and **6'8"** high. Booth frames shall not obstruct exit paths.
- Cooking booths shall have a minimum clearance of **10'** on at least two sides with clearance of at least **10'** from any vendor booth.
- Minimum **12'** separation required between cooking booths with an aggregate size of 400 sq.ft. with sides, or 700 sq.ft. without sides.

Cooking Equipment

- All interior cooking equipment shall be of an approved type, and open-flame cooking shall be located a minimum of **18"** from booth back/side drop materials.
- Compressed gas (butane, propane, or natural) equipment shall conform to the following:
 - Shut off valves shall be provided at each fuel source;
 - Cooking appliances shall have an ON-OFF valve located far enough away from the appliance to be safely shut off in case of fire;
 - Manufactured cooking appliances shall be equipped with a Thermocouple Valve to shut off fuel if flame is extinguished;
 - The booth operator shall test all connections for leaks with soap and water solution;
 - Fuel tanks shall be protected from damage and secured in an upright position;
 - Hoses shall be of a type approved for use with the equipment and fuel type;
 - Tanks not in use shall be turned off;
 - Extra fuel tanks shall not be stored in booths;
 - Unused fuel cylinders shall be stored in a secured position.



PORTERVILLE FIRE DEPARTMENT

FIRE PREVENTION DIVISION

Wood, Charcoal (Solid Fuels) Cooking

- Use only an electric starter or commercially sold lighter fluid.
- Charcoal cooking and storage of lighter fluid is prohibited inside booths.
- Charcoal cooking shall be located a minimum of ten **10'** away from booths and in areas away from public access.
- Charcoal cooking shall be located at least ten **10'** away from combustible structures and parked vehicles.
- Coals shall be disposed of in metal containers with lids approved by the Fire Marshal.

Deep Fat Frying, Flambé, and Wok

- Deep fat frying, flambé, and wok shall be located **no closer than 18"** from any combustible material.
- Cooking areas shall not be accessible to the public.
- Deep fat frying equipment shall be equipped with a temperature regulating device or other method of regulating temperatures approved by the Fire Marshal.
- Separation shall be maintained with a minimum of **3'** clearance between deep fat frying and flambé or open flame cooking.

Vendor Booth Construction and Location

- Each vendor booth shall have at least one exit-way, a minimum of **3'** wide by **6'8"** high. Booth frames shall not obstruct exit paths.
- Vendor booths shall have a minimum clearance of **20'** on at least one side, with clearance of at least **10'** from any cooking booth.

Electrical Power

- Generators shall be placed only in locations approved for festival use.
- Generators shall not be refueled during event hours. Extra fuel shall not be stored during event hours.
- Smoking and open flames shall be prohibited within **25'** of refueling operations.
- Extension cords shall be of a grounded type and approved for exterior use.

Fire Extinguishers

- Each cooking booth shall be equipped with a fire extinguisher with a minimum rating of **2A: 10BC**. Booths with deep fat frying or flambé cooking shall be equipped with an extinguisher rated for **class "K" fires**.
- Cooking booths shall be equipped with visible and accessible fire extinguishers mounted adjacent to the exit.
- For vendor booths, the maximum travel distance to a fire extinguisher with a minimum rating of **2A: 10BC** shall not exceed **75'**
- Each generator shall be provided with a fire extinguisher with a minimum **40BC** rating. The extinguisher shall be located near the generator and accessible at all times.
- All fire extinguishers shall be serviced and tagged annually by a State-licensed contractor.

Miscellaneous

- The Porterville Fire Department shall be provided with a site plan showing emergency access.
- All booths are subject to inspection by the Fire Department and any discrepancies will require immediate action.
- All cooking areas shall be cleaned regularly to prevent the build-up of grease.
- There shall be a competent adult in cooking booths at all times to ensure safety.
- Seating shall be a minimum of **15'** from booths with open flame devices or cooking appliances.
- The Fire Department shall be provided with a telephone number of the responsible party to contact in case of emergency on a 24 hour basis.

Fire Safety Tips

- Know where fire extinguishers are and how to use them.
- Do not leave cooking unattended.
- Do not wear loose-fitting clothing while cooking.
- Remove trash accumulation regularly.
- Keep combustible materials away from heat sources.
- **In case of an emergency dial 9-1-1.**

The attached "Food Booth Vendor Agreement" must be on site at all times and presented upon request of any Porterville Fire Department Personnel.



Cooking Booth Vendor Agreement

Booth/Space # _____ Business Name _____
On Site Contact Name _____ Contact Phone # _____

Cooking Booth Construction and Location

1. Tents, canopies, and decorative material shall be inherently flame-resistive and proof of certification shall be on site at all times.
2. Cooking booth floors may be concrete, asphalt, or plywood over grass and dirt.
3. An emergency access of 36" shall be maintained between the back of each cooking booth and any fencing at all times. **NO EXCEPTIONS.**

Cooking Equipment

1. Cooking with charcoal, wood, or other solid fuel shall be located a **minimum of 10'** away from booths, canopies, combustible material or any public access.
2. Deep fat frying shall be located a **minimum of 3'** away from booths, canopies, open flame cooking, combustible material or any public access.
3. Any open flame cooking shall be located a **minimum of 18"** away from any vertical surface, combustible material or any public access.
4. Extra fuel tanks shall **NOT** be stored in booths or within 5' of cooking equipment.
5. All cooking, gas powered, or electrically energized equipment shall meet manufacturer specifications and shall be free of excess cooking oils or any other combustible materials.

Miscellaneous

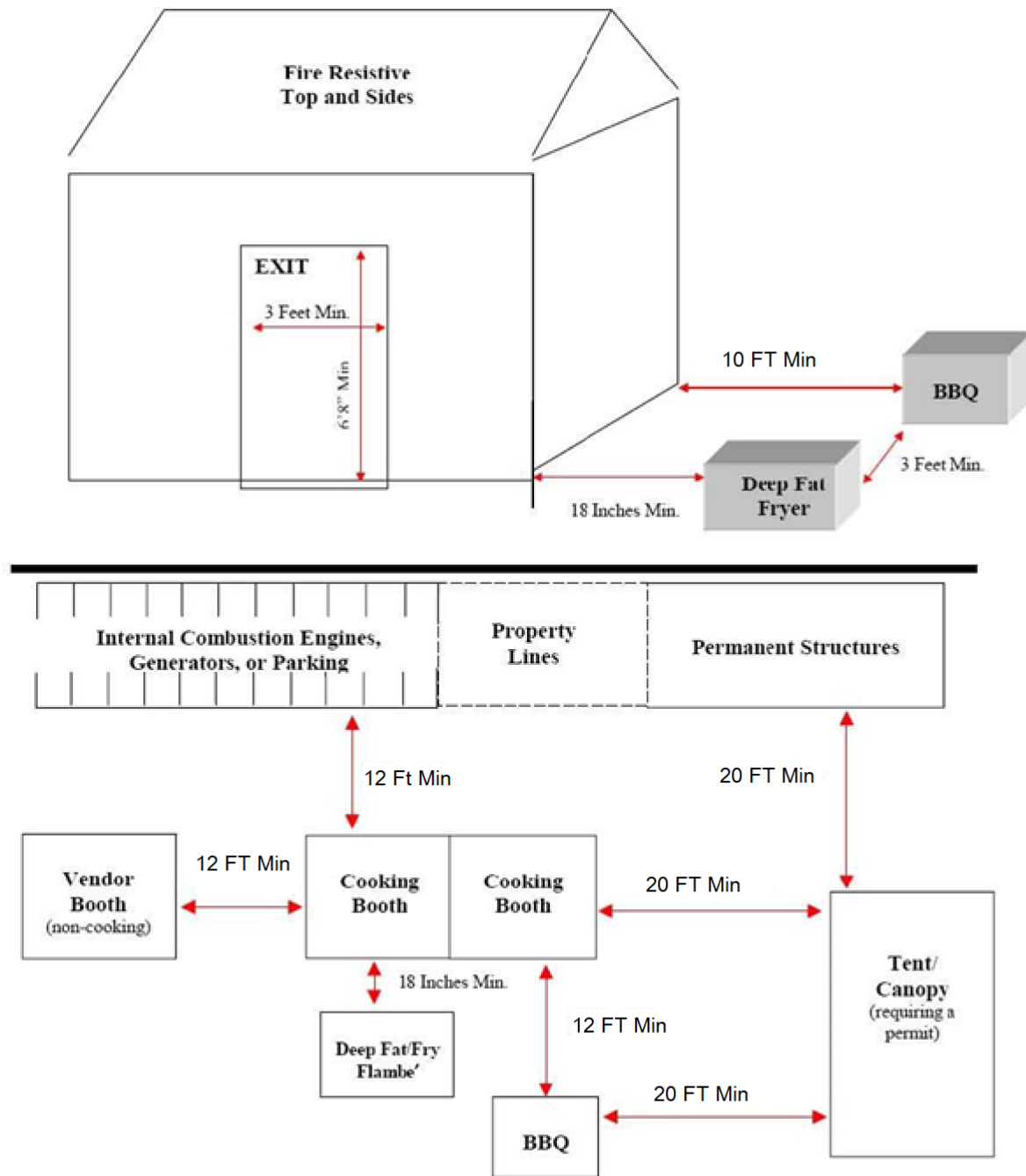
1. A visible and accessible, 2A:10BC fire extinguisher with a current (within the last 12 months) State Fire Marshall tag must be provided within 20' of travel in all cooking areas.
2. A visible and accessible Class K portable fire extinguisher with a current (within the last 12 months) State Fire Marshall tag must be provided in all cooking areas with deep fat frying.
3. All cooking areas shall be cleaned regularly to prevent build-up of combustible substances.
4. Extension cords shall be of a grounded type, approved for exterior use, and in good working order.
5. Smoking is not allowed at any time within food booths or within 25' of any fuel source.
6. Specialized cooking equipment is subject to approval by the Fire Marshal.

Additional Requirements:

The Porterville Fire Department has established these requirements in accordance with the California Fire Code. Your cooperation is required to maintain a high level of fire safety throughout the event. All booths are subject to fire department inspection prior to and at any time during the event. Any discrepancies to the above requirements or any conditions considered a threat to fire and life safety by the Fire Inspector may result in the immediate cessation of cooking.

By signing below, I acknowledge that I have read and agree to comply with all requirements of this contract.

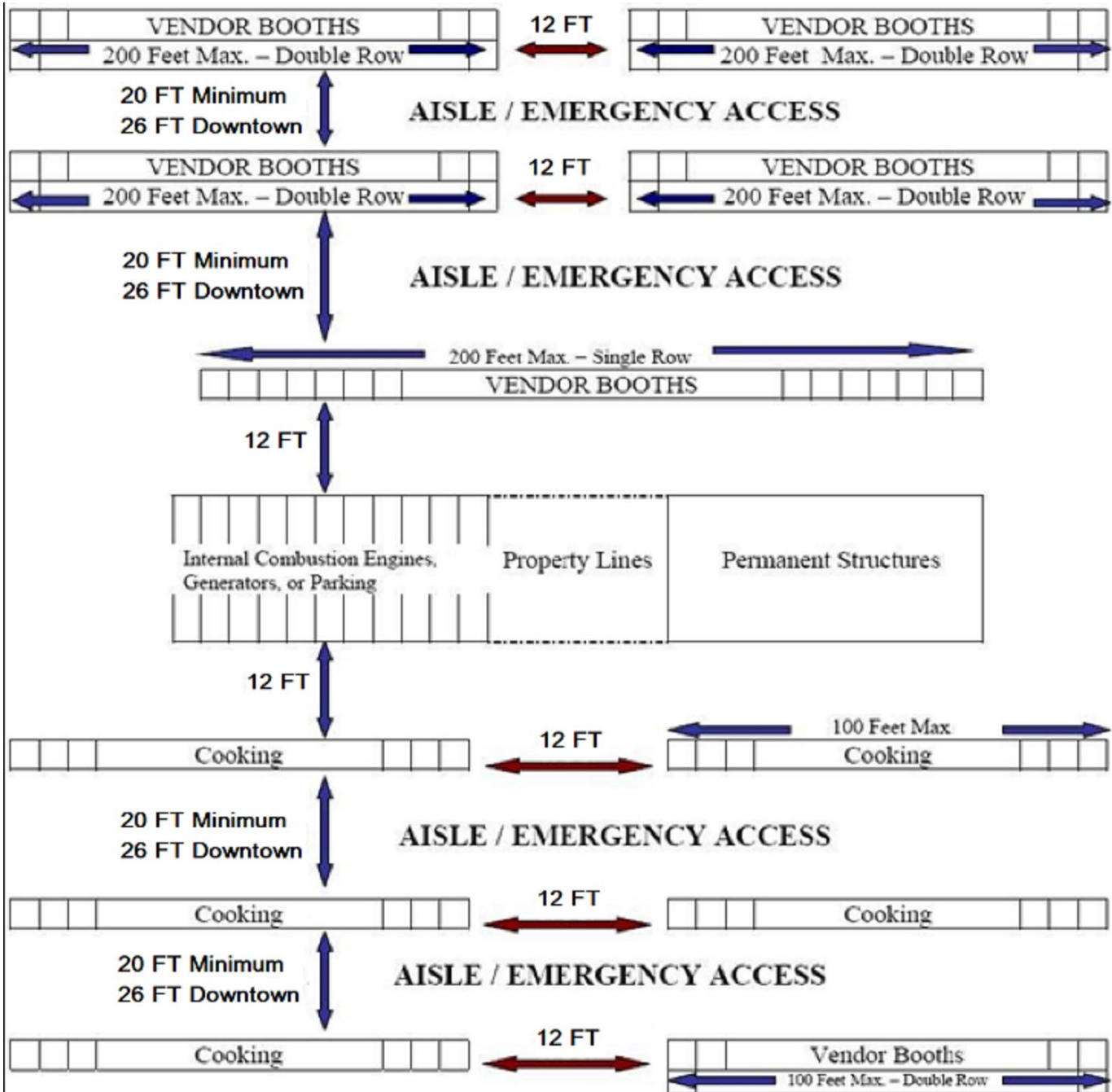
Signature _____ Date _____





PORTERVILLE FIRE DEPARTMENT

FIRE PREVENTION DIVISION



**Note: Cooking booths are limited to single rows only. Back-to-back rows are not permitted. Maximum overall length of individual rows is 100 feet with aggregate spacing throughout.*

***Note: Aggregate area of multiple tents placed side by side without 12 feet clearance shall not exceed 400 square feet with sides, or 700 square feet without sides. A minimum clearance of 12 feet to all structures and other tents is required.*

****Note: Maximum overall row length distances listed, or shown above, shall meet spacing requirements for aggregate size restrictions*

CITY OF PORTERVILLE
OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-9 & 18-14)



This application must be submitted ten (10) days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

- 1 Name and home address of the applicant: Massey Missakian
1211 W. Northgrand Ave.
- 2 Address where amplification equipment is to be used: 170 N. Main St.
- 3 Names and addresses of all persons who will use or operate the amplification equipment: (see above), Matt Rosa 1116 San Carlos St. Massey Missakian
- 4 Type of event for which amplification equipment will be used: Parking lot Party
- 5 Dates and hours of operation of amplification equipment: 4pm - 10 pm 9/28/24
- 6 A general description of the sound amplifying equipment to be used: Speakers for D.J.

Section 18-9

It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, jukebox, record player, loudspeaker, musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort of the occupants of nearby residences.

The operation of any such instrument, phonograph, jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100') from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code § 6311)

Section 18-14

It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 6312)

Penal Code Section 415 (2)

Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

I hereby certify that I have read and answered all statements on this registration form and that they are true and correct.

Signature of Applicant

7/9/24
Date

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

Mark Azevedo, Lieutenant
City of Porterville, Chief of Police/Designee

07/16/2024
Date



CERTIFICATE OF LIABILITY INSURANCE

MECCPAR-01

MHERNANDEZ

DATE (MM/DD/YYYY)

5/7/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0D44424

INSURICA
PO Box 1960
Porterville, CA 93258

CONTACT NAME: Mayra Hernandez

PHONE (A/C, No, Ext): (559) 784-5113

FAX (A/C, No):

E-MAIL ADDRESS: Mayra.Hernandez@INSURICA.com

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: United States Liability Insurance Company

25895

INSURER B:

INSURER C:

INSURER D:

INSURER E:

INSURER F:

INSURED

Mecca Partners Corporation DBA: Mecca
33597 C Globe Dr.
Springville, CA 93265

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR VWD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																																	
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:	X		CP1798627A	10/14/2023	10/14/2024	<table border="1"><tr><td>EACH OCCURRENCE</td><td>\$</td><td>1,000,000</td></tr><tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$</td><td>100,000</td></tr><tr><td>MED EXP (Any one person)</td><td>\$</td><td>5,000</td></tr><tr><td>PERSONAL & ADV INJURY</td><td>\$</td><td>1,000,000</td></tr><tr><td>GENERAL AGGREGATE</td><td>\$</td><td>2,000,000</td></tr><tr><td>PRODUCTS - COMP/OP AGG</td><td>\$</td><td>2,000,000</td></tr><tr><td>HIRE AND NONOWN</td><td>\$</td><td>Included</td></tr><tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$</td><td></td></tr><tr><td>BODILY INJURY (Per person)</td><td>\$</td><td></td></tr><tr><td>BODILY INJURY (Per accident)</td><td>\$</td><td></td></tr><tr><td>PROPERTY DAMAGE (Per accident)</td><td>\$</td><td></td></tr></table>	EACH OCCURRENCE	\$	1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	100,000	MED EXP (Any one person)	\$	5,000	PERSONAL & ADV INJURY	\$	1,000,000	GENERAL AGGREGATE	\$	2,000,000	PRODUCTS - COMP/OP AGG	\$	2,000,000	HIRE AND NONOWN	\$	Included	COMBINED SINGLE LIMIT (Ea accident)	\$		BODILY INJURY (Per person)	\$		BODILY INJURY (Per accident)	\$		PROPERTY DAMAGE (Per accident)	\$	
EACH OCCURRENCE	\$	1,000,000																																						
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PROPERTY DAMAGE (Per accident)	\$																																							
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$			CUP1574597	10/20/2023	10/20/2024	<table border="1"><tr><td>EACH OCCURRENCE</td><td>\$</td><td>1,000,000</td></tr><tr><td>AGGREGATE</td><td>\$</td><td>1,000,000</td></tr><tr><td>PER STATUTE</td><td></td><td></td></tr><tr><td>OTH-ER</td><td></td><td></td></tr><tr><td>E.I. EACH ACCIDENT</td><td>\$</td><td></td></tr><tr><td>E.I. DISEASE - EA EMPLOYEE</td><td>\$</td><td></td></tr><tr><td>E.I. DISEASE - POLICY LIMIT</td><td>\$</td><td></td></tr></table>	EACH OCCURRENCE	\$	1,000,000	AGGREGATE	\$	1,000,000	PER STATUTE			OTH-ER			E.I. EACH ACCIDENT	\$		E.I. DISEASE - EA EMPLOYEE	\$		E.I. DISEASE - POLICY LIMIT	\$													
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E.I. DISEASE - EA EMPLOYEE	\$																																							
E.I. DISEASE - POLICY LIMIT	\$																																							
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A																																					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
City of Porterville is listed as an Additional Insured with respect to General Liability if required or agreed to in a written contract subject to all provisions and limitations of the policy, per attached form#CG2011 04/13.

CERTIFICATE HOLDER

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

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person(s) Or Organization(s) (Additional Insured):

Effective Date: 10/18/2023 12:01 AM

CITY OF PORTERVILLE

291 N. MAIN ST.

PORTERVILLE, CA 93257

Designation of Premises (Part Leased To You):

170 N MAIN STREET

PORTERVILLE, CA 93257

Additional Premium: \$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II - Who is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.



CITY COUNCIL AGENDA – MAY 7, 2024

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 April 16, 2024, the Council reviewed and acted to renew the emergency declaration. Staff continues to work with FEMA for resolution of the City's claims and will continue to work to identify a timeline and critical path forward.

Chronology:

On March 10, 2023, due to the volume of water added to Success Lake from significant storm activity, Tulare County Sheriff Mike Boudreaux issued an Evacuation Warning for both the north and south sides of the Tule River, and the Tulare County Office of Emergency Services (TCOES) established a Temporary Evacuation Point (TEP) and Emergency Shelter in the gymnasium at Porterville College.

On March 15, 2023, due to the water level of Success Lake rising to the point of running over the spillway of the Richard L. Schafer Dam, Sheriff Boudreaux issued a Mandatory Evacuation Order for the residences, businesses and structures between Schafer Dam and Road 284, east of the city of Porterville.

On March 18, 2023, due to water levels dropping on the Tule River, Sheriff Boudreaux reduced the Mandatory Evacuation Order back to an Evacuation Warning.

On March 15, 2023, due to rising flood waters, Sheriff Boudreaux issued a Mandatory Evacuation Order for the area between Olive Avenue (Avenue 152) to Avenue 144 and the Friant-Kern Canal and the Tule River and Westwood Street, west of the city of Porterville. On March 25, 2023, Sheriff Boudreaux reduced the Mandatory Evacuation Order back to an Evacuation Warning.

On March 15, 2023, due to rising water levels of the Tule River, City Public Works Department staff took extraordinary measures to protect the neighborhood north of River Springs Drive, avoiding potentially catastrophic flooding of the area.

On March 16, 2023, due to the historic water levels and flows of the Tule River causing erosion to the river banks, Police Chief Jake Castellow issued a Mandatory Evacuation Order for eight residences along Rio Vista Avenue, providing information on the TEP and Emergency Shelter established at Porterville College. City Public Works Department staff took extraordinary measures over the next several days to mitigate and protect the river banks from affecting the residences. On March 24, 2023, Chief Castellow reduced the Mandatory Evacuation Order of the eight residences back to an Evacuation Warning.

On March 19, 2023, due to continued erosion of the banks of the Tule River and the performance of immediate necessary mitigation efforts by Public Works Department personnel, Chief Castellow issued a Mandatory Evacuation Order for both the north and south banks of the Tule River within City limits (not including permanent structures with a designated address), and provided information on the TEP and Emergency Shelter established at Porterville College. The Public Works Department continues to work diligently in shoring the banks of the Tule River.

To accommodate upcoming ceremonies and events in the gymnasium at Porterville College, the TEP and Emergency Shelter at the College closed at noon on April 11, 2023, and thirty (30) individuals were successfully transitioned to the new TEP at the Porterville Army National Guard Armory. A Special Meeting of the Council was scheduled for April 14, 2023, to consider a draft License agreement for the City's temporary use of the State facility. The American Red Cross continued to provide shelter services at the TEP, but transitioned out on May 5, 2023. With the authority granted to the City Attorney and City Manager at its meeting on April 18, 2023, the City and County drafted a Memorandum of Understanding (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. Resolution No. 15-2023
15. Rescue Source & Rescue 3 Invoice: Water Rescue Equipment
16. Royal Restrooms Invoice: Mobile Shower-Restroom Units
17. Rain for Rent Pump Invoice
18. Mike Clark Trucking Invoice
19. TopKnotch Security, Inc. Agreement
20. Good Guard Security, Inc. Agreement
21. Municipal Code Chapter 9 - Civil Defense and Disaster
22. California Government Code 8558
23. Armory Daily Census

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, City Manager

Final Approver: Patrice Hildreth, 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:

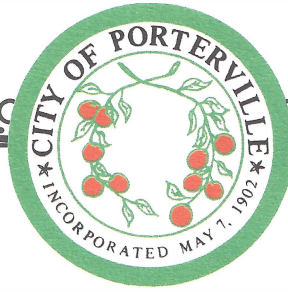
Fernando Gabriel-Moraga, Deputy City Clerk

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.

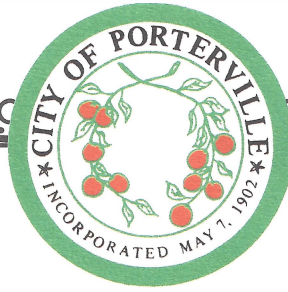
Jake Castellow
Chief of Police

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.

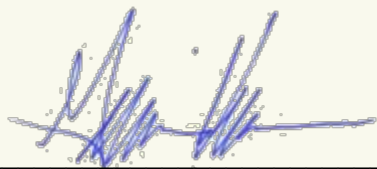
The Water Board shall post on its internet website all reports received pursuant to this subparagraph.

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).

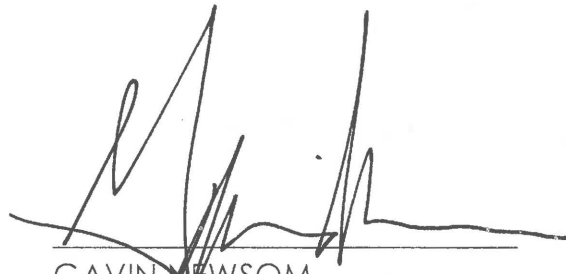
- f. The project proponent shall keep all repairs and construction to the minimum necessary to alleviate the emergency caused by the 2022- 2023 Winter Storm Events and limited to in-kind replacement or refurbishment of on-site features, although the project may undertake minor upgrading if bioremediation 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". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

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**

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.

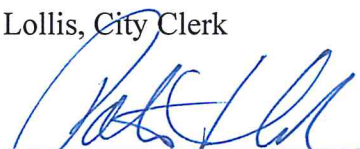
PASSED, APPROVED AND ADOPTED this 4th day of April, 2023.



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

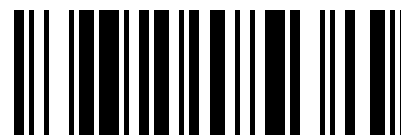
By: 
Fernando Gabriel-Moraga, Deputy City Clerk

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

Cage Code 5HJ93

DESCRIPTION	T	AMOUNT
1 Single ADA Shower/Restroom Combo	t	\$4,250.00
1 Three Stall Shower/Restroom Combo	t	\$4,850.00
Delivery	t	\$100.00
Installation and Removal		\$2,500.00
Before/After Hours or Same Day Services		\$600.00

Due upon receipt-----For Royal Restrooms of California [W9 Click here.](#)

Make all checks payable to Royal Restrooms of California. If payment is not received per terms of agreement signed, applicable late fees will be applied. If you have any questions concerning this invoice, call Us at 877-922-9980 california@royalrestroomscs.com

THANK YOU FOR YOUR BUSINESS!

TAXABLE SUBTOTAL	\$9,200.00
TAX RATE	9.250%
SALES TAX	\$851.00
NON TAXABLE SUBTOTAL	\$3,100.00
TOTAL	\$13,151.00



INVOICE

24/7 Emergency 800-742-7246
www.rainforrent.com

Rain For Rent
Bakersfield
4001 State Rd
Bakersfield CA 93308
United States
661-399-1724

Your sales person	REMIT PAYMENTS TO:
JESSE PINTOR	Rain for Rent RAIN FOR RENT FILE 52541 LOS ANGELES, CA 90074-2541

CONTRACT # 1169502 CUSTOMER CITY OF PORTERVILLE CUSTOMER # 112354 NAME CITY OF PORTERVILLE ADDRESS 291 N MAIN ST PORTERVILLE CA 93257 PHONE	INVOICE# 1854595	INVOICE DATE 3/30/2023	PO or JOB# 23-22734	PAYMENT DUE 4/29/2023
PLEASE PAY				\$77,396.67
SHIPPED TO JOBSITE:				
NAME CITY OF PORTERVILLE ADDRESS Corporation Yard 555 N Prospect St Porterville CA 93257 PHONE				

Notes:

Requested by: Michael Knight
PO Number: 23-22734

QTY	UOM	DESCRIPTION	PRODUCT #	STATUS	DATE OUT	BILLED THRU	DAYS BILLED	PRICE	AMOUNT	TAXABLE
1.00	EA	Pump BA150E D285 Tlr Mt Diesel Eng Hatz 4H50TIC	1022734		SALES		0.00	\$65,685.06	\$65,685.06	Y
1.00	EA	Shipping/Handling Freight	M240			SERVICES	0.00	\$5,158.57	\$5,158.57	Y

TOTAL SALES:	\$65,685.06
TOTAL RENTALS:	\$0.00
TOTAL SERVICES:	\$5,158.57
TOTAL OTHER:	\$0.00
SUBTOTAL:	\$70,843.63
TAX:	\$6,553.04

TOTAL: \$77,396.67

FOR PROPER CREDIT, PLEASE INCLUDE INVOICE NUMBER ON YOUR PAYMENT.
PAST DUE AMOUNTS ARE SUBJECT TO A SERVICE CHARGE OF 1.50%
CUSTOMER, (RENTEE OR BUYER as context requires), shall be deemed to accept
all terms, conditions and provisions hereof upon execution of this agreement;
ordering; or delivery of equipment to customer, whichever comes first.

PAYMENT TERMS: NET 30

SIGNATURE: _____ DATE: _____

Mike Clark Trucking
19385 Avenue 144
Porterville, CA 93257 US
+1 5597845486
mct3desk1@yahoo.com



INVOICE

BILL TO

City of Porterville
Street Superintendent, Field
Service Div.
555 N. Prospect
Porterville, Ca 93257

INVOICE # 2637**DATE** 03/23/2023**DUE DATE** 04/25/2023**TERMS** Net 30

DATE	FREIGHT	ACTIVITY	FREIGHT BILL	RATE	AMOUNT
03/23/2023	8.80	Super 10	7383117 - Luque	120.00	1,056.00
03/23/2023	9.70	Super 10	7383219 - Luque	120.00	1,164.00
03/23/2023	9.70	Super 10	7383046 - Luque	120.00	1,164.00
03/23/2023	9.80	Super 10	8432857 - Luque	120.00	1,176.00
03/23/2023	7.30	Super 10	9281272 - Luque	120.00	876.00

Thank you for your business!

SUBTOTAL	5,436.00
TAX	0.00
TOTAL	5,436.00
BALANCE DUE	\$5,436.00

A finance charge of 1.5% monthly/18% annually will be charged on accounts over 30 days past due. In the event a suit is brought to enforce collection, the customer shall be liable for responsible attorneys fees and costs of the suit.



Name of person in charge: Amy Greybehl

Event Date: Start 5/5/23 month to month Price Per Guard: _____

Event Time: 8pm-8am How many guests: open

(Overtime is billed at \$35 per hour) _____ Invite Only: Y/N

Event Location: 29th ~~44~~ Plano St

City: Porterville State: CA

Zip: 93257 Special Instructions/ Directions for Event:

2 guards, check-in Guest by 8pm, lock gates, lights off by 10pm.

Balance Due for guaranteed hours \$: 18,000 - updated

Third Party Information- Please Print Clearly

Financially Responsible Party (Client):

City of Porterville - Army National Guard

Clients Contact Phone

Number: 559-782-7521

Client Email

Address: agreybehl@ci.porterville.ca.us

Clients Home

Address: City

City: Porterville State: CA Zip: 93257

Wedding/Prom/ Anniversary? Other: _____

Payment Information:

The parties have read all pages of this Agreement & the attached Terms and Conditions, agree to all its terms, and acknowledge receipt of a complete copy of the Agreement and Terms & Conditions. Each person signing as the Client below shall be responsible for ensuring that full payment is made as stated in this document. Client agrees that a 30% non-refundable retainer will be due immediately to reserve date and time as listed on contract.

Venmo: _____ @Chris-Morton-80 Zelle: _____ (559)756-4570

Cashapp: _____ \$maddym90 Check: X* Cash: _____

*Payment to be issued upon completion of a City of Porterville Business License Application

Client Initials: AG

Date: 5/5/23

You are a valued customer of Topknotch Security INC, and we want you to enjoy our guards' services. To ensure that the integrity of our officers is maintained for you and all of our customers, the following Terms & Conditions apply to all services provided by Topknotch Security INC, under all circumstances and without exception.

The purchaser (client) on the front of this contract is 100% responsible for his or her guests.

Topknotch Security INC will strictly enforce State and Federal Laws and will maintain a zero-tolerance compliance policy that no alcoholic beverages can be consumed or used by any person not of legal drinking age. All U.S. law enforcement agencies have absolute power to stop any event for administrative search. If contraband is found, even in negligible quantities without the officers knowledge, they can seize and forfeit the contraband to a local government agency. All law enforcement agencies are aggressively enforcing this policy.

Topknotch Security INC will not be responsible for injuries that may occur due to fighting while the event is ongoing. Topknotch Security INC will do their best to defuse any situation verbally, if Topknotch Security INC feels as if our officers cannot control the situation, we will be forced to contact the local law enforcement.

At the officer's discretion, the Client agrees to be fully liable for any damages / charges that may be incurred.

The Client accepts full responsibility for any and all damage, and for any loss of income due to negligence or carelessness caused by any member of the client's group at any time during the event. The Client authorizes Topknotch Security INC to charge for the expenses regardless of and in addition to any prior agreements or understandings. These charges are necessary due to the high cost of insurance, health insurance, uniforms, and due to the revenue and time lost during the time that the officer cannot work.

Please initial here to acknowledge the charges should any damages occur. AG

- Topknotch Security INC recommends that all and any personal valuables be removed from the vehicle when unattended. We will not be held responsible for any lost, stolen, or damaged articles.

- Topknotch Security INC reserves the right to terminate this or any other contract for noncompliance of the above requests, especially if responsible party does not follow Topknotch Security INC, requests to obey the rules in this contract.

Any deposits (cash, checks or course of payment) will be non-refundable for any reason, if any cancellation occurs from the responsible party's side. If for any reason the local law enforcements shuts the event down for any reasons, payment is non-refundable. The open balance is due immediately the day before the agreed job. The renter authorizes the immediate 30% non-refundable retainer & the final payment, states that she/he is the authorized purchaser for this rental contract, the authorized party for the given payment, responsible and liable for payment of the total amount, per cash or other payments. As with all contracts, the rental contract between the mentioned person as renter (Client) and Topknotch Security INC is made with the information and the terms given to us. I am satisfied with the terms and conditions above and fully understand and agree to everything stated in the contract.

Client Initials: AG Date 5/5/23

All of the given information from the Client is binding and cannot be changed without Topknotch Security INC acceptance. If the contract is cancelled after it is signed, Topknotch Security INC is still authorized to collect the remaining balance in full, if the officers does not go out again on the cancelled date for the same or higher amount. We will reserve the set date upon the approval of the purchaser's preferred payment as per telephone conversation. The responsible party gives authorization to use the payment information over the phone / fax / Internet in combination with a signed contract. It is agreed that it is not necessary to obtain a signed slip, as the reservation is made over the phone / fax / Internet. Proof of identity of the purchaser using said credit card must be supported by the signed contract or in person. At time of event we need the full payment, state identification of the purchaser that authorizes the transaction for the signed contract. If the purchaser cannot provide all of the above items at the time of event, Topknotch Security INC will not start the job, as we have no proof of the legal possession of payment. Therefore the risk of not getting paid will give us the right to cancel. The purchaser is still fully responsible to pay the total amount as he failed to provide the above requirements.

Topknotch Security INC cannot guarantee the availability of overtime. It is of particular importance that the purchaser makes allowances for anticipated delays and adheres to the agreed time schedule. In the event that the purchaser wants to change the time of the itinerary, they may do so, only if Topknotch Security INC can accommodate other clients that booked with Topknotch Security INC prior to or after the said time. The purchaser further agrees to pay additional charges incurred such as overtime and or more officers. The overtime will be billed by hourly rate at \$35.00 per hour, unless negotiated otherwise. If customer fails to cancel at the last minute, the full amount of contracted time will be charged.

The purchaser authorizes Topknotch Security INC to charge any additional charges after they have rendered services to the purchasers' as supplemental charge. If cash payment is selected, the payment is due no later than the close of the next business day in full. Customer agrees to have Topknotch Security INC get an authorization for the above course of payment and amount, for the event stated above.

If any payment due hereunder is unpaid (10) ten days after the due date, hereon Topknotch Security INC will have the right to add and collect late charges with interest at the maximum rate allowed by law. All such sums are due and owing with any other expenses, (filing fees, court cost, and reasonable attorney fees, etc.)

I fully understand and agree to everything stated in the contract and the Terms & Conditions. If, for any reasons, I am not fully satisfied with the services I receive, I have 24 hours after the completion of the job to file a complaint in writing. If Topknotch Security INC, does not receive my written complaint in the above stated timeframe, I agree that there is no valid complaint, and I am fully satisfied with the services I received. Filing a written complaint insures both parties that it is fully understood what the problem was and will help Topknotch Security INC to assist the responsible parties in any kind of resolution to the complaint. The purchaser will be contacted within a week of the complaint to settle the matter. I understand that this is a separate case from the main contract and therefore have no dispute in general against Topknotch Security INC and the payment I authorized.

Since Topknotch Security INC offers high-tech-equipment, sometimes heat and excessive use of all power-operated equipment might be subject to having more breaks for our officers. This will, of course, not interfere with the safety of the party itself and therefore will have no effect on continuing or paying of the contracted event. Topknotch Security INC guarantees that all our officers are constantly trained to keep the highest possible standards and eliminate such failures as much as possible. We have the right to add more officers in case of emergency or the event is getting bigger than contracted. As stated, this will only happen in emergencies, and to upgrade, never downgrade. If the upgrade is needed, Topknotch Security INC gives the customer the right to downsize the event and receive additional charges. Additional charges will occur on the customer's side if an upgrade is made. Topknotch Security INC will notify the responsible party if more officers and hours are needed, as well as how much more the cost will be.

If any of our above guarantees or contracted terms cannot be met due to conditions outside of our control, including weather, accidents, and any other acts of incidents, we will use our best efforts to notify the customer of these conditions and resulting delays or changes.

I am satisfied with the terms and conditions above and fully understand and agree to everything stated in the contract and the Terms & Conditions.

Client Signature Amy Graybehl Date 5/5/23
Topknotch Security Representative Signature Madeline M. Foster Date 5/3/25

ADDITIONAL REMARKS:

- 1 officer roaming & 1 officer checking in guest
- Roaming grounds and making sure lights out at 10 pm
- Making sure no guest leave after 8pm
- Roaming the whole grounds and the animals



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.)

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
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
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	29	0	3
Friday, November 17, 2023	25	0	3
Saturday, November 18, 2023	29	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
Thursday, December 14, 2023	35	0	3
Friday, December 15, 2023	30	0	3
Saturday, December 16, 2023	31	0	3
Sunday, December 17, 2023	29	0	3

Monday, December 18, 2023	26	0	3
Tuesday, December 19, 2023	25	1	3
Wednesday, December 20, 2023	31	0	3
Thursday, December 21, 2023	28	0	3
Friday, December 22, 2023	32	0	3
Saturday, December 23, 2023	29	0	3
Sunday, December 24, 2023	30	0	3
Monday, December 25, 2023	28	0	3
Tuesday, December 26, 2023	23	0	3
Wednesday, December 27, 2023	24	0	3
Thursday, December 28, 2023	28	0	3
Friday, December 29, 2023	23	0	3
Saturday, December 30, 2023	25	0	3
Sunday, December 31, 2023	28	0	3
Monday, January 1, 2024	24	0	3
Tuesday, January 2, 2024	24	0	3
Wednesday, January 3, 2024	29	0	3
Thursday, January 4, 2024	21	0	3
Friday, January 5, 2025	22	0	3
Saturday, January 6, 2024	32	0	3
Sunday, January 7, 2024	29	0	3
Monday, January 8, 2024	26	0	3
Tuesday, January 9, 2024	27	0	3
Wednesday, January 10, 2024	34	0	3
Thursday, January 11, 2024	33	0	3
Friday, January 12, 2025	36	0	3
Saturday, January 13, 2024	35	0	3
Sunday, January 14, 2024	34	0	3
Monday, January 15, 2024	39	0	3

Tuesday, January 16, 2024	38	0	4
Wednesday, January 17, 2024	33	0	4
Thursday, January 18, 2024	33	0	4
Friday, January 19, 2025	33	0	4
Saturday, January 20, 2024	36	0	4
Sunday, January 21, 2024	38	0	4
Monday, January 22, 2024	36	1	4
Tuesday, January 23, 2024	34	1	4
Wednesday, January 24, 2024	32	1	4
Thursday, January 25, 2024	38	1	4
Friday, January 26, 2025	35	1	4
Saturday, January 27, 2024	32	1	4
Sunday, January 28, 2024	36	1	4
Monday, January 29, 2024	34	1	4
Tuesday, January 30, 2024	40	1	5
Wednesday, January 31, 2024	36	1	5
Thursday, February 1, 2024	36	1	5
Friday, February 2, 2024	36	1	5
Saturday, February 3, 2024	27	1	5
Sunday, February 4, 2024	33	1	5
Monday, February 5, 2024	29	1	5
Tuesday, February 6, 2024	33	1	5
Wednesday, February 7, 2024	37	1	5
Thursday, February 8, 2024	34	1	5
Friday, February 9, 2024	37	0	5
Saturday, February 10, 2024	38	0	5
Sunday, February 11, 2024	39	0	5
Monday, February 12, 2024	35	0	5
Tuesday, February 13, 2024	38	0	5

Wednesday, February 14, 2024	37	0	5
Thursday, February 15, 2024	35	0	5
Friday, February 16, 2024	38	0	5
Saturday, February 17, 2024	40	0	5
Sunday, February 18, 2024	38	0	5
Monday, February 19, 2024	41	0	5
Tuesday, February 20, 2024	43	0	5
Wednesday, February 21, 2024	36	0	5
Thursday, February 22, 2024	39	0	5
Friday, February 23, 2024	36	0	5
Saturday, February 24, 2024	36	0	5
Sunday, February 25, 2024	38	0	5
Monday, February 26, 2024	37	0	5
Tuesday, February 27, 2024	41	0	5
Wednesday, February 28, 2024	41	0	9
Thursday, February 29, 2024	33	0	9
Friday, March 1, 2024	34	0	9
Saturday, March 2, 2024	33	0	9
Sunday, March 3, 2024	33	0	9
Monday, March 4, 2024	35	0	9
Tuesday, March 5, 2024	38	0	9
Wednesday, March 6, 2024	35	0	9
Thursday, March 7, 2024	36	0	9
Friday, March 8, 2024	37	0	9
Saturday, March 9, 2024	37	0	9
Sunday, March 10, 2024	41	0	9
Monday, March 11, 2024	41	0	9
Tuesday, March 12, 2024	42	0	9
Wednesday, March 13, 2024	40	0	9

Thursday, March 14, 2024	40	0	9
Friday, March 15, 2024	42	0	9
Saturday, March 16, 2024	39	0	9
Sunday, March 17, 2024	39	0	9
Monday, March 18, 2024	40	0	9
Tuesday, March 19, 2024	42	0	9
Wednesday, March 20, 2024	38	0	9
Thursday, March 21, 2024	35	0	9
Friday, March 22, 2024	37	0	9
Saturday, March 23, 2024	42	0	9
Sunday, March 24, 2024	42	0	9
Monday, March 25, 2024	41	0	9
Tuesday, March 26, 2024	41	0	9
Wednesday, March 27, 2024	44	0	9
Thursday, March 28, 2024	40	0	9
Friday, March 29, 2024	45	0	9
Saturday, March 30, 2024	46	0	9
Sunday, March 31, 2024	34	0	9
Monday, April 1, 2024	46	0	9
Tuesday, April 2, 2024	34	0	9
Wednesday, April 3, 2024	38	0	9
Thursday, April 4, 2024	38	0	9
Friday, April 5, 2024	31	0	9
Saturday, April 6, 2024	28	0	9
Sunday, April 7, 2024	33	0	9
Monday, April 8, 2024	38	0	9
Tuesday, April 9, 2024	41	0	9
Wednesday, April 10, 2024	39	0	9
Thursday, April 11, 2024	34	0	9

Friday, April 12, 2024	33	0	9
Saturday, April 13, 2024	38	0	9
Sunday, April 14, 2024	36	0	9
Monday, April 15, 2024	31	0	9
Tuesday, April 16, 2024	34	0	9
Wednesday, April 17, 2024	34	0	9
Thursday, April 18, 2024	33	0	9
Friday, April 19, 2024	29	0	9
Saturday, April 20, 2024	28	0	9
Sunday, April 21, 2024	29	0	9
Monday, April 22, 2024	28	0	9
Tuesday, April 23, 2024	28	0	9
Wednesday, April 24, 2024	28	0	9
Thursday, April 25, 2024	29	0	9
Friday, April 26, 2024	32	0	9
Saturday, April 27, 2024	30	0	9
Sunday, April 28, 2024	34	0	9
Monday, April 29, 2024	29	0	9
Tuesday, April 30, 2024	28	0	8
Wednesday, May 1, 2024	27	0	9
Thursday, May 2, 2024	26	0	9
Friday, May 3, 2024	29	0	9
Saturday, May 4, 2024	29	0	9
Sunday, May 5, 2024	34	0	9
Monday, May 6, 2024	30	0	9
Tuesday, May 7, 2024	30	0	9
Wednesday, May 8, 2024	30	0	9
Thursday, May 9, 2024	35	0	9
Friday, May 10, 2024	32	0	9

Saturday, May 11, 2024	30	0	9
Sunday, May 12, 2024	30	0	9
Monday, May 13, 2024	32	0	9
Tuesday, May 14, 2024	32	0	9
Wednesday, May 15, 2024	32	0	9
Thursday, May 16, 2024	33	0	9
Friday, May 17, 2024	36	0	9
Saturday, May 18, 2024	33	0	9
Sunday, May 19, 2024	38	0	9
Monday, May 20, 2024	34	0	8
Tuesday, May 21, 2024	30	0	9
Wednesday, May 22, 2024	30	0	9
Thursday, May 23, 2024	29	0	7
Friday, May 24, 2024	34	0	8
Saturday, May 25, 2024	35	0	9
Sunday, May 26, 2024	38	1	9
Monday, May 27, 2024	36	0	9
Tuesday, May 28, 2024	35	0	8
Wednesday, May 29, 2024	32	0	7
Thursday, May 30, 2024	31	0	7
Friday, May 31, 2024	29	0	8
Saturday, June 1, 2024	30	0	9
Sunday, June 2, 2024	34	0	10
Monday, June 3, 2024	33	0	9
Tuesday, June 4, 2024	27	0	8
Wednesday, June 5, 2024	32	0	9
Thursday, June 6, 2024	31	0	9
Friday, June 7, 2024	30	0	8
Saturday, June 8, 2024	33	0	9

Sunday, June 9, 2024	36	0	9
Monday, June 10, 2024	35	0	9
Tuesday, June 11, 2024	34	0	8
Wednesday, June 12, 2024	25	0	8
Thursday, June 13, 2024	30	0	10
Friday, June 14, 2024	39	0	10
Saturday, June 15, 2024	34	0	8
Sunday, June 16, 2024	34	0	8
Monday, June 17, 2024	32	0	9
Tuesday, June 18, 2024	34	0	10
Wednesday, June 19, 2024	33	0	9
Thursday, June 20, 2024	33	0	11
Friday, June 21, 2024	30	0	9
Saturday, June 22, 2024	27	0	8
Sunday, June 23, 2024	33	0	10
Monday, June 24, 2024	16	0	7
Tuesday, June 25, 2024	20	0	7
Wednesday, June 26, 2024	30	0	9
Thursday, June 27, 2024	30	0	9
Friday, June 28, 2024	33	0	10
Saturday, June 29, 2024	34	0	10
Sunday, June 30, 2024	34	0	10
Monday, July 1, 2024	30	0	10
Tuesday, July 2, 2024	35	0	11
Wednesday, July 3, 2024	27	0	9
Thursday, July 4, 2024	27	0	9
Friday, July 5, 2024	30	0	9
Saturday, July 6, 2024	29	0	9
Sunday, July 7, 2024	32	0	10

Monday, July 8, 2024	36	0	11
Tuesday, July 9, 2024	34	0	10
Wednesday, July 10, 2024	35	0	9
Thursday, July 11, 2024	35	0	9
Friday, July 12, 2024	26	0	8
Saturday, July 13, 2024	31	0	9
Sunday, July 14, 2024	35	0	10
Monday, July 15, 2024	36	0	11
Tuesday, July 16, 2024	33	0	10
Wednesday, July 17, 2024	29	0	9
Thursday, July 18, 2024	19	0	7
Friday, July 19, 2024	20	0	7
Saturday, July 20, 2024	22	0	8
Sunday, July 21, 2024	22	0	8
Monday, July 22, 2024	24	0	8
Tuesday, July 23, 2024	26	0	8
Wednesday, July 24, 2024	23	0	7
Thursday, July 25, 2024	24	0	8
Friday, July 26, 2024	22	0	7
Saturday, July 27, 2024	22	0	7
Sunday, July 28, 2024	23	0	7
Monday, July 29, 2024	23	0	7
Tuesday, July 30, 2024	21	0	7
Wednesday, July 31, 2024	21	0	7
Thursday, August 1, 2024	20	0	7
Friday, August 2, 2024	22	0	7
Saturday, August 3, 2024	18	0	7
Sunday, August 4, 2024	21	0	7
Monday, August 5, 2024	20	0	7

Tuesday, August 6, 2024	22	0	5
Wednesday, August 7, 2024	25	0	6
Thursday, August 8, 2024	25	0	8
Friday, August 9, 2024	20	0	4
Saturday, August 10, 2024	16	0	4
Sunday, August 11, 2024	23	0	5
Monday, August 12, 2024	31	0	7
Tuesday, August 13, 2024	23	0	5



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: City Council Member Requested Agenda Item - Consideration of Naming City Facility

SOURCE: City Manager's Office

COMMENT: Council Member Weyhrauch has requested that the City Council consider adding an item onto the next regular City Council agenda to consider the naming of the Porterville animal shelter.

RECOMMENDATION: That the City Council approve Council Member Weyhrauch's request to add an item to the next regular City Council meeting's agenda to consider the naming of the City's animal shelter.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, City Manager

Final Approver: Patrice Hildreth, City Manager



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Consideration of Appointment to the Parks & Leisure Services Commission

SOURCE: Administrative Services

COMMENT: The Parks & Leisure Services Commission currently has a vacancy with the term to expire in October 2025. City staff is in receipt of one Request for Appointment which is provided herein for the City Council's consideration:

•Catherine Capone

The Parks & Leisure Services Commission serves in an advisory capacity to the City Council on matters concerning Parks and Leisure Services, and is comprised of eight (8) members with staggered four (4) year terms. To be eligible for appointment, individuals must reside within the city of Porterville and represent a cross-section of the community. The Commission currently meets on the first Thursday of each month at 5:30 P.M. at City Hall. Staff has confirmed that the applicant's listed address is located within the City's boundaries.

RECOMMENDATION: That the City Council consider the appointment of Catherine Capone to the Parks & Leisure Services Commission to serve the remainder of a four-year term to expire October 2025.

ATTACHMENTS: 1. Request for Appointment - Catherine Capone

Appropriated/Funded:

Review By:

Department Director:
Yuliana Andrade, Administrative Services Director

Final Approver: Patrice Hildreth, City Manager



CITY OF PORTERVILLE REQUEST FOR APPOINTMENT



RECEIVED

AUG 07 2024

CITY OF PORTERVILLE
CITY CLERK'S OFFICE

Please complete all blanks.

Name: Catherine Capone

(Please Print)

Appointment to: Parks and Leisure Services Commission

(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, Please provide:

Street Address:

Porterville CA 93257

Mailing Address:

same

Name of Business:

retired

☐ Own

☐ Operate

Business Address:

Telephone: Home

Work

FAX

E-mail

City of Porterville Resident:

☒ Yes

☐ No

Select District:

☐ 1 ☒ 2 ☐ 3

☐ 4 ☐ 5

Registered Voter:

☒ Yes

☐ No

Qualifications: (It is recommended that a resume or letter accompany this form.)

see attached

Please tell us why you are interested in this position.

see attached

☒ Resume attached

☒ Letter of request attached

Submitted By: _____

Catherine Capone

August 6, 2024
Date

Received by: _____

Forwarded to: City Clerk

☐ Date: _____

City Council

☐ Date: _____

Staff Liaison

☐ Date: _____

Tentative Council Mtg Date: _____

Letter of Interest – Request for Appointment to Parks and Leisure Services Commission

Dear City Council Members,

Mayor Martha Flores, Vice Mayor Kellie Carrillo and Council Members Donald Weyhrauch, Raymond Beltran, Greg Meister

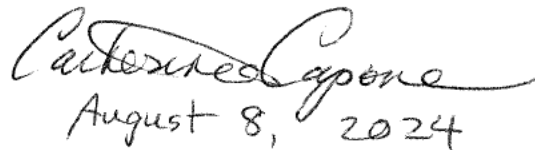
Please consider this packet as my request for appointment to the Parks and Leisure Services Commission.

I am interested in serving on the Parks and Leisure Services Commission and feel that I am prepared and would be a valuable addition to the commission. As a commissioner I pledge to be prepared for meetings, keep current on the progress of current park long range planning, design, construction progress, and maintenance. I will be an advocate for park programing which welcomes the whole community to the parks and advise the Parks and Leisure Department on grant opportunities and potential collaborators for park improvements and maintenance.

1. Letter of interest-cover sheet
2. City of Porterville application form
3. Brief Resume
4. Why I am interested in appointment

Sincerely,

Catherine Capone


August 8, 2024



Employment

1973-2013 Teacher in a variety of school districts from Soledad, Kings County, Avenal, and Porterville. From 1990-2013 worked for and retired from Porterville Unified School District.

2013-2018 Part time employment as a substitute teacher, mentor, and trainer.

Volunteer

1. California Native Plant Society- currently serving as a member of the Board of Directors and the Alta Peak Chapter delegate to the Chapter Council.
2. Tule River Parkway Association – currently serving as the president and the project manager of the Tule River Parkway Native Plant Demonstration Gardens. As a volunteer I have managed the 31 gardens and Arbor Day plantings along the Tule River Parkway. Tule River Parkway Association a local nonprofit has provided 2,600 hours of volunteer garden development and maintenance in the first 7 months of this year.
3. AARP - American Association of Retired Persons – Completed the Planning Academy course for volunteers in 2023.
4. Measure R Citizens Oversight Committee – completed a 6-year series of terms this summer.
5. Porterville Parks and Leisure Services Commission – served for two terms while employed by PUSD as the PUSD representative to the Commission. I want to highlight an accomplishment of the department in those years. I advocated for a careful evaluation of all city owned land prior to selecting a new park location. The current location of Fallen Hero's Park was chosen. After the site was chosen, I led the effort to hold two public opinion events which happened in the neighborhood. After the public outreach the results were made available to the contracted park designers. The multiple public outreach events were held to obtain the neighborhood and general public opinion about what they desired in a neighborhood park. Fallen Hero's Park is a modern, multiuse park. All Porterville neighborhoods would be benefit from a park of this caliber within walking distance.
6. California Teachers Association – served in various offices while employed in Porterville, Kings County, and Soledad Unified.

Catherine Capone

Why am I interested in serving on the Parks and Leisure Services

I am dedicated to advocating for equitable access to open space and recreational opportunities. I have been focused on the Tule River Corridor in my volunteer efforts for years. During the past year I have surveyed all Porterville parks specifically to investigate each park's accessibility and value for senior citizens and physically challenged persons. This study has given me a detailed knowledge of all our park spaces, their current condition and potential for improvements. Leisure services, which includes programing in the park spaces is a critical aspect of encouraging people and making them feel safe and welcomed to the park spaces. My prior experience as a commissioner gives me a base of knowledge for future service. Porterville has a wide range of park projects planned and I am interested in being part of these exciting improvements and the expansion of the park and trailway network in Porterville.



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Consideration of Appointment to the Arts Commission

SOURCE: Administrative Services

COMMENT: The Arts Commission currently has two vacancies on the commission: one youth seat set to expire in July 2027, and one regular seat set to expire in July 2026. City staff is in receipt of one Request for Appointment which is provided herein for the City Council's consideration:

•Bonnie Boyd

The Arts Commission was formed in 2010 to foster the development and enjoyment of the arts; to work cooperatively with city entities for the inclusion of art in areas of planning and development, and to make recommendations to the Council regarding policies and practices pertaining to the arts in Porterville. To be eligible for appointment, individuals must be associated with at least one category of the arts (theatrical/performing; visual/graphic; or music). The Commission is comprised of five members with staggered terms, and one student member serving a one-year term. The Commission serves in an advisory capacity to the City Council and currently meets quarterly on the fourth Wednesday of the month, at City Hall.

Staff will continue to advertise and solicit applications from interested individuals for the remaining vacancies.

RECOMMENDATION: That the City Council consider the appointment of Bonnie Boyd to the Arts Commission to serve the remainder of a three-year term to expire July 2026.

ATTACHMENTS: 1. Request for Appointment - Bonnie Boyd

Appropriated/Funded:

Review By:

Department Director:
Yuliana Andrade, Administrative Services Director

Final Approver: Patrice Hildreth, City Manager



CITY OF PORTERVILLE REQUEST FOR APPOINTMENT



Please complete all blanks.

Name: Bonnie Boyd
(Please Print)

Appointment to: Arts Commission
(Name of Board, Commission, or Committee)

RECEIVED

AUG 09 2024

CITY OF PORTERVILLE
CITY CLERK'S OFFICE

☐ Reappointment; or IF NEW, Please provide:

Street Address:

Mailing Address:

Name of Business:

☒ Own

☒ Operate

Business Address:

Telephone: Home

Work

FAX

E-mail

City of Porterville Resident:

☒ Yes

☐ No

Select District:

☐ 1 ☐ 2 ☒ 3

☐ 4 ☐ 5

Registered Voter:

☒ Yes

☐ No

Qualifications: (It is recommended that a resume or letter accompany this form.)

Please see attached

Please tell us why you are interested in this position.

I enjoy all phases of art and
I'm willing to help out.

☐ Resume attached

☒

Letter of request attached

Submitted By:

Donnie Boyd

8/5/24

Date

Received by: _____

Forwarded to: City Clerk

☐

Date: _____

City Council

☐

Date: _____

Staff Liaison

☐

Date: _____

Tentative Council Mtg Date: _____

August 5th, 2024

To Whom it May Concern:

My name is Bonnie Boyd and I am the owner/artist at FAT Paint. I teach paint parties to spread joy and give people techniques so that they can paint at home. My artistic background came from my artist grandfather Clarence Attridge, who has sold his paintings around the world and done murals in many churches. I learned impressionistic realism at a young age, expanded my skills in college, and now incorporate these techniques in my business.

I recently retired from Hot Springs School District where I taught K through 3rd grade, rewrote and directed the children's plays, and taught them art skills, as well as being the bus driver, secretary and kitchen manager. (This is a one room schoolhouse so we all wore many hats). I used to be the children's minister for Porterville Believers Church, before I moved to the mountains in 2006 where I started a children's ministry at the Mountain Top Church. After many years in the mountains, I moved back to Porterville and I am back in Children's Church at Believer's, as a volunteer.

I have volunteered in many positions, including President of the Volunteer ambulance in Pine Flat, up above California Hot Springs, I was a volunteer EMT also during that time period. Before I was officially hired at Hot Springs School I volunteered to direct the plays. I'm not sure what qualifications you are looking for but if dependable, timely, and hoping to volunteer my time is included, then I am willing and able.

Thank you,

Bonnie Boyd



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Consideration of Media Sponsorship for the 2024 Porterville Veterans Homecoming Day Parade

SOURCE: City Manager's Office

COMMENT: During Other Matters at its meeting on July 16, 2024, the City Council approved Council Member Meister's request to consider media sponsorship for the 2024 Veterans Day Parade.

The Porterville Veterans Day Parade is one of the longest running Veterans Day Parades in the nation and is one of the hallmark events of the Porterville community, and for the last three (3) years has been broadcast on television on KSEE 24 in conjunction with Mister Media. At its meeting on October 17, 2023, the City Council approved a media sponsorship with Mister Media for the 2023 Porterville Veterans Day Parade, for the amount of \$12,500. The media sponsorship of the parade included the live-streaming of the Parade from 10:00 AM to 12:00 PM, a rebroadcast on KSEE 24 later that evening from 8:00 to 10:00 PM, and forty (40) promotional spots prior to the Parade.

The 2024 Porterville Veterans Day Parade is planned to take place on Monday, November 11th on Main Street in Downtown Porterville. The American Legion Post 20 has requested that the City consider sponsoring the media presentation of this year's Veterans Day Parade. Mister Media is the media partner for the event and has provided the attached media sponsor proposal, which includes the live broadcast of the Parade on KSEE 24 from 10:00 AM to 12:00 PM, a live stream of the parade, uploading the broadcast to YouTube, and forty (40) promotional spots prior to the Parade at the expense of \$12,500. In 2023, the City utilized one (1) staff member and a City boom truck to operate a camera to be able to get an aerial view of the parade. Staff met with the American Legion Post 20 representative and Mister Media on July 30, 2024, to discuss the planning for the 2024 Veterans Day Parade. The Mister Media representative noted during the meeting with City Staff that the City would be credited for the expense of staff time and equipment utilized for the 2024 broadcast, if the City Council approves the proposed sponsorship. Staff estimates the cost of the City equipment and staff time to be \$94.65 per hour.

As the Council is aware in its recent adoption of the annual City Budget, \$75,000 was appropriated in the Community Promotions fund for expenses such as this. The proposed media and promotion sponsorship is intended to highlight Main Street and the Downtown area, the Porterville community, and its reverence and support for veterans.

RECOMMENDATION: That the City Council:

1. Consider media sponsorship of the 2024 Porterville Veterans Day Parade; and
2. Authorize the expenditure of up to \$12,500 from the Community Promotions fund.

ATTACHMENTS: 1. 2024 Veterans Day Parade Media Sponsorship Proposal

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, City Manager

Final Approver: Patrice Hildreth, City Manager

Mister Media
327 N. Van Ness
Fresno Calif 93701
August 5, 2024
559-906-3838

Porterville Veterans

Homecoming Day Parade Proposed Sponsorship

KSEE ch 24 LIVE Broadcast and live streaming 10-12 Nov.11, 2024

Plus 40 Porterville promotional spots to start airing on Nov 1st

Television broadcast and spots	\$7500
--------------------------------	--------

PRODUCTION CREW	\$5000
-----------------	--------

Ch 24 news host

Broadcast Engineer and tech director

Producer, sound and video techs

3 camera operators and sound equipment for the street

Parade graphics and internet tech

Total sponsorship \$12,500

Its a pleasure to work with you on this television special and thank you for supporting Central Valley Veterans.

Sincerely
Gene Day

MISTER MEDIA

327 N. VanNess

Fresno ca. 93701

559-906-3838

Porterville Veterans

Homecoming Day Parade 2024

1. BROADCAST LIVE ON KSEE 24

Monday November 11, 2024 from 10:00 a.m. to 12:00 p.m.

KSEE 24 is a prominent local television channel, enabling even more people in the community to join in the celebration.

2. LIVE STREAMING OF THE PARADE

Monday November 11, 2024 from 10:00 a.m. to 12:00 p.m.

We will be live streaming the entire parade ensuring that viewers can tune in from anywhere.

3. YouTube

The parade will also be available for viewing on YouTube throughout the year. The online platform ensures that the parade's memories and messages endure far beyond the event itself. Notably last year's parade garnered over 5,000 viewers.

If you have any further questions please feel free to contact Gene Day at (559) 906-3838.

Sincerely,

Gene Day

Mister Media



CITY COUNCIL AGENDA – AUGUST 20, 2024

SUBJECT: Consideration of City Council Policy on the Exhibition of Federal, State, and City Flags, and Banners; From City Buildings and Facilities – All Occasions

SOURCE: City Manager's Office

COMMENT: While the City currently follows applicable Federal and State law concerning the display of the U.S. and State flags, it does not currently have a policy concerning flags displays on City property. Additionally, the City owns poles that can be utilized for displaying flags or banners for the promotion of City events or programs. It would be prudent to include banner displays in this policy, which can also allow for use by third parties in conjunction with City-sponsored or City-funded events or programs.

The recommended policy sets explicit guidelines and clearly provides that the City's flagpoles and banner posts and poles are not intended to convey government speech and are not intended to serve as a forum for free expression by the public.

The proposed policy covers the procedures and requirements for flying the U.S., State of California, and City flags, including the appropriate holidays, and covers the conditions for lowering the flags. The policy also allows for the flying of flags of governments recognized by the U.S. upon request by the City Council, flags of Sister Cities, and the POW/MIA flag.

With regard to street flags and banners attached to City poles, the proposed policy states that the City may place banners or flags communicating information regarding its events or public events held in its facilities, City programs or services, or holiday/seasonal banners. The policy would allow the City to issue a banner permit allowing third parties to apply for the placement of banners concerning City-sponsored or City-funded events open to the public, provided that the information must also be non-commercial, non-political, and of a non-religious nature. Banner design must be pre-approved by the City.

RECOMMENDATION: That the City Council consider and approve the City Council Policy on the Exhibition of Federal, State, and City Flags, and Banners; from City Buildings and Facilities – All Occasions

ATTACHMENTS:

1. Draft Resolution
2. Draft Flag and Banner Policy

Appropriated/Funded:

Review By:

Department Director:
Patrice Hildreth, City Manager

Final Approver: Patrice Hildreth, City Manager

RESOLUTION NO. ____-2024

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE ESTABLISHING A POLICY ON THE
EXHIBITION OF FEDERAL, STATE, AND CITY FLAGS,
AND BANNERS; FROM CITY BUILDINGS AND
FACILITIES – ALL OCCASIONS**

WHEREAS, the City of Porterville currently follows applicable Federal and State law concerning the display of the U.S. and State flags, but it does not currently have a policy concerning flags displays on City property;

WHEREAS, the City additionally owns poles that can be utilized for displaying flags or banners for the promotion of City events or programs, and it would be prudent to include banner displays in this policy;

WHEREAS, the City Council also desires to use of banner poles by third parties in conjunction with City-sponsored or City-funded events or programs; and

WHEREAS, the City's flagpoles and banner posts and poles are not intended to convey government speech and are not intended to serve as a forum for free expression by the public.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES RESOLVE AS FOLLOWS:

1. The Policy on the Exhibition of Federal, State, and City Flags, and Banners; from City Buildings and Facilities – All Occasions, attached hereto as Exhibit A, is hereby adopted.

2. The Policy shall go into effect immediately, except that the banner permitting process shall not go into effect until after the setting of the appropriate fees by the City Council.

PASSED, APPROVED AND ADOPTED this 20th day of August 2024.

Martha A. Flores, Mayor

ATTEST:
Patrice Hildreth, City Clerk

By: _____
Fernando Gabriel-Moraga,
Acting Chief Deputy City Clerk

CITY OF PORTERVILLE

COUNCIL POLICY ON THE EXHIBITION OF FEDERAL, STATE, AND CITY FLAGS; AND BANNERS FROM CITY BUILDINGS AND FACILITIES – ALL OCCASIONS

PURPOSE

To establish guidelines for 1) exhibition of the flag of the United States of America, the California State flag, the Porterville City Flag from City buildings and other City facilities, 2) the display of street flags for parades and holidays, and 3) the display of ceremonial flags.

The City's flagpoles and Banner posts/poles are not intended to serve as a forum for free expression by the public.

POLICY

It is the policy of the City of Porterville that flags should be displayed in conformance with Federal and State policies, as stated in the Federal "Our Flag" publication of the Congress, House Document No. 96-144; and the State of California Government Code Section 430 and 437.

In order to establish a policy with respect to the locations and days when the United States of America, California State, and Porterville City flags should be displayed, the following standards should be followed.

The City Manager is responsible for ensuring the proper execution of this policy at all City facilities.

STANDARDS

A. Federal, State and City Flags

1. Outdoor flags will be flown at City facilities in the following order of precedence: 1) the United States flag; 2) the California State flag; 3) the Porterville City flag.
2. Weather permitting, flags should be displayed daily in front of or at a location near City Hall and at any other City facility as designated by the City Manager.
3. Flags should not be displayed in inclement weather. However, all-weather flags may be flown on a 24-hour basis as long as they are illuminated from sunset to sunrise.
4. The Porterville City flag will be flown wherever there are sufficient poles to do so in accordance with #2 above. The City flag may be displayed on the same pole with, and underneath the State flag, whenever the pole is of sufficient height. The Federal, State, and City flags shall not be flown on a single pole of any height.
5. Indoor United States, State of California, and City flags shall be displayed at a minimum in the City Hall Council Chambers.

6. On recognized Federal and/or State holidays, and on other special occasions as listed below, flags should be flown from all locations listed in paragraph A-2 above.

- a) January 1, New Year's Day
- b) January 20, (2001, 2005, 2009, etc., every fourth year) on the day the President of the United States is inaugurated
- c) Third Monday in January, Martin Luther King's birthday
- d) Third Monday in February, Presidents' Day
- e) Second Sunday in May, Mother's Day
- f) Third Saturday in May, Armed Services Day
- g) Last Monday in May, Memorial Day. The flags to be flown at half-staff (first raise to top, then slowly lower to half-staff) until noon and at full staff from noon until sunset. NOTE: The United States flag must always be flown by itself when displayed at half-staff.
- h) Third Sunday in June, Father's Day
- i) June 14, Flag Day
- j) July 4, Independence Day
- k) First Monday in September, Labor Day
- l) September 9, Admission Day
- m) September 17, Constitution Day
- n) The first Tuesday after the first Monday in November of a presidential election year and gubernatorial election days
- o) November 11, Veteran's Day
- p) Fourth Thursday in November, Thanksgiving Day
- q) December 25, Christmas Day
- r) State holidays
- s) Special occasions of Federal, State and local proclamation

7. Flags at all City facilities shall be displayed in accordance with the above standards. However, the City Manager may order flags to be lowered to half-staff including, but not limited to flags of the United States of America and State of California in honor of the death of a City employee killed in the line of duty. Flags may only be lowered to half-staff in accord with Federal and State regulations, policies, and guidelines.

B. Ceremonial Flags

The City's flagpoles are not intended to serve as a forum for free expression by the public. The following flags may be displayed by the City as an expression of the City's official sentiments:

- 1. Flags of Governments Recognized by the United States. Flags of governments recognized by the United States may be displayed upon the request of the City Council.
- 2. Flags of Sister Cities. The flags of official Sister Cities of Porterville may be displayed in conjunction with an event involving the Sister City.
- 3. Prisoner-of-War/Missing-in-Action ("POW/MIA") Flag. The nationally

recognized POW/MIA may be displayed on appropriate holidays and as determined by the City and pursuant to any applicable federal or state law.

C. Street Flags and Banners

1. Definition: Street flags and/or banners are defined as flags or banners (hereinafter collectively referred to as “banners”) flown directly on City posts or poles, and/or with a guy wire over a city street. The guy wire is generally attached to city-owned streetlights or posts and is oriented perpendicular to the flow of traffic.
2. The City may place banners or flags communicating information regarding public events, events held at public facilities, City programs, information or services, or promotions of amenities of general interest to the community including holidays and seasons.
3. The City may issue a banner permit to an individual or entity, granting permission to temporarily occupy designated banner locations for the purpose of providing notice to residents and visitors about City-sponsored or City-funded special events open to the public, and that are limited to non-commercial, non-political and of a non-religious nature. Banners on City property/poles must be approved, scheduled, and coordinated by the City.
4. The banner permit is subject to an applicable fee as adopted by the City.
5. Banners on City-owned poles are subject to pre-approval by the City, must be appropriately designed and sized for the location as determined by the City, must be made of durable cloth, canvas or vinyl. A completed banner design (including text and graphics) must be submitted to the Parks and Leisure Services Department Office at time of application, along with payment of the fee.
6. Banners promoting specific events cannot be hung more than 14 days prior to the start of the event and must be removed within five (5) days after the completion of the event.
7. Once approved, applicant must arrange for the production of the banners and for a contractor to install and remove the banners, at no cost to the City.
8. Space may be limited, and the City has priority use. Applications will be processed on a first-come, first-served basis. City reserves the right to establish appropriate time periods for the duration of the use of its poles and facilities. If multiple applications request that banners be installed at the same location during the same time frame, the City Manager, or designee, will make final approval based on any or all of the following circumstances: number of banner locations requested by each applicant, banner installation history and proximity of banners to event site or venue. The overall goal is to make reasonable accommodations that are in the best interest of all applicants and the City.

9. The City assumes no responsibility for damage to (non-City) banners while they are on display.
10. Procedure: Applications to place banner displays on City-owned property are available for the applicant's convenience on the City's website and at the Parks and Leisure Services Department.
 - a) Applicants submit a completed application (including required attachments) to the Parks and Leisure Services Department Office at least 90 days prior to the requested installation date and remit payment to the Department Office. Applications received less than 90 days prior to the requested installation date are subject to City's ability to facilitate the request. Banner applicants may apply for banner locations up to 6 months prior to their installation date.
 - b) Upon approval of the application, the contractor who will hang the banner may proceed with the installation. If City banners are currently hanging on the requested poles, the applicant is responsible for removing and re-hanging the City banners.